



**Havering**  
LONDON BOROUGH

Clerk's Report



# LICENSING SUB-COMMITTEE

# REPORT

8 January 2015

Subject Heading:

Procedure for the Hearing  
Licensing Act 2003

Report Author and contact details:

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## REPORT OF THE CLERK

### PROCEDURE FOR THE HEARING: LICENSING ACT 2003 (REVIEW OF LICENCE)

This is a hearing to consider an application for a review of a licence under section 51 of the Licensing Act 2003. The Licensing Act 2003 (Hearings) Regulations 2005 will govern the arrangements for the hearing of the application now under consideration. This report accords with the requirements of that Act and the Regulations, and in particular Regulations 21-25 (procedure at the hearing).

#### 1. Membership of the Sub-Committee:

- 1.1 The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. **Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.**
- 1.2 A member of the Licensing Committee will be excluded from hearing an application where he or she:
  - 1.2.1 has considered an application in respect of the premises in the previous 12 months as a Member of the Regulatory Services Committee; or
  - 1.2.2 is a Ward Councillor for the Ward in which the premises, subject to the application, are located; or
  - 1.2.3 is a Ward Councillor for a Ward which is likely to be affected by the application or;
  - 1.2.4 has a personal interest in the application.

## **2. Roles of other participants:**

- 2.1 The Legal Advisor is not a party to the hearing. The role of the Legal Advisor is to provide legal advice relating to the application and submissions.
- 2.2 The Clerk is not a party to the hearing. The role of the Clerk is to record the hearing and the decisions of the Sub-Committee, and ensure efficient administration

## **3. Chairman's Briefing meeting:**

- 3.1 Prior to this hearing, the Sub-Committee Chairman will have met the Legal Advisor and/or Clerk to determine whether further clarification is required of any issues contained in the review application or any representation.
- 3.2 During this representation validation meeting, no decision will have been made or discussion held regarding the substantive merits of the review application or representations.

## **4. Location and facilities:**

- 4.1 All hearings will be heard at the Havering Town Hall unless otherwise directed.
- 4.2 Interpreters will be provided by the Council on request, provided notice is given at least five working days before the hearing.

## **5. Notification of attendance:**

- 5.1 The Chairman will enquire of the parties who is in attendance and the parties will indicate their names (and, where relevant, whom they represent). A register will be circulated before the commencement of the hearing on which the applicant, his/her advisers and companions and all interested parties (and/or their representatives) will be asked to record their attendance.

## **6. Procedural matters:**

- 6.1 Prior to the commencement of the hearing, the Chairman of the Sub-Committee will orally inform the parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused. Note this relates to people other than those attending on behalf of a party in the capacity as a representative of the party.

- 6.2 Prior to the commencement of the hearing the Chairman of the Sub-Committee will outline the procedure to be followed at the hearing. This will normally be as follows:

**Introduction of the application:**

The party requesting the review will outline:

- details of the application and relevant representations received from the parties;
- relevant legislation ;
- relevant Licensing Policy; and
- the time limit in which the Council must reach a determination.

**Documentary evidence:**

- Documentary or other information in support of applications, representations or notices should be provided to the Clerk of the Sub-Committee at least 7 clear working days before the hearing. If this information is produced at the hearing it will only be taken into account by the Sub-Committee if the Sub-Committee and all the parties consent to its submission. Permission to have this information included in the hearing should be requested at the beginning of the hearing before any oral submissions have been made.
- Statements made by people in support of a party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

**Representations:**

- The Chairman will invite each of the parties at the hearing or their representative sequentially to address the Sub-Committee and call any person/s to whom permission has been granted to appear. Each party will be allowed a maximum period of 10 minutes in which to address the Sub-Committee and call persons on his/her behalf.
- This 10 minute period is where each party has the opportunity to orally address the Sub-Committee and clarify any points on which the Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Sub-Committee or Legal Advisor considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
- Members of the Sub-Committee may ask questions of any party, at any time during the proceedings. Time taken in dealing with a Member's question will not be taken into account in determining the

length of time available to the party in question to make their representation.

The sequence in which each of the parties will be invited to address the Sub-Committee will normally be in the order of:

- the party requesting the review of the licence
- the Chief Officer of Police;
- the Fire Authority;
- the Health and Safety at Work Enforcing Authority;
- the Local Planning Authority;
- the Local Environmental Health Authority;
- the Local Weights and Measures Authority;
- the Authority Responsible for the Protection of Children from Harm;
- a navigation or other authority responsible for waterways; and
- any other party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Sub-Committee;
- the party whose premises is the subject of the licence review.

At the discretion of the Sub-Committee the above order may be varied.

#### **Cross-Examination:**

Where witnesses have been permitted by the Sub-Committee to speak at the hearing on behalf of a party, permission must be sought from the Sub-Committee before another party can ask the witness questions. This process of questioning is normally referred to as cross-examination. The Sub-Committee will allow cross-examination only where it is necessary to assist it in considering the representations or application.

#### **Relevance:**

Information submitted at the hearing must be relevant to the applications, representations, or notice and the promotion of the licensing objectives. The Chairman of the Sub-Committee is entitled to exclude any information it considers to be irrelevant whether presented in written or oral form. The licensing objectives are:

**The prevention of crime and disorder;**

**Public safety;**

**The prevention of public nuisance; and**

**The protection of children from harm.**

## **7. Failure of parties to attend the hearing:**

- 7.1 If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

## **8. Adjournments and extension of time:**

- 8.1 The Sub-Committee may adjourn a hearing to a specified date or extend a notice period except where it must make a determination within certain time limits in the following specific applications:
- Review of premises licences following closure orders made under the Licensing Act 2003 where the Sub-committee must make a determination within 28 days of receiving notice of the closure order.
  - Other reviews of premises licenses where the Sub-Committee must make a determination within 28 days of the end of the statutory consultation period.

## **9. Sub-Committee's determination of the hearing:**

- 9.1 At the conclusion of the hearing the Sub-Committee will deliberate in private accompanied by the Clerk and the Legal Advisor who will be available to assist the Sub-Committee with any legal problems but will not participate in any decision making of the Sub-Committee.
- 9.2 The Sub-Committee will normally make its determination and announce its decision at the end of the hearing.
- 9.3 Where all parties have notified the Sub-Committee that a hearing is not required the Sub-Committee must make its determination within 10 working days of being given notice that the hearing is not required.

## **10. Power to exclude people from hearing:**

- 10.1 The public are entitled to attend the hearing as spectators. However, the Sub-Committee may exclude any person from the hearing including any person assisting or representing a party where:
- it considers that the public interest would be best served by excluding the public or the individual person from the hearing; or

- that person is behaving in a disruptive manner. This may include a party who is seeking to be heard at the hearing. In the case where a party is to be excluded, the party may submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave the hearing.

#### **11. Recording of proceedings:**

- 11.1 A written record of the hearing will be produced and kept for 6 years from the date of the determination of the hearing.

#### **12. Power to vary procedure:**

- 12.1 The Sub-committee may depart from following any of the procedures set out in this document if it considers the departure to be necessary in order to consider an application, notice or representation.





**Havering**  
LONDON BOROUGH

Licensing Officer's Report





**LICENSING  
SUB-COMMITTEE**

**REPORT**

**8 January 2015**

**Subject heading:**

**Akash Tandoori  
185 High Street, Hornchurch, RM11  
3XS**

**Report author and contact details:**

**Review of Premises Licence  
Paul Campbell, Licensing Specialist  
5<sup>th</sup> floor Mercury House  
x 01708 432766  
[paul.campbell@havering.gov.uk](mailto:paul.campbell@havering.gov.uk)**

This application for a review of the premises licence is made by Paul Jones, Licensing Officer for the London Borough of Havering under section 51 of the Licensing Act 2003. The application was received by Havering's Licensing Authority on 13<sup>th</sup> November 2014.

**Geographical description of the area and description of the building**

Akash Restaurant is a mid-terrace property with the restaurant on the ground floor with flats above. It is situated in Hornchurch Town Centre on the north side of High Street at the junction with Station Lane.

The premises are located in St Andrews Ward which is an area outlined in Havering's Licensing Policy as a cumulative impact area.

A map of the area is attached.

Current premises licence hours:

<b>Live Music</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Saturday	10.00	00.00
Sunday	12.00	23.30

<b>Late Night Refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Thursday	23.00	00.00
Friday & Saturday	23.00	00.30
Sunday	23.00	23.30

<b>Recorded Music, Supply of Alcohol</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Thursday	10.00	00.00
Friday & Saturday	10.00	00.30
Sunday	12.00	23.30

<b>Opening Hours</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Thursday	10.00	00.30
Friday & Saturday	10.00	01.00
Sunday	12.00	00.00

There are additional hours permitted on Sundays preceding bank holidays, Christmas Eve, Boxing Day and New Year's Eve

#### Premises Licence and DPS History

- 2005 – Premises Licence grandfathered from old licensing system
- 7/8/12 – Premises Licence Transferred to Mr Irshadul Rahman & Mrs Rowshon Ara Kahn
- 7/6/12 – DPS change to Mr Irshadul Rahman
- 2/12/12 – Premises Licence Transferred to Mr Irshadul Rahman (alone)
- 4/3/14 – DPS change to Mrs Rowshon Ara Khan
- 25/11/14 – Premises Licence Transferred to Mr Jakir Hussain Khan
- 25/11/14 – DPS change to Mr Noor Uddin Ludi

#### Applications History

- February 2013 – Application to vary – partially granted
- April 2013 – Application to vary – refused

#### Between December 2012 and May 2014

14 applications for Temporary Event Notices amounting to 37 days to extent the finish time at the premises from its licensed times to midnight, 01.00, 02.00 & 02.30

Since the lodging of this Premises Licence Review matters relating to the venue have changed, the business has been bought by Mr Jakir Hussain Khan (agreement of sale document attached) and the premises licence transferred to him, the DPS has been changed to Mr Ludi

The concerns that are being put before the Sub-Committee relate to Mr Rahman his running of the business and not keeping to the times and conditions of the licence.

Licensing Officer Mr Jones has been informed by Mr Khan (the new owner) that Mr Rahman no longer has any business interest in the premises.

I respectfully remind the Sub-Committee that a Premises Licence and any subsequent review of that licence relates to a building or location and not to a person,

To assist the Sub-Committee I have attached to my report confirmation of the sale of the premises to Mr Hussain, a recent advertisement seen in the Yellow advertiser on 10<sup>th</sup> December 2014 and a copy of the current Premises Licence.

Also attached is a witness statement from Licensing Officer Arthur Hunt which Mr Jones will be referring too.

### **Comments and observations on the application**

The application was advertised on the London Borough Of Havering website and on the notice board at the front of the Town Hall. The notice was also displayed on the premises and checked to be in place by licensing officers

### **Summary**

There were no representations against this application from interested persons.

There were two representations against this application from responsible authorities (Trading Standards and Police)

### **Details of representations**

Valid representations may only address the following licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public safety

There were no representations from the other responsible authority.





**Havering**  
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Copy of Application







# Havering

LONDON BOROUGH

## Public Protection

London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

The Appropriate Licensing Officer  
Licensing Authority  
Mercury House  
Mercury Gardens  
Romford  
RM1 3DW

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@havering.gov.uk  
Textphone ♯: 01708 433175

Date: 13<sup>th</sup> November 2014

My Reference: PJJ/R/088065

Dear Sir/Madam

### Licensing Act 2003

**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

**Premises licence no. 2160**

Please find enclosed an application to review the premises licence detailed above made in accordance with s.51 of this Act. I confirm that I have today served copies on the premises licence holder Mr Irshadur Rahman of 185a High Street Hornchurch RM11 3XS and the following responsible authorities:

**Metropolitan Police**, Licensing Office, Romford Police Station, 19 Main Road, Romford RM1 3BJ; **Fire Safety Regulation, North East Area 2, London Fire Brigade**, 169 Union Street, London, SE1 0LL; **Licensing, Public Protection, London Borough of Havering**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Health and Safety Section, Environmental Health Service, London Borough of Havering**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Public Health Section, Environmental Health Service, London Borough of Havering**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Trading Standards Service, London Borough of Havering**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Planning Control and Enforcement Service, London Borough of Havering**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Children and Families' Service, Safeguarding and Service Standards**, c/o Town Hall, Main Road, Romford, RM1 3BD; **Practice Improvement Lead, Havering Clinical Commissioning Group**, c/o Town Hall, Main Road, Romford, RM1 3BD.

If I can clarify anything further please do not hesitate to contact me.

Yours faithfully

Paul Jones  
Licensing Officer

**Public Protection** Bringing together Environmental Health & Trading Standards





## Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

### 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 this 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. You may wish to keep a copy of the completed form for your records.

I/We **Paul Jones, Licensing Officer, London Borough of Havering**

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below.

### Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description

**Akash Tandoori**  
**185 High Street Hornchurch RM11 3XS**

Post town

Post code

Name of premises licence holder or club holding club premises certificate (if known)

**Mr Irshadur Rahman**

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

**2160**

**Part 2 - Applicant details**

I am

Please tick ✓ Yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of
- c) a person involved in business in the vicinity of
- d) a body representing persons involved in business the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

Surname

First names

Please tick ✓  yes

I am 18 years old or over

Current postal address if different from premises address

**Not applicable**

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

**Not applicable**

Telephone number (if any)

Email (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address	<b>Paul Jones, Licensing Officer Mercury House Mercury Gardens Romford RM1 3SL</b>
Telephone number (if any)	<b>01708 432692</b>
Email (optional)	<b>paul.jones@haverling.gov.uk</b>

**This application to review relates to the following licensing objective(s)**

**Please tick one or more boxes ✓**

- |   |   |
|---|---|
| 1) the prevention of crime and disorder | ✓ |
| 2) public safety                        | ✓ |
| 3) the prevention of public nuisance    | ✓ |
| 4) the protection of children form harm | ✓ |

**Please state the ground(s) for review (please read Guidance Note1)**

**Since November 2012 the premises licence holder has consistently ignored the conditions and terminal hours of the premises licence he holds and which govern the provision of licensable activity at *Akash Tandoori* restaurant. A series of formal warnings and prosecutions have had little effect upon the licence holder's legal duty to comply with the terms of his premises licence.**

**A licensing inspection at the premises undertaken in April 2013 identified a series of licence breaches. A number of these breaches have yet to be resolved rendering the authority of the licence redundant: effectively the premises is currently unlicensed yet the premises licence holder continues to provide licensable activity contrary to law.**

**The premises licence holder has failed a series of test purchases at the premises which have led to three separate prosecutions being brought against him, one of which is ongoing. A fourth prosecution is pending.**

**The issues summarised above impact upon all four licensing objectives insofar as the premises continues to operate outside the authority of the premises licence. A premises licence exists to regulate the provision of licensable activity at a given premises. Operating outside the bounds of the licence effectively negates all the control measures of the licence, thus impacting upon the promotion of all four licensing objectives.**

Please provide as much information as possible to support the application (please read guidance note 2)

**Premises' timeline**

**7<sup>th</sup> August 2012**

Premises licence no. 2160 for *Akash Tandoori* transferred to Mr Irshadur Rahman and Mrs Rowshon Ara Khan.

**3<sup>rd</sup> November 2012**

Consumer complaint received by the licensing authority alleging 'after hours' activity at *Akash Tandoori*.

**10<sup>th</sup> November 2012**

A monitoring inspection found after hours activity to be occurring at the premises.

**12<sup>th</sup> November 2012**

First formal warning letter sent to Mr Rahman (see item 1 attached).

**17<sup>th</sup> November 2012**

A second monitoring inspection found after hours activity to be occurring at the premises.

**19<sup>th</sup> November 2012**

Second formal warning letter sent to Mr Rahman (see item 2 attached).

**25<sup>th</sup> November 2012**

Test purchase exercise undertaken at *Akash Tandoori*. Alcohol and late night refreshment supplied after hours contrary to s.136 of the Act. 2013.

**20<sup>th</sup> December 2012**

Premises licence transferred solely to Mr Irshadur Rahman.

**16<sup>th</sup> February 2013**

A third monitoring inspection found after hours activity to be occurring at the premises.

**22<sup>nd</sup> February 2013**

Third formal warning letter sent to Mr Rahman (see item 3 attached).

**17<sup>th</sup> March 2013**

A fourth monitoring inspection found after hours activity to be occurring at the premises.

**5<sup>th</sup> April 2013**

Prosecution in relation to the 25<sup>th</sup> November 2012 test purchase failed at magistrates' court. Magistrates determined Mr Rahman had 'no case to answer'.

**8<sup>th</sup> April 2013**

Offer extended to Mr Rahman by Havering's licensing authority to explain the terms and conditions of premises licence no. 2160 via translator paid for by Havering (see item 4 attached).

**12<sup>th</sup> April 2013**

Via his licensing agent Mr Rahman agreed to have his licence explained to him via translator only if Havering agreed to provide a "written guarantee" that the licensing authority would not pursue a review or a further prosecution for past apparent offending. The licensing authority declined to accept this conditional requirement as it would appear to be contrary to due legal process (see items 5 & 6 attached).

**22<sup>nd</sup> April 2013**

Licensing inspection undertaken at *Akash Tandoori*. Ten breached conditions identified. Inspection report sent to Mr Rahman identifying breaches and requesting compliance by 10<sup>th</sup> May 2013 (see item 7 attached).

**10<sup>th</sup> May 2013**

No response received re licence breaches.

**11<sup>th</sup> May 2013**

A fifth monitoring inspection found after hours activity to be occurring at the premises.

**12<sup>th</sup> May 2013**

Contact received from Mr Rahman via his licensing agent undertaking to address the breaches. Licensing authority extends the breach resolution date to 20<sup>th</sup> May 2013 (see item 8 attached).

**14<sup>th</sup> May 2013**

Fourth formal warning letter (in relation to 11<sup>th</sup> May 2013 monitoring inspection) sent to Mr Rahman (see item 9 attached).

**20<sup>th</sup> May 2013**

Breach resolution deadline reached without further contact from Mr Rahman or his agent having been received by the licensing authority.

**21<sup>st</sup> May 2013**

Breached premises licence no. 2160 ceases to authorise the provision of licensable activity at *Akash Tandoori* pending breach resolution.

**26<sup>th</sup> May 2013**

Second test purchase exercise undertaken at *Akash Tandoori*. Late night refreshment supplied after hours contrary to s.136 of the Act.

**2<sup>nd</sup> June 2013**

Contact received by licensing authority from Mr Rahman's licensing agent indicating the licence breaches have been rectified.

**6<sup>th</sup> June 2013**

Licence reinspection undertaken. Four conditions remain in breach. No CCTV images retained for the period during which the 26<sup>th</sup> May 2013 test purchase undertaken contrary to licence conditions. Letter sent to Mr Rahman confirming these remaining breaches (see item 10 attached).

**10<sup>th</sup> June 2013**

Second prosecution of Mr Rahman in response to the test purchase failure of 26<sup>th</sup> May 2013 initiated.

***A series of routine monitoring inspection visits followed suggesting that the premises was operating after normal hours, i.e. lights on, staff present, electronic 'open' signage switched on, although the premises was empty of customers. What was evident, however, was that licensable activity continued to be provided during normal hours while premises licence no. 2160 was in breach and known to be so by licence holder Mr Rahman.***

**10<sup>th</sup> November 2013**

**A monitoring inspection found after hours activity to be occurring at the premises.**

**29<sup>th</sup> November 2013**

**Mr Rahman pleads 'not guilty' at Havering Magistrates' Court to offences attendant to the 26<sup>th</sup> May 2013 test purchase. Trial adjourned to May 2013.**

**1<sup>st</sup> December 2013**

**Third test purchase exercise undertaken at *Akash Tandoori*. Alcohol and late night refreshment supplied after hours contrary to s.136 of the Act.**

**3<sup>rd</sup> December 2013**

**Site visit to *Akash Tandoori* undertaken to obtain conditionally required CCTV images to support the third test purchase exercise. No recordings at all were stored on the premises' CCTV recorder.**

**9<sup>th</sup> January 2014**

**Third prosecution of Mr Rahman in response to the test purchase failure of 1<sup>st</sup> December 2013 initiated. Prosecution due to be heard 28<sup>th</sup> January 2015.**

**4<sup>th</sup> March 2014**

**Mrs Rowshon Ara Khan installed as DPS.**

**28<sup>th</sup> April 2014**

**Mr Rahman found guilty at Romford Magistrates' Court of a s.136 offence in relation to the 26<sup>th</sup> May 2013 test purchase exercise.**

***Routine monitoring inspections continue and find after-hours activity occurring at the premises on the following dates this year: 18<sup>th</sup> January, 25<sup>th</sup> January, 23<sup>rd</sup> February, 2<sup>nd</sup> March, 21<sup>st</sup> July, 26<sup>th</sup> July, 2<sup>nd</sup> August, 30<sup>th</sup> August, 4<sup>th</sup> October and 19<sup>th</sup> October. Additionally, monitoring inspections find that the premises appears to be open, i.e. lights on, staff present, electronic 'open' signage switched on, but the premises is empty of customers.***

**4<sup>th</sup> October 2014**

**Mr Rahman seen to 'usher in' to the premises a customer at 01:00, at which time the premises should have closed. Attendance by a licensing officer at the premises a short time later found the premises to be occupied by a number of diners who were seen to be consuming hot food and drinking what appeared to be alcohol. A fourth prosecution file is being prepared in relation to this.**

**8<sup>th</sup> October 2014**

**Attendance at *Akash Tandoori* by a licensing officer with the intention to obtain conditionally required CCTV images to confirm the apparent offences witnessed on 4<sup>th</sup> October found that the CCTV clock was set to indicate a time which was more than an hour behind the actual time.**

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As might appear evident from the details provided above this premises, under the guidance of its premises licence holder and DPS (as was), Mr Irshadur Rahman, has consistently and wilfully ignored all requests, warnings and advice from Havering's licensing authority to cease the illegal provision of licensable activity at *Akash Tandoori*. (NB Mr Rahman's role as DPS ceased on 4<sup>th</sup> March 2014 when Mr Rahman's wife was installed as DPS). Even when the authority of the premises licence has been suspended in response to unresolved licence breaches licensable activity continues to be provided, not only during normal operational hours but also after those hours nominally stated on the licence.

What seems entirely clear to this licensing authority is that the premises licence holder has no regard for his legal duties under this Act. While he was the DPS Mr Rahman's role required that he authorise every sale of alcohol made at the premises. Clearly Mr Rahman was prepared to authorise the sale of alcohol at a premises at which the attendant premises licence no longer provided the legal foundation upon which alcohol supplies may have been made. As the premises licence holder Mr Rahman continues to permit licensable activity to be provided when it has been made clear to him by the licensing authority that the authority of the licence is currently not valid due to the multiple breaches repeatedly identified to him. We should also recognise that although Mr Rahman is no longer the DPS at *Akash Tandoori*, the current DPS appears to continue to authorise the supply of alcohol outside the hours permitted by the premises licence. One might reasonably question whether Mrs Khan is actively employed in the role of DPS, i.e. does she attend the premises as paid employment at any time, or whether her installation as DPS is in name only.

What, then, is to be made of this?

The licence breaches were identified in writing to Mr Rahman on 24<sup>th</sup> April 2013. He was subsequently given until 20<sup>th</sup> May 2013 to resolve these breaches but failed to do so. His licence 'officially' ceased to authorise the provision of licensable activity on 21<sup>st</sup> May 2013. Mr Rahman has had 18 months to address these outstanding breaches but has declined to contact the licensing authority to clarify his position; yet he continues to provide licensable activity at the premises on a daily basis. Each time a sale of alcohol is made, for example, whether during normal operational hours or otherwise, a criminal offence is committed while the licence is in breach. It may well be that the breaches identified previously have been addressed, but Mr Rahman's apparent reluctance to confirm that the breaches have been resolved displays, at best, a failure to recognise the authority of the licence or, at worst, an apparent disregard of the law relating to the provision of licensable activity.

All persons and organisations involved in the provision of licensable activity are required to promote the licensing objectives. This requirement includes those individuals providing licensable activity, e.g. a premises licence holder and a DPS, as well as those bodies tasked with enforcing the provisions of the Act. Mr Rahman's wilful and repeated failure to comply with the requirements of the law has the effect that he commits a criminal offence every time licensable activity is provided at the premises. This simple fact undermines his duty to promote the prevention of crime and disorder: the very act of providing unauthorised licensable activity is by definition a *crime*.

Equally, the licensing authority is duty bound by the provisions of s.4 of the Act to ensure premises within its ambit promote the licensing objectives. S.4(1) of the Act requires thus: *A licensing authority must carry out its functions under this Act with a view to promoting the licensing objectives.* This review application is made with this duty in mind as all other avenues of resolution have so far failed to achieve licence compliance at *Akash Tandoori*.

Given that a premises licence forms the legal control system under which licensable activity may be provided the absence of such an authority – due to those breaches identified as well as a disregard for its terminal hours – necessarily throws open to question the licence holder's promotion of the other three licensing objectives. How may a premises licence holder promote the licensing objectives when wilfully operating outside the bounds of that licence and hence operating outside the bounds of law? The result is that there are effectively no control measures in place at *Akash Tandoori* with all that this might imply.

#### Aims of the review

This application has been made in accordance with s.53 and hence s.51 of the Act and additionally in line with the relevant provisions of the guidance to the Act. The appropriate paragraphs of the guidance are reproduced below and we draw your attention in particular to paragraph 11.10.

An application to review a premises licence should not be undertaken lightly or without first having explored all other avenues of resolution. Havering does not undertake licence reviews arbitrarily or without cause. Indeed, this will be the first premises licence review this licensing authority has made since licensing authorities were legally empowered to initiate such procedures in 2012. We believe that it is appropriate to review this premises licence given the details of the numerous and ongoing incidents provided above. The attendant supporting documentation will also confirm that every effort to deter offending and ensure compliance at this premises has been undertaken by the licensing authority. Regrettably, all avenues of intervention explored by the licensing authority – which have ranged from informal discussions, to formal warnings and on to multiple prosecutions – have failed to achieve a simple end, an end to which all premises licence holders across the country must adhere: simple licence compliance. Such an end might seem easily achievable.

With this in mind, what outcome might we seek in order that the principle of s.4 may be upheld?

S.52 of the Act governs the determination of a review application. This section identifies, among other matters, what steps the licensing authority may take in order to promote the licensing objectives. S.52(4) clarifies those steps permissible:

- (a) to modify the conditions of the licence*
- (b) to exclude a licensable activity from the scope of the licence*
- (c) to remove the designated premises supervisor*
- (d) to suspend the premises licence for a period not exceeding three months*
- (e) to revoke the licence*

The licensing authority can, of course, choose to take no action if it feels this would be sufficient to promote the licensing objectives.

The circumstances surrounding this particular premises make determination of the review application somewhat challenging. As we have seen, the licence holder has to date shown little regard for any requirement of his premises licence, including its conditions and terminal hours. One might question whether the imposition of further conditions or the modification of the premises licence terms would have any effect upon the licence holder's compliance.

As the site's DPS Mr Rahman's approach to his duties under the Act was less than attentive. Alcohol supplies were authorised after the terminal hour for their supply as well as during an extended period when the licence has apparently been in breach. Given that Mr Rahman is still the premises licence holder and the business is his one might reasonably question whether Mrs Khan operates as the DPS in a meaningful capacity. A DPS is permitted to delegate the authority to supply alcohol to other staff members; however, we have seen Mr Rahman's approach to alcohol supply previously. If Mrs Khan is delegating the authority to sell alcohol to Mr Rahman we would not be confident of Mr Rahman's rigour in this regard.

It is, of course, for the sub-committee to impose whatever measures it sees fit, if any, to ensure the premises licence holder, as well as the licensing authority, seeks to promote the licensing objectives.

Please tick ✓ yes

Have you made an application for review relating to this premises before?

No

If yes please state the date of that application

Day	Month	Year
	N /	A

If you have made representations before relating to this premises please state what they were and when you made them

An application to vary this premises licence was made in April 2013. Based upon previous compliance failures this licensing authority made representation against that application. The representation is provided in this application as required (see item 11 attached).

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 5 – Signatures** (please read Guidance Note 2)

**Signature of applicant or applicant’s solicitor or other duly authorised agent.** (please read Guidance Note 4) **If signing on behalf of the applicant please state in what capacity.**

Signature ..... Date .....

Capacity .....

<b>Contact name (where not previously given) and address for correspondence associated with this application</b> (please read Guidance Note 5)	
<b>As above</b>	
<b>Post town</b>	<b>Post code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e mail your e mail address (optional)</b>	

**Guidance Notes**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

<p><b>All correspondence to be sent to :</b></p> <p>Licensing Section Public Protection London Borough of Havering Town Hall, Main Road Romford, Essex RM1 3BD</p> <p>Tel 01708 432777</p>
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## **Relevant paragraphs included in the s.182 guidance to the Licensing Act 2003**

### **Licensing authorities acting as responsible authorities**

**9.13** Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

**9.17** In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

**9.18** In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.

### **The review process**

**11.2** At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

**11.5** Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to

expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

**11.6** Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

**11.10** Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. ***A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review.*** Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

#### **Powers of a licensing authority on the determination of a review**

**11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

**11.18** However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

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

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

**11.22** Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a

succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

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







**Part A**

**Premises licence number**

**002160**

**Part 1 – Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description**

**Akash Tandoori  
185 High Street Hornchurch RM11 3XS**

**Where the licence is time limited the dates**

**Not applicable**

**Licensable activities authorised by the licence**

**Live music, recorded music, late night refreshment, supply of alcohol**

**The times the licence authorises the carrying out of licensable activities**

**Live music**

**Monday to Saturday – 10:00 to 00:00  
Sunday – 12:00 to 23:30**

**Late night refreshment**

**Monday to Thursday – 23:00 to 00:00  
Friday & Saturday – 23:00 to 00:30  
Sunday – 23:00 to 23:30**

**Recorded music, supply of alcohol**

**Monday to Thursday – 10:00 to 00:00  
Friday & Saturday – 10:00 to 00:30  
Sunday – 12:00 to 23:30**

**All of the above**

**Sundays preceding bank holiday Mondays – 12:00 to 00:30  
Christmas Eve & Boxing Day (except where they  
fall on a Friday or Saturday) – 10:00 to 01:00  
New Year's Eve – from the start of permitted hours  
to the end of permitted hours on New Year's Day**

**1 of 5**

Signed .....

**Paul Jones, Licensing Officer**

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**The opening hours of the premises**

**Monday to Thursday – 10:00 to 00:30  
Friday & Saturday – 10:00 to 01:00  
Sunday – 12:00 to 00:00  
Sundays preceding bank holiday Mondays, Christmas Eve, Boxing Day –  
an extra 30 minutes after the relevant terminal hour  
New Year's Eve – no restriction**

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**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies**

**On supplies only**

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

**Mr Irshadur Rahman  
185a High Street Hornchurch RM11 3XS  
07772 566923**

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

**Not applicable**

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

**Mrs Rowshon Ara Khan  
185a High Street Hornchurch RM11 3XS  
01708 456824**

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

**13004 – London Borough of Havering**

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**Mandatory conditions**

- 1. 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.****
- 2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.**
- 3. (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 –**

Signed .....  
Paul Jones, Licensing Officer

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**Mandatory conditions – contd.**

- (a) **games or other activities which require or encourage, or are designed to require or 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 a 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.**
- 4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).**
- 5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.**
- 6. 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: ½ 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.**
- 7. (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.**

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**Mandatory conditions – contd.**

**(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.**

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**Annex 2 – conditions consistent with the operating schedule**

- 1. The premises shall be operated strictly as a restaurant.**
- 2. Alcohol shall be sold ancillary to table meals with all service by waiting staff.**
- 3. Persons taking a table meal shall be permitted to purchase alcohol before, during and after the meal.**
- 4. There shall be no alcohol consumption permitted at the bar at any time.**
- 5. Alcohol shall not be supplied to persons collecting a take-away meal.**
- 6. Notices shall be displayed on the premises indicating that drinks may not be taken from the premises at any time. Staff shall monitor customers to ensure compliance with this condition.**
- 7. A CCTV system shall be installed and kept operational at all times the premises is open to the public.**
- 8. The CCTV system shall capture a head and shoulders image of all persons entering the premises.**
- 9. CCTV images shall be maintained for a minimum period of 31 days. These images shall be made available to the Police or an authorised officer on request.**
- 10. A member of staff capable of downloading CCTV images shall be on duty at all times.**
- 11. Notices shall be prominently displayed on the premises indicating that CCTV is in operation.**
- 12. All staff shall be trained for their role including the operation of Challenge 25 on induction and at six-monthly intervals. Training shall include identifying persons under 25 years of age, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing. Written records shall be kept of all such training.**
- 13. Challenge 25 shall be operated as the proof of age policy.**
- 14. Notices shall be displayed at the premises stating that Challenge 25 is in force together with the provisions of the Licensing Act 2003 relating to underage and proxy sales.**
- 15. A fire risk assessment and emergency plan shall be prepared and regularly reviewed.**
- 16. Staff shall be trained with regard to fire safety.**
- 17. Notices shall be displayed by the exit asking customers to respect residents, to leave quietly and not to loiter outside the restaurant.**
- 18. No deliveries or removal of glass refuse shall take place between 23:00 and 08:00.**
- 19. All doors and windows shall be kept closed during the provision of regulated entertainment except for entry to and egress from the premises.**
- 20. Staff shall call a cab for customers upon request and at closing time a member of staff seeing customers out shall direct them to a nearby cab office.**

Signed .....

Paul Jones, Licensing Officer

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## Part B

### Premises licence summary

Premises licence number

002160

### Premises details

Postal address of premises, if any, or if none, ordnance survey map reference or description

**Akash Tandoori**  
**185 High Street Hornchurch RM11 3XS**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**Live music, recorded music, late night refreshment, supply of alcohol**

The times the licence authorises the carrying out of licensable activities

**Live music**

**Monday to Saturday – 10:00 to 00:00**  
**Sunday – 12:00 to 23:30**

**Late night refreshment**

**Monday to Thursday – 23:00 to 00:00**  
**Friday & Saturday – 23:00 to 00:30**  
**Sunday – 23:00 to 23:30**

**Recorded music, supply of alcohol**

**Monday to Thursday – 10:00 to 00:00**  
**Friday & Saturday – 10:00 to 00:30**  
**Sunday – 12:00 to 23:30**

**All of the above**

**Sundays preceding bank holiday Mondays – 12:00 to 00:30**  
**Christmas Eve & Boxing Day (except where they**  
**fall on a Friday or Saturday) – 10:00 to 01:00**  
**New Year's Eve – from the start of permitted hours**  
**to the end of permitted hours on New Year's Day**

1 of 2

Signed .....

Paul Jones, Licensing Officer

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The opening hours of the premises

**Monday to Thursday – 10:00 to 00:30**  
**Friday & Saturday – 10:00 to 01:00**  
**Sunday – 12:00 to 00:00**  
**Sundays preceding bank holiday Mondays, Christmas Eve, Boxing Day –**  
**an extra 30 minutes after the relevant terminal hour**  
**New Year's Eve – no restriction**

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Where the licence authorises supplies of alcohol whether these are on and / or off supplies

**On supplies only**

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Name, (registered) address of holder of premises licence

**Mr Irshadur Rahman**  
**185a High Street Hornchurch RM11 3XS**

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

**Not applicable**

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Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

**Mrs Rowshon Ara Khan**

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State whether access to the premises by children is restricted or prohibited

**Restricted**

**2 of 2**

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# Haverling

LONDON BOROUGH

## STATEMENT OF WITNESS

(Criminal Procedure Rules r27.1(1);  
Criminal Justice Act 1967, s.9, Magistrates' Court Act 1980, s.5B)

**Statement of Arthur Hunt**

**Age if under 18 (if over 18 insert "over 18")** Over `18

**Occupation of Witness** Licensing Officer, London Borough of Havering

This statement, consisting of 4 pages 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 I know to be false or do not believe to be true.

Dated ..... 25<sup>th</sup> 2014 .....

Signed ..... *Arthur Hunt* .....

This statement details my interactions with Akash Tandoori restaurant, 185 High Street Hornchurch, Essex RM11 3XS over an 18 month period beginning in May 2013.

I am a Licensing Officer and have been employed by the London Borough of Havering since January 2013. My duties include the administration and enforcement of the provisions of the Licensing Act 2003.

It had come to the notice of the Licensing Authority that the premises appeared to be operating outside the conditions of its premises licence. I was therefore tasked to attempt a "test purchase" to either confirm or rebut the allegation. On Sunday 26 May 2013 I completed the test purchase at the premises at just after 01:00.

I took a series of photographs of the meal that I was supplied by Akash. I produce these all as exhibits. These were:-

- The bag, contents inside taken at 01:14 – **Exhibit AGH/1**
- Contents of the bag laid out taken at 01:15 – **Exhibit AGH/2**
- Container with Kebab Special (as on the menu) taken at 01:16 – **Exhibit AGH/3**
- Container with Sag Aloo taken at 01:16 – **Exhibit AGH/4**
- Container with Chicken Tikka Bhuna taken at 01:16 – **Exhibit AGH/5**
- Naan bread taken at 01:17 - **Exhibit AGH/6**

Signed ..... *Arthur Hunt* ..... Signature witnessed by .....

**Continuation of Statement of: Arthur Hunt.**

Containers with sauce and onion salad taken at 01:18 – **Exhibit AGH/7**

Poppadoms taken at 01:20 – **Exhibit AGH/8**

As a result of my test purchase a prosecution was initiated which resulted in a trial at Romford magistrates Court on Monday 28 April 2014. After hearing the evidence Mr Rahman was found guilty of providing a licensable activity i.e. late night refreshment otherwise than in accordance with an authorisation contrary to S.136 Licensing Act 2003. He was fined £1,500, made to pay a victim surcharge of £150; and ordered to pay costs of £3,529.40 making a total of £5,179.40 .

I am aware that a further test purchase took place on the 1 December 2013. Once again a prosecution was initiated under the Licensing Act 2003, sections 136(1) - Unauthorised licensable activities, 137(1) - Exposing alcohol for unauthorised sale and 138(1) - Keeping alcohol on premises for unauthorised sale. This is due to be heard at Romford Magistrates Court on the 28 January 2015.

It was evident that the premises were still failing to adhere to their authorised licensable activity and opening hours, therefore I visited the premises on the 2 August 2014 at just after 01:00. The premises appeared open, with an "A" board outside. The "open" sign was illuminated in the main window. I took 2 photographs on a council issued Canon Powershot camera. I returned to my vehicle, which was parked away from the premises, to visit another premises. I had to pass the front of the premises in my vehicle en-route, so I took another photograph timed at 01:07 still showing the premises as still being open. I returned to the premises at approximately 01:20 and parked opposite the front entrance. It still appeared open so I took another 2 photographs. However I did not see any customers enter the premises. On the 23 August 2014 I visited the premises again. I arrived at the premises at approximately 01:10 and it appeared that the premises were once again open. The "A" board was outside the premises and the "Open" light was on. I took a series of 4 photographs showing the front of the premises. I went to the front of the premises and looked in. I could not see any customers in the venue, there was someone who I assumed was a staff member standing in the bar area. That person looked in my direction so I walked away. As I returned to my vehicle the lights at the premises were turned off. On the 4 October 2014 I was driving passed the premises at approximately 00:50. I saw a male who I knew to be Mr Rahman standing outside the premises. He was dressed in a white shirt which was not tucked into his dark coloured

Signed  Signature witnessed by .....

**Continuation of Statement of: Arthur Hunt**


trousers. I parked my vehicle away from the premises and walked back to the venue. As I approached the venue from Upminster Road into the High Street I could see that Mr Rahman was still outside the premises. He looked in my direction but I did not see any reaction. I went to a pedestrian crossing outside the premises and crossed towards the central island in the High Street. I went to walk away from the premises but on looking back I could see that Mr Rahman was speaking to a white male about 20-30 years. The male then entered the premises followed by Mr Rahman as he appeared to usher him into the restaurant. Mr Rahman did not return outside. I briefly looked at another premises with regards to a licensing matter and then returned to my vehicle. As I walked back towards the premises I took a photograph. On passing the window of the premises I could see that there appeared to be customers at the tables with meals. After returning to my vehicle, I then drove my vehicle and parked opposite the premises. I entered the premises at approximately 01:10. On entry I could see that there were eight (8) customers in the premises. There were two (2) males in a table by the window. I did not see a meal on their table. There were a further two (2) males sitting at the penultimate table on my right hand side (facing the bar). They had a meal and drinks on the table. There were three (3) females sitting at the table closest to the kitchen area. This is I believe a table used for people who are waiting to collect takeaway meals. Lastly, I saw the male that I had seen enter the premises after speaking with Mr Rahman, he was seated alone at a table to my left. He was eating a meal and had what appeared to be beer as a drink. I saw a male who I knew to be Mr Kalam apparently waiting on the tables. I said to him, "Can I speak to Mr Rahman?" I saw a further member of staff standing near the kitchen. He was an Asian male dressed in a shirt and tie. He was taller than Mr Kalam. I waited a few seconds and Mr Rahman emerged from the kitchen area. He was still dressed as I had seen him outside the premises. I identified myself by showing him my council identity badge. I said to Mr Rahman, "It's gone 1am you should be closed." He said, "we are closed." I said, "clearly you are not." I then said, "I saw you bring that gentleman in not long ago", indicating the male sitting by himself. I told him that I would report the matter for consideration as to whether he should be prosecuted. I then left the premises. As I tried to leave I found that the front door had been locked and I had to release the latch to leave. I then returned to my vehicle.

Signed  Signature witnessed by .....

**Continuation of Statement of: Arthur Hunt**

I produce a series of photographs as previously mentioned in my statement as:-

- Exhibit AGH/9** photograph timed 01:04 on 2 August showing front of premises
- Exhibit AGH/10** photograph timed 01:04 on 2 August showing front of premises
- Exhibit AGH/11** photograph timed 01:07 on 2 August showing front of premises
- Exhibit AGH/12** photograph timed 01:20 on 2 August showing front of premises
- Exhibit AGH/13** photograph timed 01:20 on 2 August showing front of premises
- Exhibit AGH/14** photograph timed 01:12 on 23 August showing front of premises
- Exhibit AGH/15** photograph timed 01:12 on 23 August showing front of premises
- Exhibit AGH/16** photograph timed 01:13 on 23 August showing front of premises
- Exhibit AGH/17** photograph timed 01:14 on 23 August showing front of premises
- Exhibit AGH/18** photograph timed 01:03 on 4 October showing front of premises



Signed  Signature witnessed by .....

Home address of witness: C/O Licensing Team, Mercury House, Mercury Gardens,  
Romford RM1 3SL

Home telephone number: .....

Business telephone number 01708 433585

Male/Female (delete as appropriate)      Date of Birth: 29/12/1961

Dates to be avoided. Delete dates of non availability of witness

Month of December

█	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	█	█	█	█
█	█	█				

Month of January

█	█	█	█	█	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Month of February

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

Month of March

1	2	3	4	5	6	█
█	█	█	█	█	█	█
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Month of April

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Month of May

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Contact point if different from above:

Address:                      London Borough of Havering, Public Protection, Environmental  
Health, Mercury House, Mercury Gardens, Romford, Essex.  
RM1 3SL

Telephone Number: 01708 432777

Statement take by (print name): .....

Signed: .....                      Date: .....

*Formerly form 13, Magistrates' Courts' (Forms) Rules 1981 (SI 1981/553), relating to rule 70 of the Magistrates' Courts Rules 1981, Section 9 of the Criminal Justice Act 1967 and section 5B of the Magistrates' Courts Act 1980.*

Signed .....                      Signature witnessed by .....



# NEW AKASH

Fully Licenced Indian Restaurant

**your local Indian Restaurant**  
**Return of the old management**

**EST:1970**

**CHRISTMAS BOOKINGS  
NOW BEING TAKEN**

**Come and enjoy your  
old favorite Indian food**

**Special offer**

**Sunday to Thursday**

**Create your own 4 course meal only £9.95**

**Any Starter , Any main dish, Any side dish, Any rice or nan bread  
Extra £2.50 charges will apply for Seafood & Tandoori dishes**

**T: 01708 456824**

**185 HIGH STREET,  
HORNCHURCH RM11 3XS**









Akash







Scale: 1:1000 0 5 10 15 metres  
 Date: 02 December 2014 


 London Borough of Havering  
 Town Hall, Main Road  
 Romford, RM1 3BD  
 Tel: 01708 434343

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 Ordnance Survey 100024327





**Havering**  
LONDON BOROUGH

**LICENSING ACT 2003  
APPLICATION FOR A  
PREMISES LICENCE REVIEW**

**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

Notice is hereby given that an application has been made to the Licensing Authority of the London Borough of Havering by the Licensing Authority for a review of the premises licence for this premises.

**GROUND FOR REVIEW**

The premises licence holder has repeatedly ignored the terms and conditions of the premises licence and has failed to heed a series of warnings to desist such activity.

Any interested person or responsible authority wishing to make representation on this matter must do so in writing to: Licensing Authority c/o Town Hall Romford RM1 3BD between 14<sup>th</sup> November 2014 & 12<sup>th</sup> December 2014.

The public register of Havering's Licensing Authority containing the grounds for this review may be inspected by appointment at the above address by telephoning 01708 432777 Monday to Friday 09:00hrs to 17:00hrs or at [www.havering.gov.uk](http://www.havering.gov.uk).

It is an offence to knowingly or recklessly make a false statement in connection with an application for a review. On summary conviction a person is liable to a fine not exceeding level 5 on the standard scale (currently £5000).



**Application to transfer premises licence to be granted under the Licensing Act 2003**

**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 this 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. You may wish to keep a copy of the completed form for your records.

I/We **JAKIR HUSSAIN KHAN**  
(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

**002160**

**Part 1 – Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description

**185 HIGH STREET  
HORNCHURCH**

Post town **HORNCHURCH**

Post code **RM11 3XS**

Telephone number at premises (if any) **01708 456824**

Please give a brief description of the premises

**INDIAN RESTAURANT**

Name of current premises licence holder

**MR IRSHADUR RAHMAN**

**Part 2 - Applicant details**

In what capacity are you applying for the premises licence to be transferred to you?

Please tick  yes

a) an individual or individuals\*

please complete section (A)

b) a person other than an individual \*

i. as a limited company

please complete section (B)

ii. as a partnership

please complete section (B)

iii. as an unincorporated association or

please complete section (B)

- iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick  yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - statutory function or
  - a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr  Mrs  Miss  Ms  Other title  (for example, Rev)

**Surname**

KHAN

**First names**

JAKIR

I am 18 years old or over

Please tick  yes

**Current postal address if different from premises address**

25 BECKET AV LONDON  
E66AE

**Post town**

**Post code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**SECOND INDIVIDUAL APPLICANT (fill in as applicable)**

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick  yes

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name

Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3**

Please tick  yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick  yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick  yes



If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)



Please tick  yes

I have enclosed the premises licence



If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I understand that if I do not comply with the above requirements my application will be rejected



**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 4 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature

*[Handwritten Signature]*

Date

*25/11/14*

Capacity

*DIRECTOR*

**For joint applicants signature of second applicant, second applicant’s solicitor or other authorised agent** (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

**Consent of premises licence holder to transfer**

I/we IRSHADUR RAHMAN

*[full name of premises licence holder(s)]*

the premises licence holder of premises licence number

*[insert premises licence number]*

relating to

AKASH TANDOORI

*[name and address of premises to which the application relates]*

hereby give my consent for the transfer of premises licence number

002160

*[insert premises licence number]*

to

JAKIR HUSSAIN KHAN

*[full name of transferee].*

MR IRSHADUR RAHMAN

signed

name  
(please print)

MR IRSHADUR RAHMAN

dated

25/11/14



**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

AGREEMENT DATE 24<sup>th</sup> DAY OF NOVEMBER 2014

**This Agreement made between:**

'The Seller': **MR IRSHADUR RAHMAN** of 185A High Street, Hornchurch, Essex, RM11 3XS  
and 'The Buyer': **MR JAKIR HUSSAIN KHAN** 25 Becket Avenue, East Ham, London, E6 6AE

In relation to the Property known as: Ground Floor Premises, situated at **185 HIGH STREET, HORNCHURCH, RM11 3XS** under the trading name and goodwill of '**AKASH TANDOORI**'

**The Parties Agree the followings:-**

- COPY
1. For the Agreed Purchase Price of [REDACTED]
  2. The Seller will sell and the Buyer will buy the Property for the full Purchase Price of [REDACTED]
  3. The Parties to this Agreement Of Sale agree Completion Date immediately upon grant of unconditional 'License To Assign' from the landlord.
  4. In consideration of the Purchase of the above leasehold commercial premises '**AKASH TANDOORI**', **185 HIGH STREET, HORNCHURCH, RM11 3XS**, the buyers deposits the sum of [REDACTED] and the balance shall follow on legal completions, the seller confirms receipt.
  5. It is agreed by both parties that in the event the matter does not proceed to completion by fault of either party or withdrawal by either party than the following damages/ compensation are available:-
    - a. If the Buyer withdraws from the Purchase or the transaction does not proceed to completion due to the fault of the Buyer, the seller shall be entitled to retain the deposit of [REDACTED] to be treated as forfeiture by the buyer and further entitled to recovery of sellers reasonable legal costs from the buyer. Payment to be received within 5 working days.
    - b. If the seller withdraws from the sale or the transaction does not proceed to completion due to the fault of the seller, the purchaser shall be entitled to the full refunds of the deposit of [REDACTED] as per signing of this Agreement.

**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

The Buyer is further entitled to recovery of sellers reasonable legal costs from the Seller together with any consequential loss. Payment to be received within 5 working days

6. On signing this Agreement, the seller gives the buyers unrestricted access to the premises and the buyers to hold the premises as a License. The buyers shall be responsible for all gas, electric, rates, taxes, water, telephone and all other services and utilities enjoyed at the property during the occupational period.
7. The Buyer will be responsible and liable for all rates, taxes, fines and claim for compensation. The Buyers shall be responsible for the sale of alcohol and undertake to comply with current and future Acts of Parliament, Rules and Regulation and By-Laws relating to the sale of alcohol pursuant to the License Act.
8. The Buyers confirm that he shall adhere to the lease conditions and terms and to pay without deductions or set off all of the License fee for continuous occupation being the amount equal to the rent of [REDACTED] per month to the seller. If the rent monies are not paid forthwith the buyer agrees to vacate the premises immediately at the sellers request.
9. The Buyers confirm that he shall at all times with or without notice always allow the seller to have unrestricted access to the premises for inspection.
10. The Buyers shall not make any duplication of the keys without prior express authority from the seller, in the event the keys are lost or damaged then the buyers is to contacts the seller immediately.
11. The Seller shall be under no obligation to execute any Assurance, Under-Lease, Sub-Lease, Charge, Mortgage, Assignment or Transfer documents or instrument(s) of this Property in favor of any person other than the Buyer named in this Agreement or by written agreement by both parties.
12. Where there is an adverse issue as to the grant of landlord's License or consent which results in the License not been granted upon receipt of references, the purchasers shall do what so ever required to satisfy the landlord's reasonable request. If thereafter landlords License is not granted than by agreement in writing the sellers shall agree to a nominate third party for assignment of contract and lease.
13. This contract may only be terminated by agreement in writing by the said both


**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

parties together.

14. If the Transaction does not proceed to formal completion, the sellers/ buyer shall forthwith/return or to pay additional payments within 5 working days of written notice to quit as per clause 5 above.


Signed By Seller: MR IRSHADUR RAHMAN Dated: 24/11/14  
**Mr. IRSHADUR RAHMAN**

In The Presence of:

ABDUL ASAD CHOWDHURY   
335 HALLEY ROAD.  
MAYOR PARK  
LONDON  
E12 6UB

COPY

Signed By Buyer:  Dated: 24/11/14  
**Mr. JAKIR HUSSAIN KHAN**

In The Presence of: - ABUL KALAM   
25 CHARTREABLE LANE  
E13 8DL

**WARNING**

**This is a formal document, designed to create legal right and legal obligations.**



**Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003**

**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 this 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.

You may wish to keep a copy of the completed form for your records.

I/we **JAKIR HUSSAIN KHAN**  
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

**Premises licence number**

002160

**Part 1 – Premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> 185 HIGH STREET HORNCHURCH, RM11 3XS RM11 3XS	
<b>Post town</b> HORNCHURCH	<b>Post code (if known)</b> RM11 3XS
<b>Telephone number (if any)</b> 07825988330 / 07932221299	

**Description of premises** (please read guidance note 1)

INDIAN RESTAURANT



**Part 2**

**Full name of proposed designated premises supervisor**

MD NOOR UDDIN LUDI

**Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)**

12/00628/LAPER

**Full name of existing designated premises supervisor (if any)**

ROWSHON ARA KHAN

**Please tick yes**

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

**Reasons why I have failed to enclose the premises licence or relevant part of it**


**Please tick yes**

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date 25/11/14

Capacity DIRECTOR

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant’s solicitor or other authorised agent** (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	

**Consent of individual to being specified as premises supervisor**

I MD NOOR UDDIN LUDI  
*[full name of prospective premises supervisor]*

of 6 BATH ROAD  
FOREST GATE  
LONDON E78QQ

*[home address of prospective premises supervisor]*

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

PREMISES LICENCE  
*[type of application]*

by JAKIR HUSSAIN KHAN

*[name of applicant]*

relating to a premises licence 002160  
*[number of existing licence, if any]*

for AKASH TANDOORI  
185 HIGH STREET  
HORNCHURCH, RM113XS

*[name and address of premises to which the application relates]*

and any premises licence to be granted or varied in respect of this application made by

JAKIR HUSSAIN KHAN

*[name of applicant]*

concerning the supply of alcohol at

AKASH TANDOOR  
185 HIGH STREET  
HORNCHURCH, RM11 3XS

*[name and address of premises to which application relates]*

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

12/00628/LAPER

*[insert personal licence number, if any]*

Personal licence issuing authority

LONDON BOROUGH OF NEWHAM

*[insert name and address and telephone number of personal licence issuing authority, if any]*

Signed



Name (please print)

MD NOOR UDDIN LUDI

Date

25/11/14



**Richard Cursons**

**From:** Paul Jones  
**Sent:** 16 December 2014 16:47  
**To:** 'noor\_ludi'  
**Cc:** Paul Campbell  
**Subject:** RE: Rf: Noor Ludi  
**Attachments:** Sale confirm.pdf



Dear Mr Ludi

Mr Khan delivered the TEN to reception earlier.

With regard to the Akash review hearing the licensing sub-committee wish to see confirmation that the sale of the business from Mr Rahman to you and Mr Khan has actually taken place. The document you supplied to me previously – please see attached – indicates that Mr Rahman *intends* to sell his business to you. The sub-committee would like to see that the business is now legally yours.

Can you let me have a copy of any documentation you have which confirms that Mr Rahman has in fact now sold the Akash business to you and Mr Khan? This will then reassure the sub-committee that Mr Rahman no longer has any involvement in Akash.

Many thanks

Kind regards

Paul Jones | Licensing Officer  
London Borough of Havering | Communities & Resources  
Mercury House, Mercury Gardens, Romford, RM1 3SL  
t: 01708 432692

*Licensing Matters* is an email newsletter from Havering Council with the latest information on changes to licensing legislation as well as details of licensing applications received by the Council. Make sure you and colleagues receive a copy so you know what's happening in licensing - [sign up here](#).

**From:** noor\_ludi [mailto:[noor\\_ludi@msn.com](mailto:noor_ludi@msn.com)]  
**Sent:** 16 December 2014 15:21  
**To:** Paul Jones  
**Subject:** Re: Rf: Noor Ludi

Hello jones

TEN Application. khan will be drop on your reception in about 4.00pm  
noor\_ludi

Sent from Samsung Mobile

----- Original message -----  
**From:** Paul Jones <[Paul.Jones@havering.gov.uk](mailto:Paul.Jones@havering.gov.uk)>  
**Date:**  
**To:** noor\_ludi <[noor\\_ludi@msn.com](mailto:noor_ludi@msn.com)>  
**Subject:** Re: Rf: Noor Ludi



A TEN costs £21.00.

Regards

Paul

On 15 Dec 2014, at 22:18, noor ludi <[noor\\_ludi@msn.com](mailto:noor_ludi@msn.com)> wrote:

Dear,  
Paul Jones if you don't mind please tell me how much dose it cost for Temporary Event Notice. I will be sending you a fee for the Temporary Event Notice .

Regards  
noor ludi

---

From: [Paul.Jones@havering.gov.uk](mailto:Paul.Jones@havering.gov.uk)  
To: [noor\\_ludi@msn.com](mailto:noor_ludi@msn.com)  
Subject: Today's appointment  
Date: Thu, 20 Nov 2014 12:24:18 +0000

Dear Mr Ludi

Can I request that you bring the Korai premises licence with you this afternoon? Please present yourself at the Mercury House reception desk at 3pm and I will come down to collect you.

Many thanks.

Kind regards

Paul Jones | Licensing Officer  
London Borough of Havering - Communities & Resources  
Mercury House, Mercury Gardens, Romford, RM1 3SL  
T: 01708 432692

<[image002.png](#)> Licensing Matters is an email newsletter from Havering Council with the latest information on changes to licensing legislation as well as details of licensing applications received by the Council. Make sure you and colleagues receive a copy so you know what's happening in licensing - [sign up here](#).

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**Havering**  
LONDON BOROUGH

Representations from  
Responsible Authorities





**Havering**  
LONDON BOROUGH

Public Protection

①

Homes, Housing & Public  
Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr Irshadur Rahman & Mrs Rowshon Ara Khan  
c/o Akash Tandoori  
185 High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@havering.gov.uk  
Textphone 9: 01708 433175

Date: 12<sup>th</sup> November 2012

My Reference: PJJ/081346

Dear Sir/Madam

**Licensing Act 2003**  
**Premises Licence No. 2160**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**  
**Formal Warning**

As Havering's Licensing Officer for the Hornchurch area it is my responsibility to ensure that all premises, including currently licensed premises, comply with the provisions of this Act. Your premises detailed above is licensed under this Act and the premises licence is held jointly by you both.

The premises licence for *Akash Tandoori* permits the supply of alcohol to be made at the premises Monday to Saturday 10:00 to 00:00 and Sunday 12:00 to 23:30. Additionally the premises may remain open to patrons during the same hours. This also means that hot food supplies must cease at the premises at 23:00 each night as the licence does not permit the provision of late night refreshment.

Effectively, then, the last hot meal or hot drink may be supplied at 23:00 while alcohol may be supplied until midnight (or 23:30 on a Sunday). At this time the restaurant must be emptied of patrons.

On the evening of Saturday 9<sup>th</sup> November 2012 leading into 10<sup>th</sup> November I conducted a monitoring patrol and noted that your premises was still open at 00:30. Patrons were seen inside the premises eating what may reasonably be assumed to be hot food and drinking what was clearly seen to be alcohol. This is in breach of the permission your premises licence affords and as such constitutes a series of criminal offences contrary to s.136(1) of this Act.

Contd.

Additionally, I noted that a poster in your premises' window indicates that a live music act will be performing at the premises on 21<sup>st</sup> November 2012. You may be aware that the recent *Live Music Act 2012* came into force recently. As such live music is able to be provided without the requirement for a premises licence to authorise its provision as long as certain criteria are met. I have included a briefing note with this letter for your reference. As long as any live music is provided in accordance with the provisions of the *Live Music Act 2012* you will not breach your premises licence conditions. If, however, live music is provided outside its bounds, e.g. after 23:00, you will commit a criminal offence contrary to s.136(1) of this Act and further action will be likely to follow.

Therefore, please accept this letter as a formal warning to cease the illegal provision of licensable activity at your premises. Please familiarise yourself with the terms and conditions of your premises licence and ensure that you are fully compliant with its requirements. A failure to comply with all of its provisions will likely result in criminal offences being committed. For information purposes the maximum penalty which may be imposed upon a summary conviction for such an offence is £20,000 fine and/or six months imprisonment. Therefore, you can see that the law, and hence this Licensing Authority, takes such matters seriously.

If you feel that your premises licence no longer meets the needs of your restaurant you may seek a variation of the licence. Further information regarding this may be found here:

<http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licences/>

Any repetition of the matters listed above is likely to result in further action being taken against you, the ultimate outcome of which may be for the London Borough of Havering to seek a prosecution against you both as those responsible for the illegal provision of licensable activity at the premises.

If you require further clarification please do not hesitate to contact me.

Yours faithfully

Paul Jones  
Licensing Authority



**Havering**  
LONDON BOROUGH

Public Protection

2

Homes, Housing & Public  
Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr Irshadur Rahman & Mrs Rowshon Ara Khan  
c/o Akash Tandoori  
185 High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@havering.gov.uk  
Textphone ☎: 01708 433175

Date: 19<sup>th</sup> November 2012

My Reference: PJJ/081346

Dear Sir/Madam

**Licensing Act 2003**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**  
**Premises Licence No. 2160**  
**Final Warning**

Further to my earlier warning letter of 12<sup>th</sup> November 2012 I note that the following issues are still unresolved.

On the morning of 17<sup>th</sup> November 2012 I observed that your premises detailed above was occupied by patrons who clearly had plated meals and alcohol on the table in front of them which they were consuming. As my previous letter indicated hot food and/or drink supplies must cease at your premises at 23:00. There is no provision for the supply of late night refreshment on premises licence no. 2160. The fact that patrons were observed consuming these meals an hour and a half after hot food supplies should have ceased suggests that late night refreshment was supplied after 23:00 and thus supplied illegally.

Equally, alcohol supplies should have ceased at 00:00 which is the time the premises licence requires that all patrons have left the premises. Quite clearly, this was not the case.

If you provide late night refreshment at your premises after 23:00 you will break the law. This will then place your premises licence in breach. Consequently any alcohol supplied between 23:00 and 00:00 will be done so illegally even though alcohol may normally be supplied under the authority of the licence until 00:00: the licence will have already been breached by the illegal late night refreshment supplies, thus negating the authority of the licence.

Contd.

You should be aware that if the matters detailed above recur I shall have no alternative other than to undertake further action against you as premises licence holders. This action will be likely to result in the London Borough of Havering seeking to prosecute you for offences contrary to s.136(1) of the Licensing Act 2003, i.e. knowingly carrying on a licensable activity from a premises otherwise than in an accordance with an authorisation. Please again be advised for information purposes that the maximum penalty for a s.136(1) offence is £20,000 and/or six months' imprisonment. The law, and hence this Licensing Authority, takes such matters seriously.

To confirm, this is Havering's final warning regarding these matters. I am afraid that any further illegal activity observed within your premises will likely proceed straight to prosecution. I therefore urge you to comply fully with all provisions of your premises licence.

If you require further clarification please do not hesitate to contact me.

Yours faithfully

Paul Jones  
Licensing Officer



**Havering**  
LONDON BOROUGH

Public Protection

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Homes, Housing & Public  
Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr I Rahman  
185a High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email:paul.jones@havering.gov.uk  
Textphone ☎: 01708 433175

Date: 22<sup>nd</sup> February 2013

My Reference: PJJ/029701

### Formal Warning No. 3

Dear Mr Rahman

**Licensing Act 2003**  
**Premises Licence No. 2160**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

Despite my recent previous warning letters and the subsequently impending court action I regret to advise you that I witnessed a further breach of your premises licence on the morning of 16<sup>th</sup> February 2013. At 01:30 on this date I observed that your premises was not closed as your premises licence requires. Instead I noted that there were three tables occupied by diners at the premises.

This is subsequent to your recent application to extend the hours during which licensable activity may be provided at your premises which was granted on 7<sup>th</sup> February 2013. A little over a week after your hours were extended you appear to be ignoring these new increased hours.

I should like to remind you that you are permitted to provide licensable activity at your premises only until the hours defined on your licence. Breaching these hours is likely to lead to criminal offences being committed at your premises.

Contd.



I am currently in discussion with management and Havering's Legal Department with regard to the appropriate course of action we should now take with regard to this further licence breach as it might appear that you do not intend to comply with the provisions of your premises licence: this is now the fourth time I have witnessed licence breaches at your premises. Such further action may require that we seek a further prosecution against you or that we seek a review of your premises licence. I will clarify in due course.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Paul Jones', with a small horizontal line at the end.

Paul Jones  
Licensing Officer

*cc Mr G Hopkins, Licensing Agent  
Insp. M Blackledge, Havering Borough Police Licensing Inspector*

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**From:** Paul Jones  
**Sent:** 08 April 2013 11:04  
**To:** 'GRAHAM HOPKINS'  
**Cc:** Alex Cumming  
**Subject:** Akash Tandoori

Hi Graham

Further to the court proceedings on Friday at which we were both present it seems that the magistrates were of the view that LBH was at fault for not taking sufficient steps to ensure that Mr Rahman effectively *knew* he was breaking the law by selling alcohol after the hours his premises licence permits. It might appear, then, that Havering is, in part, responsible for Mr Rahman's repeat offending. On Mr Rahman's behalf Mr Turner freely admitted in his submission to the bench that alcohol and LNR were supplied at the premises after the terminal hours for such licensable activity during the test purchase exercise I conducted; however, he argued that Havering was not able to prove Mr Rahman *knowingly* broke the law, even though, as the holder of Akash Tandoori's premises licence, his hours of operation are clearly provided on the licence document he holds and which should be prominently on display in his premises. The magistrates agreed with Mr Rahman's argument and determined that he had no case to answer.

It seems from Friday's decision that the magistrates are of the view that the holder of a premises licence is able to claim ignorance of the provisions of any premises licence he may hold and is additionally obliged to have the requirements of any premises licence held explicitly and verbally conveyed to him by an authorised officer of the appropriate Licensing Authority to ensure that the licence holder is made aware of these provisions.

To fulfill this apparent requirement I would like to request that Mr Rahman attends Mercury House for a meeting during which I will explain the requirements of the Akash Tandoori premises licence no. 2160 to him via translator. The meeting will be minuted and a copy of those minutes provided to Mr Rahman. The intention is to help Mr Rahman with his licence compliance.

Can you confirm if your client Mr Rahman is, in principle, agreeable to such a meeting and if so, into which language he requires English to be translated?

Many thanks.

Kind regards

Paul Jones

Paul Jones | Licensing Officer  
London Borough of Havering | Public Protection  
Mercury House, Mercury Gardens, Romford, RM1 3SL  
t: 01708 432692



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**From:** GRAHAM HOPKINS [mailto:gtlicensingconsultants@googlemail.com]  
**Sent:** 12 April 2013 08:37  
**To:** Paul Jones  
**Subject:** Mr Rahman //Akash Tandoori

Dear Paul,

Mr Rahman is agreeable in principle to attending an advisory session regarding his Premises Licence for Akash Tandoori. We consider this should be based on the following conditions:

- 1 This must be with an independent translator provided by the Council so that Mr Rahman can fully understand what is being said.
- 2 Either myself or another representative would need to be present to advise Mr Rahman and protect his interests.
- 3 We would want a written guarantee in return that Mr Rahman will not face further prosecution or a Review before the LSC based on any alleged "evidence" gathered to date.

Further following the fact that Mr Rahman has been diagnosed with [REDACTED] [REDACTED] which causes him severe pain and distress together with severely limiting his movement we would prefer the meeting to be held at the restaurant during the day. Mr Rahman does not hold a driving licence and in any case would be unable to drive. He is currently prescribed a large number of pain killers etc and is waiting scans at Queens Hospital before seeing a consultant [REDACTED]. His condition is unlikely to be cured due to the nature of the illness.

Your understanding of our client's medical condition would be appreciated and we would look forward to hearing from you. Due to our client's condition and medical appointments together with our commitments a week's notice is requested please of proposed dates/ times.

Kind regards,

Graham GT Licensing Consultants [REDACTED]  
begin\_of\_the\_skype\_highlighting [REDACTED]  
end\_of\_the\_skype\_highlighting // [REDACTED]  
begin\_of\_the\_skype\_highlighting [REDACTED]  
end\_of\_the\_skype\_highlighting

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Graham Hopkins



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**From:** Paul Jones  
**Sent:** 12 April 2013 12:56  
**To:** GRAHAM HOPKINS  
**Subject:** Re: Mr Rahman //Akash Tandoori

Dear Graham

Thank you for Mr Rahman's response to our offer of help.

We are disappointed to note, however, that Mr Rahman appears to have made his agreement to accept our help conditional. Given Mr Rahman's apparent failure to previously comply with the conditions of his premises licence our intention going forward was to meet with Mr Rahman and any representative he may choose to bring in order that the conditions of his premises licence may be explained to him in his first language. This might seem to be a reasonable and helpful intention on Havering's part, particularly since the expense involved in providing an interpreter for Mr Rahman's benefit would have been met by Havering. Clearly this is not a standard practice we take with every premises licence holder given the prohibitive expense involved and the fact that it is not a legal requirement of a Licensing Authority. Clearly the requirement to comply with the conditions of a premises licence holder rests with the holder himself.

While Mr Rahman's conditions 1 and 2 might seem reasonable condition 3 causes us concern. By insisting upon this condition Mr Rahman appears to be using his willingness with future licence compliance as a 'bargaining chip'. Mr Rahman appears to imply that he will allow Havering to explain to him, in his first language, what his licence compliance requirements are only if we agree not to take action against him for previous alleged compliance failures. I'm sure you will understand that we cannot accept such an unreasonable position.

Mr Rahman's apparent insistence that Havering agrees to abandon due process with regard to his previous compliance record in order that he shows willingness to comply in the future does not instil confidence in this Licensing Authority of Mr Rahman's future compliance intentions. I would like to remind Mr Rahman that his licence compliance is a requirement of the law. It is not dependent upon Havering having to provide this additional help at our own cost, although, as we made the offer, Havering clearly showed a willingness to extend such assistance to Mr Rahman.

To summarise, we are not willing to comply with condition 3 as it would appear that to do so would place Havering on dubious legal ground which would be very difficult for us to justify. Havering would have apparently abandoned due process at the behest of an alleged offender in order to ensure his future compliance. We assume that Mr Rahman's agreement to allow us to provide this explanatory assistance is dependent upon Havering's agreement to comply with all three of his conditions.

As Mr Rahman appears unwilling to accept our offer of explanatory assistance in his own language then that is perfectly acceptable to us. The requirement to comply with his licence exists whether Havering provides this further help or not. As Mr Rahman's representative in licensing matters we are perfectly happy for you to explain Mr Rahman's compliance requirements to him. As you have enforcement experience previously I'm sure you will be able to fully explain the conditions of his premises licence to Mr Rahman and the potential penalties for failing to comply with it.

Again, thank you for clarifying Mr Rahman's position in relation to our offer.

Kind regards

Paul Jones  
Licensing Officer



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Textphone ☎: 01708 433175

Date: 24<sup>th</sup> April 2013

My Reference: PJJ/029821

Dear Mr Rahman

**Licensing Act 2003**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**  
**Programmed licensing inspection**

As per your request I have sent this letter to your representative Mr Hopkins. As you will recall we met on Monday at your premises. Thank you again for your hospitality. Although you indicated that a translator would be in attendance during the inspection to aid your understanding of proceedings such an individual was not present at the appointed time. Nevertheless we went ahead with the inspection at your instruction. Your translator did not attend the premises for the duration of the inspection.

The outcome of the inspection is that a number of conditions appear to be in breach and thus require your attention to ensure full compliance. I detail my observations for your awareness in the following paragraphs.

**Mandatory condition 6(a) – in breach**

You were able to provide a 'stamped' half-pint glass for my inspection. You were able to provide a metal 25ml 'tumbler' in which spirits are measured for my inspection. You were unable to provide a 'stamped' 125ml glass or measuring tumbler for dispensing small measures of still wine. Instead you provided a glass for my inspection which was able to hold more than 125ml and indicated that you estimate when 125ml of still wine has been poured into it. Guessing measures is not acceptable, I'm afraid. You must ensure that you have the means to accurately dispense 125ml measures of still wine.

Contd.

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### **Mandatory condition 6(b) – in breach**

It appeared that your customers are not made aware of the availability of these smaller measures in accordance with this condition. For example, your menu indicates that house wine is available by the glass but does not provide any details of the amount of wine such a glass may contain. If you provide only 125ml measures of wine as you suggested to me you should indicate as much on your menu.

### **Annex 2 condition 7 – in breach**

While the CCTV system appeared to be broadly operational the date/time imprint on the image was incorrect. Such an error would effectively render any images captured devoid of evidential value as the image would suggest an event took place at a time when it in fact did not. This might imply that the CCTV system is not fully or effectively 'operational'. Please ensure that CCTV recordings contain the correct date and time.

### **Annex 2 condition 8 – in breach**

Camera 3 on your CCTV system is pointed at the entrance door. The image captured is one which is greater than a full length shot of individuals who enter the premises. The image captures a view from near the top of the entrance door to a point midway along the length of the dining area. This condition, however, requires that "a head and shoulders image" is captured of all persons entering the premises. This condition might appear to imply that the camera's view should be more closely focussed upon the entrance door so that anyone who may enter the premises has their head and shoulders dominating the captured image. The reason for this condition is to aid the identification of individuals who may cause anti-social behaviour problems or crimes. Please ensure that camera 3's view is modified to capture a head a shoulders image only of customers entering the premises.

### **Annex 2 condition 9 – in breach**

During the inspection you were unable to locate the CCTV recording of a random date I suggested which was within the 31 day recording retention period. This condition requires that CCTV images are made available to an authorised officer on request. I was therefore also unable to establish whether recordings had been retained for the required 31 day period.

### **Annex 2 condition 10 – in breach**

The opening hours on your premises licence on a Monday are from 10:00 to 00:30. My licensing inspection began at 15:00. During the inspection you confirmed that the premises was currently open to customers. It appeared, however, that you were the only member of staff on duty but was unable to properly operate the CCTV system in accordance with this condition. You should ensure either that you have a fully trained member of staff able to operate the CCTV system on duty at all times or that you receive the appropriate training to enable you to operate the CCTV system.

Contd.

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### **Annex 2 condition 13**

When I asked you to explain to me what you understood a 'Challenge 25' policy to mean you seemed unable to give a clear answer other than to indicate it related to identification. It was only after Mr Hopkins intervened on your behalf with an example that you appeared to recognise to what Challenge 25 refers. Challenge 25 relates to the process by which you ensure that alcohol is not sold to underage persons. Please could you ask Mr Hopkins to fully explain the principles of Challenge 25 to you in order that you are fully compliant with this condition.

### **Annex 2 condition 15 – in breach**

There was no fire risk assessment or emergency plan for me to inspect. Please ensure that written examples of both are provided at your earliest convenience.

### **Annex 2 condition 16**

I was unable to determine what, if any, training was provided to your staff with regard to fire safety. Please provide evidence of any such training provided to staff members.

### **Annex 2 condition 23 – in breach**

There was apparently no hard-bound refusals record held at the premises. In place of this you showed me a small personal pocket diary and directed me to an entry which appeared to provide details of a restaurant booking rather than a record of a refusal to sell alcohol. Please ensure you retain a refusals record in accordance with this condition.

When the inspection was complete I asked you if you had any questions for me. You appeared not to have any immediate questions; however, you stated that you wished to uphold the law.

This is my summary of the licensing inspection undertaken at your premises on 22<sup>nd</sup> April 2013 for your reference. As you can see, it appears that eight conditions are in breach while two additional conditions require further evidence of compliance. As you are no doubt aware, the provision of licensable activity is dependent upon full compliance with all premises licence conditions. The conditions in annex 2 of a premises licence are voluntary conditions, i.e. they are conditions the premises licence holder offered to support the authority to provide licensable activity, rather than conditions the Licensing Authority imposed upon the holder.

An application for a premises licence is granted on the understanding that the holder may, for example, sell alcohol only if the holder complies with all the offers made in the application. As such it is very important that a premises licence holder complies with all the conditions he or she has volunteered. We can see here that you appear not to be complying with at least eight conditions on your premises licence.

A premises licence in breach ceases to authorise the provision of licensable activity at the premises and effectively renders the premises unlicensed. Providing licensable activity from an unlicensed premises will likely lead to criminal offences being committed contrary to s.136 of this Act. Therefore it is important that all conditions on a premises licence are in compliance as these conditions form the basis of your authority to provide licensable activity at the premises.

Contd.

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Please can you address the issues I have detailed above for your reference and contact me within 14 days of receipt of this letter in order that I may conduct a follow up inspection to confirm compliance. I hope to receive your response, therefore, by 10<sup>th</sup> May 2013.

If I can clarify further please do not hesitate to contact me.

Yours sincerely



Paul Jones  
Licensing Officer

*cc Insp Blackledge, Havering Borough Police*

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email: paul.jones@havering.gov.uk  
Textphone ☎: 01708 433175

Date: 13<sup>th</sup> May 2013

My Reference: PJJ/029821

Dear Mr Hopkins

**Licensing Act 2003**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

Thank you for your e-mail dated 12<sup>th</sup> May 2013.

My previous inspection response letter was sent to Mr Rahman on 24<sup>th</sup> April 2013. I requested that the matters I identified were resolved by 10<sup>th</sup> May. On 12<sup>th</sup> May your response e-mail suggested that "the majority" of the points I raised have been addressed but it does not clarify exactly which ones have or which ones have not been resolved. Additionally, in relation to the CCTV camera breach, your e-mail indicated that Mr Rahman will contact me as soon as the matter has been remedied but it does not provide a date by which Mr Rahman intends to correct this licence breach. This open-ended undertaking appears to extend indefinitely.

My previous letter made it clear to Mr Rahman that a premises licence in breach ceases to authorise the provision of licensable activity at the premises. While we can reasonably accept that a given licence breach may not be able to be resolved on the day it is identified it is now almost three weeks since these issues were brought to Mr Rahman's attention and Mr Rahman has yet to provide a definitive date whereby our concerns will be fully resolved and he will be fully compliant with the terms of his premises licence.

In addition to the ongoing licence breaches I identified at the licensing inspection I witnessed customers leaving Akash Tandoori in the early hours of Saturday morning at 01:30, some thirty minutes after the premises was required to be vacated of customers. I note also that there are now curtains hung at the premises' windows which appear to be drawn late in the evening and which prevent visual observations within.

Given Mr Rahman's apparent ongoing inability to comply with his terminal hours and the development with the curtains we have concerns that Mr Rahman simply does not intend to comply with the terms of his premises licence.

Contd.

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The issues identified above cause this Licensing Authority some concern. Therefore, in light of this, we are prepared to delay taking enforcement action against Mr Rahman in relation to those matters specifically identified in my letter of 24<sup>th</sup> April 2013 if those licence breaches are all fully resolved by 20<sup>th</sup> May 2013. **If the licence remains in breach subsequent to this date Mr Rahman should cease the provision of licensable activity at the premises until such time that the premises licence is no longer in breach.**

Please can you contact me by this date to confirm whether the matters I identified in my previous letter have been resolved whereupon I shall be in a position to re-inspect the premises. If I do not receive a response by this date I shall assume that these licence breaches still exist and take the appropriate action.

Many thanks for your help with regard to helping Mr Rahman achieve licence compliance and also to aid his promotion of the licensing objectives.

Yours sincerely



Paul Jones  
Licensing Officer

*cc Insp. M Blackledge, Havering Borough Police*

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Date: 14<sup>th</sup> May 2013

*DELIVERED BY HAND*

My Reference: PJJ/029701

#### **Formal Warning No. 4**

Dear Mr Rahman

**Licensing Act 2003**  
**Premises Licence No. 2160**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

As Havering's licensing enforcement officer for the Hornchurch area it is my duty to monitor licensed premises to ensure compliance with the terms of this Act and any licence which may be issued under its authority. On the evening of 10<sup>th</sup> May 2013 leading into 11<sup>th</sup> May I observed approximately six customers leave your premises at 01:30. Your premises licence requires that Akash Tandoori is closed and empty of customers at 01:00.

I note also that you appear to have hung heavy curtains at your windows which appear to be drawn late in the evening. This then prevents anyone outside from having sight within. I am unable to think of any other restaurant which has taken this particular step. I wonder if you could clarify why you have chosen to completely cover your windows in this manner?

Additionally, I would like to remind you that subsequent to my licensing inspection at your premises on 22<sup>nd</sup> April 2013 your licence still remains in breach. I identified eight breached conditions and two further conditions which required further clarification with regard to their compliance. I also required that these breaches were resolved by 10<sup>th</sup> May 2013. To date the conditions have yet to be confirmed as being in compliance.

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As you will recall, we fully discussed the terms of your licence during my recent inspection. During this meeting you indicated in the presence of your representative that you fully understood the restrictions upon hours your licence contains. Can you therefore please explain the circumstances in relation to my observations at your premises on 10<sup>th</sup>-11<sup>th</sup> May 2013 and explain why six customers left your premises at 01:30 rather than at 01:00?

Thank you for your swift response to this.

Yours sincerely



Paul Jones  
Licensing Officer

cc *Mr G Hopkins*  
*Insp M Blackledge, Havering Borough Police*

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Date: 6<sup>th</sup> June 2013

**BY HAND**

My Reference: PJJ/029821

Dear Sirs

**Licensing Act 2003**

**Akash Tandoori 185 High Street Hornchurch RM11 3XS**

Further to your e-mail of 2<sup>nd</sup> June 2013 wherein you confirmed that *Mr Rahman has carried out the matters raised following [my] Inspection Visit*. I can advise that I attended the premises today and reinspected. The results of my second inspection are as follows.

**Mandatory condition 6(b)**

While glasses with multiple volume stamps, including 125ml, were shown to me it appears that the availability of the 125ml measure is not explicitly made known to customers. The menu states simply, "Glass of house wine £2.90". The menu does not define the size of the glass nor whether alternative measures are available. Mr Rahman confirmed that he supplies wine as a standard supply in 125ml measures, although the menu does not indicate that a glass of wine costing £2.90 is effectively for a small measure. I have referred this query to Havering's Trading Standards Service for further guidance regarding the lawful nature of this under *Weights and Measures* legislation.

**Annex 2 condition 8**

This condition requires that the restaurant's CCTV system captures a head and shoulders image of all persons entering the premises. A new camera – camera 7 – has been added to the CCTV system. Camera 7 has been placed on the ceiling to the left of the door as you enter. The result of this is that the high angle of the camera's location fails to capture successfully a head and shoulders image of persons entering the premises. Instead the image tends to be dominated by the top of individuals' heads. Additionally, the image is quite poor with a low resolution.

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The idea behind such a condition is that an 'identification standard' image of persons entering is captured and retained to aid any later investigations relating to anti-social behaviour etc. I suggested that Mr Rahman move camera 7 to a more suitable location or camera 3, which Mr Rahman advised me has a zoom function, is utilised to this end.

### **Annex 2 condition 9**

Mr Rahman and his staff members were unable to locate CCTV images for two dates I selected. I requested that Mr Rahman show me CCTV images from 00:50 to 01:15 on 26<sup>th</sup> May 2013. The on-screen message stated, after staff members had searched for these images, "No file on channels 1, 2, 3, 4, 5, 6, 7, 8". Mr Rahman speculated that the CCTV engineer had somehow deleted the previously saved month's-worth of recorded images when he attended the premises on 4<sup>th</sup> June 2013. Such a visit would have therefore taken place two days after Mr Hopkins advised me that all licence breach issues had been addressed.

To clarify this apparent CCTV engineer mistake I requested that Mr Rahman display CCTV images relating to 5<sup>th</sup> June 2013, i.e. the day *after* the CCTV engineer had visited. The same on-screen message appeared. It seemed evident, therefore, that there were no CCTV recordings in the system's memory, contrary to the requirements of this condition.

Mr Rahman went on to demonstrate that the machine's memory had CCTV recordings of my attendance at the premises and managed to locate recorded images which were little more than an hour old. I am not a CCTV expert but my understanding of how a CCTV recording system works is that the machine records images on a daily basis, but the length of storage of these images must be instructed by the user, due to hard drive memory capacity considerations.

There now appears to be no CCTV record of activities at the premises for the last 31 days.

### **Annex 2 condition 23**

Rather than the required hard-bound refusals register Mr Rahman was utilising an A4 notepad with a soft cover contrary to the provisions of this condition.

As you can see, the premises licence remains in breach more than six weeks after these licence breaches were originally identified. Please ensure that you take all reasonable steps to resolve these issues at the earliest possible opportunity.

Yours faithfully



Paul Jones  
Licensing Officer

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LONDON BOROUGH



**Public Protection**

London Borough of Havering  
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The Appropriate Licensing Officer  
Licensing Authority  
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Date: 13<sup>th</sup> May 2013

My Reference: PJJ/012695

Dear Sir

**Licensing Act 2003**  
**Akash Tandoori 185 High Street Hornchurch RM11 3XS**  
**Application to vary a premises licence**

Further to the above I can confirm that this Licensing Authority wishes to make representation *against* this application based upon our concerns in relation to the prevention of public nuisance and the prevention of crime and disorder licensing objectives.

**The application**

This application seeks overall to extend the hours during which licensable activity may be provided at the premises. The hours during which live music may be provided are, in the main, to be reduced. The hours during which recorded music and late night refreshment may be provided intend to be increased. The hours during which alcohol may be supplied at the premises also seek to be increased. Effectively the restaurant wishes to be able to provide licensable activity to its customers until 00:30 Sunday to Wednesday and until 02:30 Thursday to Saturday. The restaurant also seeks to remain open to the public for an additional half an hour subsequent to these terminal hours permitting customers to remain on site until 03:00 Thursday to Saturday. The 02:30 / 03:00 terminal hours also seek to be installed on a further eight non-standard occasions throughout the year, including some Sundays.

**Live music**

The application seeks to generally reduce the live music terminal hour from 00:00 to 23:00 seven nights a week, although the non-standard timings portion of this request indicates that the live music terminal hour is to be extended until 02:30 on certain occasions.

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Schedule 2 paragraph 7 of the Act indicates that live music is not to be regarded as a form of regulated entertainment if it is incidental to some other activity which is not itself a form of regulated entertainment, e.g. dining.

The *Live Music Act 2012* allows live music to be provided between 08:00 and 23:00 at a premises authorised to supply alcohol for consumption on the premises to an audience of less than 200 persons without any requirement for the live music to be licensed. The non-standard timings extensions would not be subject to these provisions, however.

Given these issues we are not sure of the applicant's intent with regard to providing live music at the restaurant. If the intent is simply to entertain diners while they eat the requirement to licence this activity would appear not to exist. We are therefore concerned that there may be a more robust and potentially noisy intention with regard to providing live music at the premises, particularly if live music is on occasion going to cease at 02:30.

### **Recorded music**

A similar situation exists with the provision of recorded music, although the *Live Music Act 2012* does not apply to recorded music. Schedule 2 paragraph 7 of the Act equally disappplies the requirement to licence recorded music if it is ancillary to, for example, dining. Again, we have concerns at the intention with regard to licensing recorded music until 02:30 as it might appear that simply playing 'background' music to diners while they eat would not constitute a licensable activity. This activity could legitimately be removed from the licence entirely, as with live music, if the intention is simply to provide music as an activity ancillary to dining.

### **Section M – additional steps to promote the licensing objectives**

The application's section M requires that the applicant describes any additional steps he intends to take to promote the four licensing objectives. The application indicates that there are *no additional steps* identified. Instead, the applicant intends that "*all existing [licence] conditions [are] to remain in force.*" There may appear to be two explanations for this: (a) the applicant has failed to identify potential problems in relation to this application, or (b) the applicant feels that no potential problems exist. Both of these possible explanations cause this Licensing Authority concern.

The *Akash Tandoori* premises licence currently has a number of conditions in place, all of which were deemed by the Licensing Sub-Committee in the recent February 2013 variation application to suit a terminal hour of 00:00 and 00:30 on Fridays and Saturdays. This April 2013 application seeks to extend licensable activity until 02:30 on Thursdays, Fridays, Saturdays and some Sundays. To support this increase the applicant intends that the extant conditions are simply 'carried over' as an apparent 'one-size-fits-all' conditional template. Clearly, licensable activity being provided until 00:30 two nights a week is an entirely different proposition to similar activities being provided until 02:30 three, sometimes four, nights a week, including some Sundays.

### **Licensing policy 012 – hours**

Havering's licensing policy 012 relates to the hours during which it is felt appropriate to provide licensable activity in given areas of the borough. Policy 012 is as follows:

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*The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applications for hours set out below in this policy will generally be granted subject to not being contrary to other policies in the statement of licensing policy. Applications for hours outside the hours listed will be considered on their merits.*

*Regulated activities will normally be permitted:*

- *until 11.30 pm in residential areas*
- *until 00.30 am in mixed use areas*
- *no limits in leisure areas*

This policy indicates that an application for hours which extend beyond these guideline hours will be considered on its merits. We contend that the application as submitted should not be considered an exception to the guidelines of licensing policy 012. The *Akash Tandoori* premises licence is currently in accordance with licensing policy 012, based upon an application granted by the Licensing Sub-Committee on 7<sup>th</sup> February 2013.

In the immediate vicinity of this premises are a number of other similar restaurants, each of which might appear to be in competition to attract late night, 'post-pub' customers. This Licensing Authority recognises the financial legitimacy of seeking to expand a customer base; however, extending a restaurant's operation into the early hours of the morning has an implication which reaches beyond the boundary of the premises.

Competition for late night customers might appear to operate on a 'supply and demand' principle: the 'more' a premises may supply, the greater the demand for that supply. In other words, the longer a premises remains open to the public, the more members of the public will want to avail themselves of the services offered within. The result of such a situation is that competing businesses may feel compelled by this principle to extend their hours also. The outcome of such a scenario is 'hours-creep'.

The area in which this restaurant is located is subject to a special policy in relation to licensed premises via licensing policy 017. This policy is as follows:

*It is the LLA's policy to refuse applications in the St Andrews ward area for pubs and bars; late night refreshment premises offering hot food and drink to take away; off licences; and premises offering facilities for music and dancing other than applications to vary hours with regard to licensing policy 012.*

While restaurants are not explicitly subject to the policy this does not remove restaurants from the requirement to promote the licensing objectives. Indeed, the guidance to the Act states at paragraph 13.33:

*Special policies may apply to the impact of a concentration of **any** licensed premises.*

Clearly the guidance recognises that any and all premises licensed under the Act have the potential to contribute to a cumulative impact upon the promotion of the licensing objectives in a given vicinity. We can see, therefore, that there is an obligation upon all licensed premises to be, at the very least, aware of their potential effect within a special policy area.

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In light of this, policy 017 seeks to support the licensing of appropriate restaurant premises within the special policy area: it does not seek to absolve restaurants from their licensing responsibilities. The special policy area was designated as such by Havering in response to its identification by the Police as an area in which resources to cope with late-night anti-social behaviour issues were limited.

This special policy area has been highlighted as one which requires greater attention than other areas of the borough in relation to licensed premises and the problems attendant to alcohol consumption. Our concern as the Licensing Authority is the potential for this vicinity to incrementally increase its average terminal hour. A potential result of this hours-creep would be the influx of greater numbers of individuals to the area seeking a late-night meal after an evening out. As a consequence, a greater number of individuals would then be leaving premises in the early hours of the morning while under the influence of alcohol.

### **Section 182 guidance to the Act – promoting the licensing objectives**

Section 4(3) of the Act requires that a Licensing Authority, when carrying out its functions, has regard to its licensing policy as well as to the guidance issued under s.182 of the Act. This guidance also identifies certain expectations in relation to applicants.

Paragraphs 8.34 to 8.42 of the guidance to the Act address the steps required to promote the licensing objectives. A brief examination of these steps will demonstrate that the applicant has not fully addressed the promotion of the licensing objectives in line with the guidance, thus making it difficult for the Licensing Authority to support the application.

*8.34 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*

The applicant appears not to have provided any evidence of regard to the licensing policy for this area. The application contains no evidence of the applicant's knowledge of the local area to support the entries made in section M of the application. Indeed, the applicant has indicated only that "*all existing conditions to remain in force.*"

*8.35 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:*

- *the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- *any risk posed to the local area by the applicants' proposed licensable activities; and*

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- *any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

This application provides no evidence to support any of the expectations identified above, in particular any risk posed to the local area which may follow from this application. As previously mentioned it may be that the applicant has failed to identify any risk posed by the application. Equally, it may be that the applicant feels the application poses no risk to the local area. Both of these possibilities cause the Licensing Authority concern.

*8.36 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.*

As mentioned previously the St Andrews ward is a special policy area addressed by Havering's licensing policy 017. While this policy does not explicitly apply to this application *Akash Tandoori* is located in this special policy area and restaurants are required to promote the licensing objectives the same as any other licensed premises. As a Licensing Authority we might reasonably expect that the applicant acknowledges his role in relation to preventing public nuisance in this special area; however, he has not done so.

*8.40 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.*

As mentioned previously, the entries in section M of the application are minimal: "*all existing conditions to remain in force.*" Indeed, the applicant has provided no additional proposed steps to enable this Licensing Authority to properly assess the application. Paragraph 8.40 might reasonably be seen to require that an applicant not only offers certain steps to aid the promotion of the licensing objectives but also provides reasons why *these particular steps* are appropriate for *this particular premises*. Such reasoning reassures a Licensing Authority that the applicant has a full understanding of the demands placed upon him when providing licensable activity. It might seem that contrary to the apparent requirements of paragraph 8.40 the applicant has *provided a set of standard conditions* by indicating that the extant licence conditions should apply to his new licensing model.

### **Licensing policy 015 – premises' compliance history**

Based upon Havering's licensing policy 015 an application such as this should also be considered in the light of the applicant's compliance history in relation to the provisions of the current licence. Licensing policy 015 states:

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*In considering applications for new licences or variations to existing licences and licence reviews following the receipt of relevant representations, the LLA will take the matters listed below into account. These criteria will apply in different ways to different types of premises and licensable activities in the following order:*

- *the location of the premises and character of the area*
- *the views of responsible authorities*
- *the views of interested parties*
- *past compliance history of current management*
- *the proposed hours of operation*

Since November 2012 this Licensing Authority has had to provide four written warnings to the applicant based upon his failure to comply with the terminal hours of his premises licence. The most recent of these was given on 22<sup>nd</sup> February 2013 which was less than two weeks after the applicant had his terminal hours extended at his previous variation application. Copies of these warning letters are provided for reference. A monitoring visit to the premises on the evening of 16<sup>th</sup>-17<sup>th</sup> March 2013 witnessed customers entering the premises at 01:50. The most recent monitoring inspection took place on the evening of 10<sup>th</sup>-11<sup>th</sup> May 2013. Customers were seen to leave the premises at 01:30, half an hour after the premises should have been closed. It appears also, that heavy curtains have been hung at the premises' windows and thus it was not possible to confirm if further customers remained on site.

It may be argued that this application is the applicant's attempt to legitimise operating outside those hours currently permitted; however, it should also be recognised that the applicant appears to be prepared to ignore the terminal hours of his premises licence when it is felt appropriate to do so. The applicant ignored his original terminal hour subsequent to the licence having been transferred to him in August 2012. He has ignored the current terminal hour subsequent to his last application to extend the hours granted in February 2013. Given this past compliance history what guarantee can be provided that subsequent terminal hours will not be similarly disregarded?

In response to these previous terminal hour compliance failures this Licensing Authority offered to meet with the applicant and, at our expense, provide a translator to fully explain the requirements of his premises licence in the applicant's first language as it had been made known to us that the applicant's command of English was not as strong as that of his first language. The applicant agreed to this offer in principle, however made his acceptance of our offer of help conditional. These conditions included the requirement that the Licensing Authority provide a "*written guarantee*" that we would not undertake any enforcement action against the applicant for previous alleged licence breaches. A copy of the applicant's e-mailed response in relation to this offer is provided for reference. Certain personal information has been redacted in consideration to the applicant.

The Licensing Authority's agreement to provide this written guarantee would have effectively resulted in an abuse of process on our part. Therefore we were regrettably unable to accept this conditional requirement. This apparent reluctance to permit us to provide helpful information to the applicant in his first language – at our cost – does not reassure this Licensing Authority of the applicant's intentions with regard to future licence compliance and the obligation to promote the licensing objectives.

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A full licensing inspection at the premises was subsequently undertaken with the applicant and his representative in April 2013. It was suggested by the Licensing Authority that the applicant bring his own translator to the meeting as it was previously the applicant's conditional requirement that a translator was provided so that the applicant "*can fully understand what is being said.*" No translator was supplied by the applicant, although it emerged at the inspection that the applicant was fully able to read the entries on the *Akash Tandoori* premises licence. The outcome of this inspection was that eight licence conditions were found to be in breach while two more conditions required further evidence of compliance. At the time of submitting this representation these licence breaches remain unresolved and the licence therefore remains in breach.

Finally, and perhaps most importantly, the applicant advised us in this same e-mail (see below) that he has significant health issues which cause "*severe pain and distress together with severely limiting his movement*". While we extend our sympathies to the applicant we are naturally concerned at his ability to successfully manage the demands of promoting the licensing objectives in a restaurant until 03:00 in the morning and the impact this may have on his health. Customers entering the premises at late hours on the weekend are likely to have spent the preceding hours consuming alcohol and will in all likelihood continue to do so during their meals. We therefore have concerns at the applicant's future capabilities to deal with any potential licensing objective issues attendant to addressing the needs of customers who are under the influence of alcohol. This concern is of particular importance when we consider that the applicant's condition is "*unlikely to be cured due to the nature of the illness.*" We would hope that the applicant extends the promotion of the public safety licensing objective to include himself.

Based upon our concerns detailed above this Licensing Authority is not in a position to be able to support an application to extend licensable activity at the premises outside those provisions identified in Havering's licensing policy 012.

I hope this makes our position clear.

Yours faithfully



Paul Jones  
Licensing Officer

*cc Mr G Hopkins, agent for the applicant*



**From:** GRAHAM HOPKINS [mailto: [REDACTED]]  
**Sent:** 12 April 2013 08:37  
**To:** Paul Jones  
**Subject:** Mr Rahman //Akash Tandoori

Dear Paul,

Mr Rahman is agreeable in principle to attending an advisory session regarding his Premises Licence for Akash Tandoori. We consider this should be based on the following conditions:

- 1 This must be with an independent translator provided by the Council so that Mr Rahman can fully understand what is being said.
- 2 Either myself or another representative would need to be present to advise Mr Rahman and protect his interests.
- 3 We would want a written guarantee in return that Mr Rahman will not face [REDACTED] or a Review before the LSC based on any alleged "evidence" gathered to date.

Further following the fact that Mr Rahman has been diagnosed with [REDACTED] which causes him severe pain and distress together with severely limiting his movement we would prefer the meeting to be held at the restaurant during the day. Mr Rahman does not hold a driving licence and in any case would be unable to drive. He is currently prescribed a large number of pain killers etc and is waiting scans at Queens Hospital before seeing a consultant [REDACTED]. His condition is unlikely to be cured due to the nature of the illness.

Your understanding of our client's medical condition would be appreciated and we would look forward to hearing from you. Due to our client's condition and medical appointments together with our commitments a week's notice is requested please of proposed dates/ times.

Kind regards,

Graham GT Licensing Consultants [REDACTED] begin\_of\_the\_skype\_highlighting [REDACTED] end\_of\_the\_skype\_highlighting // [REDACTED] begin\_of\_the\_skype\_highlighting [REDACTED] end\_of\_the\_skype\_highlighting

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Graham Hopkins



**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

AGREEMENT DATE 24<sup>th</sup> DAY OF NOVEMBER 2014

**This Agreement made between:**

'The Seller': **MR IRSHADUR RAHMAN** of 185A High Street, Hornchurch, Essex, RM11 3XS  
and 'The Buyer': **MR JAKIR HUSSAIN KHAN** 25 Becket Avenue, East Ham, London, E6 6AE

In relation to the Property known as: Ground Floor Premises, situated at **185 HIGH STREET, HORNCHURCH, RM11 3XS** under the trading name and goodwill of '**AKASH TANDOORI**'

**The Parties Agree the followings:-**

- COPY
1. For the Agreed Purchase Price of [REDACTED]
  2. The Seller will sell and the Buyer will buy the Property for the full Purchase Price of [REDACTED]
  3. The Parties to this Agreement Of Sale agree Completion Date immediately upon grant of unconditional 'License To Assign' from the landlord.
  4. In consideration of the Purchase of the above leasehold commercial premises '**AKASH TANDOORI**', **185 HIGH STREET, HORNCHURCH, RM11 3XS**, the buyers deposits the sum of [REDACTED] and the balance shall follow on legal completions, the seller confirms receipt.
  5. It is agreed by both parties that in the event the matter does not proceed to completion by fault of either party or withdrawal by either party than the following damages/ compensation are available:-
    - a. If the Buyer withdraws from the Purchase or the transaction does not proceed to completion due to the fault of the Buyer, the seller shall be entitled to retain the deposit of [REDACTED] to be treated as forfeiture by the buyer and further entitled to recovery of sellers reasonable legal costs from the buyer. Payment to be received within 5 working days.
    - b. If the seller withdraws from the sale or the transaction does not proceed to completion due to the fault of the seller, the purchaser shall be entitled to the full refunds of the deposit of [REDACTED] as per signing of this Agreement.

**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

The Buyer is further entitled to recovery of sellers reasonable legal costs from the Seller together with any consequential loss. Payment to be received within 5 working days

6. On signing this Agreement, the seller gives the buyers unrestricted access to the premises and the buyers to hold the premises as a License. The buyers shall be responsible for all gas, electric, rates, taxes, water, telephone and all other services and utilities enjoyed at the property during the occupational period.
7. The Buyer will be responsible and liable for all rates, taxes, fines and claim for compensation. The Buyers shall be responsible for the sale of alcohol and undertake to comply with current and future Acts of Parliament, Rules and Regulation and By-Laws relating to the sale of alcohol pursuant to the License Act.
8. The Buyers confirm that he shall adhere to the lease conditions and terms and to pay without deductions or set off all of the License fee for continuous occupation being the amount equal to the rent of [REDACTED] per month to the seller. If the rent monies are not paid forthwith the buyer agrees to vacate the premises immediately at the sellers request.
9. The Buyers confirm that he shall at all times with or without notice always allow the seller to have unrestricted access to the premises for inspection.
10. The Buyers shall not make any duplication of the keys without prior express authority from the seller, in the event the keys are lost or damaged then the buyers is to contacts the seller immediately.
11. The Seller shall be under no obligation to execute any Assurance, Under-Lease, Sub-Lease, Charge, Mortgage, Assignment or Transfer documents or instrument(s) of this Property in favor of any person other than the Buyer named in this Agreement or by written agreement by both parties.
12. Where there is an adverse issue as to the grant of landlord's License or consent which results in the License not been granted upon receipt of references, the purchasers shall do what so ever required to satisfy the landlord's reasonable request. If thereafter landlords License is not granted than by agreement in writing the sellers shall agree to a nominate third party for assignment of contract and lease.
13. This contract may only be terminated by agreement in writing by the said both


**MEMORANDUM OF AGREEMENT OF SALE**  
**PROPERTY ADDRESS: 'AKASH' 185 HIGH STREET, HORNCHURCH, RM11 3XS**

parties together.

14. If the Transaction does not proceeds to formal completion, the sellers/ buyer shall forthwith/return or to pay additional payments within 5 working days of written notice to quit as per clause 5 above.


Signed By Seller: MR IRSHADUR RAHMAN Dated: 24/11/14  
**Mr. IRSHADUR RAHMAN**

In The Presence of:

ABDUL ASAD CHOWDHURY   
335 HALLEY ROAD.  
MAYOR PARK  
LONDON  
E12 6UB

COPY

Signed By Buyer:  Dated: 24/11/14  
**Mr. JAKIR HUSSAIN KHAN**

In The Presence of: - ABUL KALAM   
25 CHARTREABLE LANE  
E13 8DL

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**WARNING**

This is a formal document, designed to create legal right and legal obligations.





**Havering**  
LONDON BOROUGH

**Public Protection**

**Housing & Public Protection**

London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr J Khan  
25 Becket Avenue  
London  
E6 6AE

Telephone: 01708 432777  
Fax: 01708 432554  
email: [licensing@havering.gov.uk](mailto:licensing@havering.gov.uk)  
Textphone ☎: 01708 433175

Date: 25<sup>th</sup> November 2014

FOR COLLECTION IN PERSON

My Reference: PJJ/002160

Dear Sir/Madam

**Licensing Act 2003**  
**Premises Licence Number – 002160**  
**New Akash Restaurant 185 High Street Hornchurch RM11 3XS**

Attached is the premises licence for the above address in accordance with the provisions of the Licensing Act 2003.

**You are reminded that the premises licence or a certified copy of the licence must be kept at the premises while the licence summary, known as Part B, must be displayed on the premises in a prominent position.**

Full details of the Licensing Act regulations can be found on the GOV.UK website here

<https://www.gov.uk/alcohol-licensing>

For further information relating to your licence please contact the Licensing Authority at the address detailed above.

Please note that the granting of a licence under this Act does not remove the need for any necessary consent under other legislation, such as the Planning Acts. The fact that a licence has been granted on certain terms does not imply that similar terms will be agreed under other legislation.

Yours faithfully

Paul Jones  
Licensing Officer





Licensing Office  
London Borough Of Havering  
Mercury House  
Mercury gardens  
RM1 3SL

**KD - Havering Borough  
KD - Romford Police Station**

Romford Police Station  
19 Main Road  
Romford  
RM1 3BJ

Telephone: 02082179283  
Facsimile:  
Email: [Jason.Rose@met.pnn.police.uk](mailto:Jason.Rose@met.pnn.police.uk)  
[www.met.police.uk](http://www.met.police.uk)

Your ref:  
Our ref: Akash Tandoori 185 High  
Street, HORNCHURCH, RM11 3XS

**11/12/2014**

Police have been served a review, issued by local authority licensing department against the following premises, **Akash Tandoori 185 High Street, HORNCHURCH, RM11 3XS**. Police wish to fully support the observations under this application as we fear at least one of the four Licensing objectives are not being upheld on a regular basis at this premises, namely -

**Prevention of Crime and Disorder**

The premise is situated on a busy the main road linking Hornchurch with Romford and Upminster. The venue is set within a parade of shops, with close proximity to night time economy bars and clubs as well as being positioned extremely close to bus stops that are serviced by night time routes. This particular area has a thriving night time economy, in turn bringing a large amount of night time patrons to the area.

The review documentation submitted by the local authority clearly shows a number of occasions where the operators have displayed a blatant disregard for its authorised permitted hours. On numerous visits conducted by the LA it has been witnessed and evidenced that the venue has been open past their allocated trading times. Further supporting evidence has been secured clearly showing the serving of late night refreshment and alcohol outside of their licensable hours. Local authority have compiled comprehensive evidence, showing a number of breaches to the premise licence, the serving of warning letters and indeed criminal prosecutions against the owner Mr Irshadur RAHMAN. It must be noted that the premises first come to light via **consumer complaints** informing authorities the venue was trading "After Hours". Subsequent visits and deployments have simply supported these allegations and claims.

In summary, Police have been made aware of the following incidents at the venue -

- 3rd Nov 2012 - Complaint by consumers
- 10th Nov 2012 - LA inspection evidence after hour trading
- 12th Nov 2012 - Formal warning issued by LA
- 17th Nov 2012 - LA inspection evidence after hour trading
- 19th Nov 2012 - Another formal warning issued by LA
- 25th Nov 2012 - LA Test Purchase deployment reveals Late Night Refreshment (LNR) and Alcohol sales are being carried out by the venue after permitted hours
- 20th Dec 2012 - Mr Irshadur RAHMAN become sole premise licence holder
- 16th Feb 2013 - LA inspection evidence after hour trading
- 22nd Feb 2013 - Formal warning issued by LA
- 17th Mar 2013 - LA inspection evidence after hour trading
- 5th Apr 2013 - Prosecution hearing relating to test purchase on 25/11/2012 - No further action
- 22nd Apr 2013 - LA inspection evidence ten breaches to the venues premises licence
- 11th May 2013 - LA inspection evidence after hour trading
- 14th May 2013 - Formal warning issued by LA



26th May 2013 - LA Test Purchase deployment reveals Late Night Refreshment (LNR) and Alcohol sales are being carried out by the venue after permitted hours  
06th Jun 2013 - LA inspection evidence four breaches to the venues premises licence inc no cctv retention.  
10th Jun 2013 - 2nd Prosecution instigated relating to failed test purchase on 26/05/2013  
10th Nov 2013 - LA inspection evidence after hour trading  
29th Nov 2013 - Not guilty plea entered by Mr RAHMAN relating to failed test purchase on 26/05/2013  
01st Dec 2013 - LA Test Purchase deployment reveals Late Night Refreshment (LNR) and Alcohol sales are being carried out by the venue after permitted hours  
03rd Dec 2013 - LA inspection evidence breach to the venues premises licence namely no cctv retention.  
09th Jan 2014 - 3rd Prosecution instigated relating to failed test purchase on 01/12/2013  
28th Apr 2014 - Mr RAHMAN found guilty of s.136 relating to test purchase failure on 26/05/2013

LA also evidences a number of other occasions where they believed unlicensed activity has taken place "After Hours". It's clearly apparent when you look at the number of interactions from the LA with the owner / premises license holder that the venue believes it is "Above the Law". It wilfully continues to trade with the knowledge of committing offences. Numerous interactions are evidenced, help and education offered but all are ignored by the venue, simply being discounted.

In addition to the time line displayed above, police have also visited the premises. One visit was conducted over two nights from Friday 06/12/2013 and Saturday 07/12/2013. Pc DAVIES attended on Friday 06/12/2013 at 0020 hours to find the restaurant open for business with approx 10 people dinning inside. Pc DAVIES asked Mr RAHMAN to see a copy of his licence which after approx 15 minutes looking for it he produced. This accompanies the copy mounted on the wall next to the bar area. Pc DAVIES noticed a sign mounted on the back wall above the bar area signalling whether the bar is open or closed, upon his arrival at 0045 hours the sign above the bar said OPEN, this was quickly changed by staff.

Inside his licence there is an area highlighted which relates the operating of the CCTV systems, Pc DAVIES spoke to Mr RAHMAN about this and he informed the officer the CCTV system was not working and that he was expecting an engineer to attend his premises on Saturday 07/12/2013 to fix it. Pc DAVIES re visited the premises on Saturday 07/12/2013 to check that the CCTV system had been fixed; again he was met by Mr RAHMAN who stated that the engineer to did not turn up and he would now be attending the premises on Monday 09/12/2013. Once again displaying a clear lack of regard for the conditions on his licence, in turn failing to promote the licensing objectives by breaching his licence. Police have significant concerns that if left in charge of these premises, Mr RAHMAN will continue the regime he has created, a regime that does not abide by the law and the regulations of the licensing act.

In summary, Police fear that the premises are not promoting the licensing objectives in relation to the prevention of crime and disorder. The venue has been given consultation periods and advice from responsible authorities in how to prevent further incidents and breaches; however they are clearly not listened too. Police believe it shows an unacceptable level of incompetence, by the licence holder, DPS and employees.

Police whole heartedly support Local Authority's submission of this review; it is believed adding further conditions for this particular premise will insufficient as responsible authorities have demonstrated the current conditions can not be adhered too.

That said, police have since been made aware of a recent change of ownership at the venue. Apparently the sale of the premises to another operator is currently ongoing. It is understood that this operator has displayed a credible work ethic in relation to running another restaurant business in the HORNCHURCH area, a premise that has not experienced the problems listed above. It is understood that evidence has been supplied to LA of this take over and the persons involved. Police do still have concerns that the previous owner, Mr RAHMAN may have some involvement in the operation of this business and would welcome evidence at the hearing from Mr RAHMAN and or indeed the new owner that this is NOT the case, reducing such concerns that this regime will continue.

If I can be of any further assistance in this matter please do not hesitate to contact me

Yours sincerely,

Pc Lee DAVIES  
Licensing Department  
Havering Borough



**Havering**  
LONDON BOROUGH

**Public Protection**

London Borough of Havering  
Trading Standards Service  
5<sup>th</sup> Floor, Mercury House  
Mercury Gardens  
Romford  
RM1 3SL

The Licensing Authority  
Mercury House  
Mercury Gardens  
Romford  
Essex  
RM1 3DW

**Telephone: 01708 433431**  
Fax: 01708 432554  
email: keith.bush@havering.gov.uk  
Textphone: 01708 433175

Date: 18<sup>th</sup> November 2014

Your Ref: PJJ/R/088065

Dear Sir/Madam,

**Licensing Act 2003**

**Akash Tandoori, 185 High Street, Hornchurch RM11 3XS**

I write in relation to the review brought by Paul Jones of the Licensing Authority against the above premises.

The trading standards service supports the review brought by the Licensing Authority. In the opinion of the service the trader has failed to promote the licensing objective in relation to the prevention of crime and disorder.

On 3<sup>rd</sup> June 2014 a complaint was received by the trading standards service that the premises was substituting it's spirits. As a result of the complaint officers from the service visited the premises on 31<sup>st</sup> July 2014.

During the visit the bar area was checked and the spirits 'dipped'. This is a screen test to check whether the spirits on sale have been substituted. Two of the drinks tested, Smirnoff vodka and Gordons Gin appeared to have been substituted and samples of both spirits were taken.

These samples were sent to the Public Analyst who concluded that in relation to the Smirnoff vodka sample:

*'The alcohol level is satisfactory for a spirit drink declared at 37.5%. No unexpected methanol or congeners were found.*

*However the absence of the brand marker sugars is not consistent with the sample being Smirnoff brand vodka, which was the brand name given in the accompanying documentation and on the label attached to the sample. The glass bottle from which the sample was taken was also submitted and the lot code 'L2247CX000 05342877' was found etched on it. I understand from the manufacturers that the marker sugars were added at the expected level to this lot, indicating that the contents of the bottle have been replaced by a different product.*



*The sample is therefore misdescribed with respect to its brand.'*

The Public Analyst made the following conclusions in relation to the Gordons Gin sample:

*'The alcohol level is satisfactory for a spirit drink declared at 37.5%. No unexpected methanol or congeners were found.*

*However the absence of the brand marker sugars is not consistent with the sample being Gordons Gin, which was the brand name given in the accompanying documentation and on the label attached to the sample. The glass bottle from which the sample was taken was also submitted and the lot code 'L2053CV000 01105251' was found etched on it. I understand from the manufacturers that the marker sugars were added at the expected level to this lot, indicating that the contents of the bottle have been replaced by a different product.*

*The sample is therefore misdescribed with respect to its brand.'*

Spirit substitution is a misleading action contrary to Regulations 9 of the Consumer Protection from Unfair Trading Regulations 2008, and therefore a crime. This is a relevant offence under schedule 4 of the Licensing Act 2003. It is a means of deceiving consumers into paying over the odds for a cheaper product and gives the trader an unfair advantage over other pubs, restaurants and bars in the area. Substituted spirits also carry the potential of causing harm to any customers consuming them.

When consumers purchase a brand such as Smirnoff and Gordon's they do so with the expectation that the product will meet certain standards in terms of quality and safety. It is unknown exactly the origin of the product that was found in the bottles of alcohol at Akash but the trader has put their profits before the welfare of residents of the borough. Consumers are entitled to expect that the products they purchase are genuine, safe, and that they are paying a fair price.

I trust this representation is self-explanatory. If however there are further queries regarding this matter please do not hesitate to telephone on 01708 433425.

Yours faithfully



**Keith Bush**  
**Specialist Trading Standards Officer**

