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Licensing Sub-Committee

Monday, 9th February, 2009

PRESENT: Councillor R D Feldman in the Chair

Councillors D Hollingsworth and
G Wilkinson

1 The Mission Nightclub, 8 - 13 Heaton's Court, Leeds, LS1 6ET - Review of Premises Licence

Please refer to the attached decision letter

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Our Ref: A61/hg/Mission Review
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Date 5 March 2009

“THE MISSION NIGHTCLUB”, 8 -12 HEATON’S COURT, LEEDS LS1 6ET - REVIEW OF A PREMISES LICENCE FOLLOWING AN APPLICATION MADE UNDER SECTION 51 OF THE LICENSING ACT 2003

On 9th February 2009 the Licensing Sub Committee met to consider a Review of the Premises Licence currently held at the premises known as “Mission Night Club”, 8-13 Heaton’s Court, Leeds LS1 6ET. The Review had been necessitated following application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to all four licensing objectives for the City adopted in order to promote the prevention of crime and disorder, the prevention of public nuisance, promotion of public safety and the protection of children of harm.

This letter represents the formal decision of the Committee in respect of the Review.

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. No declarations of interest were made. The Sub Committee decided that the procedure for the hearing would not be varied except that they did not set a time for submissions.

The Sub Committee also considered if the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on submissions and evidence presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

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This application had been the subject of a Directions Hearing on 10 December 2008 whereby all parties made representations to determine the length of time to be set aside for the hearing, the number of witnesses and whether the Sub Committee would conduct a site visit.

The Sub Committee undertook a site visit on Friday 6th February 2009 at 2.00 pm. Just prior to this hearing; the Clerk submitted formal minutes of that visit with the permission of all parties.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing a copy of the application as made by West Yorkshire Police (WYP) and supporting evidence which included several witness statements supplied by WYP officers and officers of British Transport Police (BTP).

The Sub Committee was also in receipt of submissions from the Premise Licence Holder (PLH) which included plans and photographs of the premises; a management statement; search policy; drugs policy and procedures; security report and associated documentation; copies of staff certificates of qualification; and copies of correspondence relating to various publicity/drug initiatives the club had been involved in. The PLH also submitted a report undertaken by an independent consultant – Mr D Child - providing an assessment of the Club. Correspondence between the Club and WYP/BTP was also included as well as copies of documentation relating to previous applications associated with the premises.

Members were aware the Club had been the subject of a previous Review application made by BTP in January 2008 which had been formally withdrawn at a hearing on 24th June 2008.

In Attendance

The Applicant

Mr S Walsh
Mr M Forshaw
Sergeant R Fullilove – WYP
Inspector G Alderson – BTP
Detective Inspector D Boldison

Premise Licence Holder

Mr P Whur
Mr T George – Director, Mission
Mr D Rothwell – Director, Mission
Mr C Barrow – General Manager & DPS
Mr S Wilson – Director, Mission
Mr D Child – Independent Consultant

Observers

Mr Snee – BTP
Ms Emina Trozec – member of the public

The Hearing

In considering the Review, the Committee took into account the written submissions contained within the Licensing Officers report plus the verbal submissions made at the hearing by all parties.

The Sub Committee also had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy and in particular Section 13 (Enforcement and Reviews).

The Sub Committee then went onto consider the Section 11 the Guidance (Reviews) as the Sub Committee took the view the following paragraphs had bearing on the application:

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11:1 – 11:9	The Review process
11:15 -11:21	Powers of a Licensing Authority on the determination of a Review
11:22 – 11:27	Reviews arising in connection with crime

Reasons for the Review request

West Yorkshire Police (WYP) presented a case based on incidents of crime and disorder within, around and associated with the premises, particularly drugs related and sexual offences, which were chronologically listed within the application form. Since 2006 WYP and British Transport Police (BTP) had reason to visit the premises in connection with Operations, responding to reported incidents and/or on routine licensing enforcement visits.

During 2006 WYP undertook Operation Longside launched against a number of Clubs within central Leeds in response to intelligence regarding availability of Class A and B drugs being sold openly and used in those premises, one of which was Mission. There was an implication that in some or all of these clubs the management was complicit in the supply/consumption of the drugs or turned a blind eye to their availability.

On Saturday 27/Sunday 28 January 2007 as a result of the intelligence received and analysed following the Operation, the Mission was raided and searched under the provisions of the relevant warrant. Eight persons were arrested for drugs offences from inside the Club and a quantity of Class A drugs was seized. Two doorstaff and three DJs were arrested. The three other arrests were customers seen dealing drugs. On June 8 2007 a police sergeant conducting a uniformed visit to the Mission noticed a strong smell of cannabis within the club.

WYP stated that between February 2007 and January 2008 seven serious sexual assaults were committed within the Mission. To alleviate the concerns regarding the unisex toilets – where these particular crimes were committed, WYP/BTP made strong representations to the Mission management to separate the two facilities. It was acknowledged that a wall had been erected to separate the facilities. However BTP maintained the wall was purely cosmetic and the toilets could revert to unisex facilities in the future

During BTP's investigations of the sexual offences, other information came to light, which the police maintained revealed the Club to be well known within Leeds as a place where drug dealing and usage was well known. In January 2008 BTP undertook an undercover drugs test purchase at The Mission, with follow up operations in April, May and June 2008. Many controlled drugs were purchased during these operations.

In view of these circumstances and the serious nature of the matters WYP maintained the management had apparent failings; in particular to heed and to act upon the drug supply issues which were apparent in 2006/07 and still prevalent in 2008.

In conclusion West Yorkshire Police sought a revocation of the Premises Licence.

Submissions and Evidence on behalf of the applicant – West Yorkshire Police

The Sub Committee heard representation from Mr M Walsh. Mr Walsh acknowledged the introduction provided by the Legal Adviser outlining the history of the premises, and stated that BTP, as the force which policed premises, still maintained the view of the premises stated in its own Review application made in January 2008. The withdrawal of that application

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had been brought about by a legal reason and should not be taken as an indication that BTP were satisfied with the premises. Mr Walsh stated the case was as presented within the WYP documentation and reported there was not a great deal of dispute between the parties on the facts therein. He added that WYP could not allow the venue to continue to run the way it was.

Turning to the statements submitted by WYP in support of the application, Mr Walsh stated he would refer to the most important statements in turn, noting the Sub Committee had received and read all of the written submissions sometime prior to this hearing. The statement of Inspector T Metcalf appeared at page 20 of the documentation and had been submitted at the time of the January 2008 application. Her responsibilities had been assumed by Inspector G Alderson in April 2008 and he had submitted a statement with regards to incidents during the remainder of 2008. Mr Walsh noted the number of drug related incidents described in the statements and that drug safe within Mission was not emptied on a particularly frequent basis.

Mr Walsh then introduced **Inspector G Alderson** to provide a verbal update on crime and disorder issues and drug misuse in the premises

Crime and Disorder:

- Theft of property such as cash, phones and credit cards – some of this was due to customers losing items and later reporting them as stolen
- Violent incidents - again these were often reported the day after the incident which made follow up investigations difficult
- A female customer had alleged an assault by a member of doorstaff. The doorstaff were interviewed who stated that he had employed lawful powers under SIA registration and that the complainant had been drunk which was how she had sustained her injuries. Insp. Alderson commented it was strange that she had been admitted back into the Club later the same night, despite being drunk.
- 16 January 2009 - 2 violent crimes recorded in the toilets. 2 males assaulted by another male. All three were ejected by the doorstaff and the incident log was completed. However BTP were concerned the doorstaff did not try to identify the assailant nor detain him for the police to take further action
- 27 January 2009 – another assault committed. The suspect was ejected from the premises after punching the face of another. Again no details were collected by the doorstaff. WYP will have to collect and view the CCTV data to identify the assailant

Drugs:

- 19 December 2008 – BTP and WYP carried out a joint operation around all Leeds City Centre, including the use of a passive drugs dog which was engaged to walk up and down the lines of customers queuing to enter various premises. 4 males in the Mission queue were found to be in possession of Class A and B drugs within 20 minutes of each other, and were subsequently dealt with by WYP
- 19 December 2008 – a member of Mission staff detained a customer who was found to be in possession of a large amount of cocaine – which was determined to be of sufficient quantity not to not be for personal use. The individual was dealt with by WYP on the likelihood of intent to supply, the progress of this case was due to be considered by the Crown Prosecution Service
- 25 January 2009 – another male was detained by doorstaff inside the premises using what was believed to be cocaine. The individual was issued with a formal police caution. BTP operates a system where drugs seized or found by doorstaff are deposited in the drugs safe which can only be opened with a key in the possession of BTP and the Club management
- 9 June 08 – 120 items were retrieved by BTP from the safe

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- 18 August 08 – approximately 120 items were retrieved
- 27 October 08 – approximately 100 items were retrieved
- 6 February 2009 - Mr Barrow had informed Insp. Alderson that there were approximately 74 items within the safe. Insp. Alderson confirmed that BTP would make arrangements to retrieve the items soon

- August 2008 – Insp. Alderson and Mission had discussed what could be regarded as an “acceptable amount” of drugs seizures. He reported that usually it was only a small amount seized from an individual which would indicate the drugs were for personal use. In response to questions from Mr Walsh, Insp. Alderson clarified that “one item” was defined as being whatever was included in one seizure, whether that be one pill or ten pills, the one event was defined as one item. Each seizure was recorded in the drug log book. The current search policy was to search 1 in 3 customers and the nature of that search was to check the customers’ outer garments and bags and to “pat down” the clothing.

The Sub Committee then asked questions of Insp. Alderson who provided the following information in response:

- acknowledged that a lot of drugs had been seized and noted the Members comment that this could be regarded as the Club running a good drugs policy however he could not comment whether this amount seized was standard for Leeds, as he could only comment on those establishments policed by BTP. He believed the number was high when compared to BTP’s other premises.
- agreed that from the papers, Mission had been aware of the drug related problems for over a year and did not appear to have made improvement. In his view, Mission was seen as a safe haven for drug use and sale and he maintained the possession of drugs within Mission was still rife. BTP only recorded seizures made during the detection of crime. In terms of activity, the numbers may appear low, but policing responsibilities for the Mission were managed by BTP – if BTP responded to Mission every time the Club made a seizure, BTP would be unable to police any other premises.
- the joint operation on 19 December 08 covered the whole of the city centre. All officers were in full uniform and observed the customers queuing to enter premises whilst the dog worked the queue sniffing for drugs. The operation also included premises which WYP had responsibility for. Around 19 persons were dealt with for drugs related offences during that night
- BTP policed approximately 24 licensed premises in Leeds, and around half of those were night clubs

Mr Walsh moved onto refer the Sub Committee to the statements of Detective Inspector Boldison which outlined incidents at the Club, and to that of **Sergeant R Fullilove** which explained how WYP came to take over the investigation and instigation of the review. Mr Walsh stated that Sgt Fullilove would be better placed on behalf of WYP to explain the incidents.

The Sub Committee at this point requested information from Sgt Fullilove seeking a comparison between Mission and other Clubs in Leeds city centre. He replied that WYP undertook about 2 sporadic operations within the city centre on licensed premises per year. He stated that picking 4 persons out of one queue for one premise was a substantial result. Approximately 15 – 20 premises could be visited on such operations. He confirmed that most

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detections by WYP were as a result of doorstaff handing people over to them. The Chair commented that such behaviour would be seen as a plus point for a club and Sgt Fullilove concurred.

In response to questions from Mr Walsh, Sgt Fullilove stated that on the scale of things, and having regard to the statistics produced by BTP and the number of drugs finds over the 3 month period, he would place Mission within the top 10% of problem clubs in Leeds.

With regards to his statement at page 7 of the written submission, Sgt Fullilove confirmed the identity of the complainant had been anonymised but more importantly it was not uncommon to find fire exits which had been padlocked, or exits blocked with rubbish on routine visits. Such matters were usually dealt with through discussion with the management

Mr Walsh referred to Insp. Alderson's submission that Mission was known to be a safe haven for drugs. Sgt Fullilove expressed his agreement and belief that Mission was known for people being able to obtain and consume drugs. With that Mr Walsh stated this was the conclusion of their evidence.

The Sub Committee moved onto ask questions of WYP who provided the additional information:

- Referring to page 17 of the evidence and whether the police who had challenged the customers or the doorstaff who had then called the police in, Sgt Fullilove responded the results tended to be a mix of good security work by either the staff or the police and the statistics were a very sanitised representation of the crimes. The reports came through police operations or from complainants. If the police came across people the police would generate the report and statistic. If the doorstaff detained someone, the intelligence came from the doorstaff. The statistics were a mixture of police, doorstaff and complainant reports
- Referring to all the incidents listed between Jan – May 2008 and the comment that WYP would not have been in the vicinity on all occasions listed, therefore some of these must have been doorstaff reports, the Members commented that from the figures it would appear that with a search ratio of 1:3 there could be more people in the premises with drugs who had not been searched. Insp. Alderson responded those cases pre-dated his responsibility for the Club but he had discussed whether the search policy could be tightened up with Mr Barrow the Club General Manager
- Insp. Alderson confirmed that since the new stud wall had been erected to separate the toilet facilities, no sexual assaults had been reported
- In response to the comment that the gap below and above the wall could prove to be a temptation for someone to try to crawl under/climb over Insp. Alderson stated his agreement and that he would support the removal and improvement of that wall
- With regards to the number of doorstaff employed at the premises (15) for the 960 person capacity, Insp. Alderson responded he did not believe the number was solely dependant on the club capacity, but also took into consideration the layout of the premises. 15 may seem a high number, but he asked the Members to imagine that each of those would have a specific role to play in specific areas of the club. Sgt Fullilove added that more doorstaff could be required due to the layout of the premises, as there were lots of nooks and crannies and the 15 would be spread out once the 15 were on duty.
- With regards to whether the CCTV was satisfactory for court purposes, Sgt Fullilove explained that it was not very good in terms of police evidence as the images would

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not cover the dance floor areas, only the bar area, due to the camera positions. The booking office camera would be of sufficient quality to obtain evidence, but the external camera was not as it was too far away from the customer queue and would not zoom. This would require a victim of any crime to view stills of individual customers taken from the camera at the ticket office. He stated they would wish to see a better quality system installed, not just in terms of more cameras but also the positioning of the cameras to take into account the effects of the lights strobes and activities in the rooms

- The CCTV would be useful for dealing with crimes of violence if they happened in places where the camera could see as you could identify the perpetrator, but would not assist in other areas where other types of crime may occur. The system would not provide audio and would not be able to see a persons hands or things passed between people as it only captured head and shoulders views
- In answer to the query why the police did not act if they were aware drug dealers were in the queue, he highlighted the cost to the police force of carrying out such operations continually. Operation Labyrinth had been very intensive from start to finish and was still ongoing in terms of analysis and paperwork/reports. The police had no way of picking the drug dealers out of the queue; the Mission did not monitor the CCTV so there would be no point in the police issuing the club with photographs of known drug dealers as the club would not be able to pick them out
- With regards to the one disabled toilet facility located within the men's toilets, Sgt Fullilove confirmed that ladies wishing to use that facility would have to access it through the gents. This put the steward on the door of the toilets in a difficult position and removed them from their normal duty of ensuring customers used the correct facilities. He also asked Members to consider how would the customer feel
- He confirmed that since the erection of the stud wall, the incidents of sexual assaults, which were of grave concern, seemed to have diminished. He concluded however there was still a very serious drug problem at the premises

Having noted the conclusion of the submissions on behalf of the applicant, the Sub Committee permitted Mr Whur on behalf of the Premises Licence Holder to ask questions of the witnesses through the Chair and the following information was provided:

To Sgt Fullilove in the first instance

- Following the incidents listed, on 29 November 2008 a search warrant was executed on homes in North Leeds where male residents and articles were seized.
- In relation to Reviews, he would occasionally visit a small proportion of the premises prior to the hearing and if this had been an application following test purchases he would occasionally visit those too as he did work on test purchase operations

To Insp. Alderson –

- He was not aware the BTP crime reduction officer visited Mission 18 months earlier and had advised another camera was required which was subsequently installed
- He had not been in attendance when the drugs dog was employed and based his knowledge of the operation on the reports made by officers in attendance. He noted the comment that the Club management were present on that night and had stated there was no queue so four persons could not have been picked out of the queue by the dog, and suggested there could be some confusion, the people were perhaps on the street leading to the Mission but he stated there would have to be a physical link to the Mission to be recorded as “at the Mission.” WYP could have stopped them and they had said they were going to Mission.
- He could not confirm whether the 65 drug offences reported to be associated with Mission Jan 06 to Sept 08 led to charges.

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Mr Walsh added that the police can deal with offences by other means – such as warnings and penalty notices rather than formal charges leading to convictions.

The Sub Committee further queried the records of the 19 January 2008 and Sgt Fullilove responded he did not have the individual reports before him. His information was based on the reports of the officers involved on the night and contained within the police computer system. The information is taken from an internal results sheet. Each of the four inquiries detailed in the written submissions would have an associated prime file and an officer who could confirm the details. Members further commented on the difference between being in a queue and in the vicinity and Sgt Fullilove responded this depended on the Club and its location.

The Sub Committee then moved onto consider the representation of the Premise Licence Holder

Submissions and evidence of Mr P Whur – on behalf of the Premises Licence Holder

Mr Whur opened by asking the Sub Committee to refer to the proportionality test as stated in paragraphs 11:18 to 11:21 of the Guidance and to find in these circumstances that the club could continue to operate.

Mr Whur stated that he accepted on behalf of the PLH there had been problems at Mission, however he believed Members would be able to see from the report of Mr Child just how difficult it was to run a licensed premises in Leeds in 2009. He explained that Mr Child had sampled other venues in Leeds and had reported on his findings. Mr Whur suggested that dance led venues had a problem in that many customers did consume recreational drugs, plus there are problems associated with drink throughout all licensed premises

Having submitted a large bundle of evidence Mr Whur stated his intention to concentrate on 6 main strands

Management – He noted Mr George was in attendance and explained that Mission sat under a broader company umbrella “All Points North” which included a telecommunications firm. The Company also ran the following other venues in Leeds:

Fibre – 340 capacity

Victoria Works 2000 capacity 50 staff

Viaduct 210 capacity 15 staff

Library 350 capacity 30 staff

Mission 970 capacity 65 staff

He stated he provided these figures to the Sub Committee to indicate this was a Company of substance and a large player within the Leeds leisure industry. He explained that Mr George had operated The Mission for 9 years and had successfully converted the old style licences for the venue under the Licensing Act in 2005. The chronology of events related to the premises was helpful and he reported that Mission had successfully applied for a variation to the Premises Licence in 2008 to cover the reconfigured toilet facilities and the introduction of a new drugs policy.

The Premises – He noted Members preference for the stud wall to be whole party without gaps above or below and commented that on reflection, the management agreed this would perhaps be better. If the Sub Committee allowed the Mission to continue to operate the management would accept a condition to ensure a whole party wall was constructed

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The ladies disabled toilet – he reported that it was exceptionally rare for this to be required, but following the comments of the Members during the site visit, the management would undertake to create one away from the gents toilets. The existing disabled toilet had been placed in its current position because the CCTV camera covered that area and there was a steward patrolling the toilet entrance.

Management Structure – Mr Whur referred to various documents submitted by the PLH including a chart showing the management/staffing structure and:

Section 6 – DPS qualifications – he suggested these showed that Mr Barrow, the DPS had achieved the standard BIIAB Level 2 qualifications, plus had gone on independently to achieve qualifications at City & Guilds level.

BACIL – documentation showing the involvement of the Mission in “Business Against Crime In Leeds”, which although now disbanded, had been set up by the business community to deal with criminality in Leeds, furthermore Mr George had been invited by WYP to Chair the meetings in November 2008

Section 12 – management statement

Section 13 – search policy. He noted that WYP had stated a preference for a 1:1 search ratio, as opposed to the current 1:3 (one in three). The 1:3 ratio had been highlighted in the 2008 variation application when the new drugs policy was proposed and WYP had not made any representation on the policy then. He added that a 1:3 ratio was high for a Leeds venue but the policy was successful and staff did catch some and prevent those who wanted to re-fuel through the night

Section 15 – examples of documentation to be completed following any incidents.

Door Supervisors – Mr Whur stated he was particularly concerned by the comments of WYP that 15 doorstaff were not enough and referred Members to Section 16 of the submission containing a risk assessment undertaken by the doorstaff agency. He noted the relevance of Insp. Alderson’s comments and reported that usually 1 member of doorstaff was employed per 100 customers. In more difficult premises the ratio was 1 doorstaff per 85 customers. At Mission, the ratio was 1 doorstaff to 66 customers because of the layout of the venue.

Drug Policy – Section 17 contained the Drug Policy which was bespoke to this venue and written 2008 for the variation application. He reminded the Sub Committee that no representations had been received to the variation application which introduced this Drug Policy. He added that this apparent ongoing difference in the relationship between various arms of the police and The Mission led him onto the CCTV issue.

CCTV - Mr Whur noted that the site visit on Friday 6 February 2009 was the first occasion Sgt Fullilove had been inside the venue. Insp. Alderson had commented on the site visit that the CCTV system was not good enough, but this was the first time Mission had heard an officer of BTP say this. He reported that 18 months ago BTP had checked and cleared the CCTV system for use and suggested that one additional camera be installed. Mission had installed the extra camera and a copy of the receipt for the purchase and installation was included within the written submission. Furthermore, Mr Whur reminded the Sub Committee that the CCTV system currently in place was not the Clubs own as the first replacement provided by BTP had broken.

Section 18 - contained copies of the drug seizure form

Section 19 - contained copies of BIIAB Level 2 National Certificate for Licensees (Drugs Awareness) qualifications achieved by Mission Senior Managers which Mr Whur suggested was unique in Leeds and showed how seriously the Mission took the issue. He urged the Sub Committee to consider the pro-active approach of the Club against drugs and highlighted their

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part in an anti-drugs campaign – and detailed in Sections 20 and 23. This initiative had been initially supported by WYP along with BACIL, Galaxy FM, Safer Leeds, Walker Morris solicitors and Crimestoppers amongst others. The principle of the campaign had been accepted by WYP and they had provided a positive response to the posters drafted and produced. WYP later withdrew their support for the initiative and he suggested this was perhaps due to the ongoing perception of the premises by WYP. Mr Whur stated these sections had been included in the submission because he hoped they showed the desire of the PLH to deal with the drugs problem rather than ignore it.

Independent Assessment – Mr Whur referred the Sub Committee to Section 28 which contained a copy of the independent assessment of the Mission undertaken by Mr D Child at the request of the PLH. Mr Child's team had visited the venue, along with other Leeds venues for comparison and reported their findings. The names of the other venues remained anonymous in the report but had been supplied to WYP for them to investigate the findings. Page 3 of the report detailed Mr Child's extensive experience and credentials. With reference to his comment on page 4 of the report "disparity may have been brought about by the absence of the Glasshouse event..." Mr Whur stated the covert visits to Mission had taken place after the Glasshouse events had ceased at Mission. Glasshouse was an externally promoted event which incurred dreadful problems with drugs and had caused Mission a great deal of problems which may be related to this application for Review. That event was no longer held at Mission but is held in another Leeds venue. The management would say that holding Glasshouse at Mission had been an own goal, as was persisting with it but promotions were important to dance led venues and Mission also operated Federation Night.

Mr Whur explained that Mr Child had performed a business health check for the Club; and had sampled other Leeds venues in order to provide an idea of other problems in other venues in the city. In some of the more mainstream venues, the main problem was alcohol leading to drunkenness leading to assaults. Dance led venues tended to attract problems related to the use of recreational drugs. Mr Child had suggested improvements which could be made and these were listed at page 5 and centred on the doorstaff. Mr Whur stated the findings had been fed back to the doorstaff company and he assured Members that massive attempts had been made to deal with the findings. An Action Plan setting out potential remedial action was included at page 11 and Mr Whur stated he was hopeful the report would assist Members' understanding of the Leeds leisure market and that they would accept the report was independent and provided a snapshot of the issues.

Police evidence/stance – Mr Whur stated the PLH remained respectful of the difficulties of WYP role as the responsible authority and with this in mind he had highlighted those sections within the documentation he felt were important. However he reported the Directors felt they had not been dealt with fairly by one person in particular, and documentation relating to that issue were contained within Section 14 of the pack but would not be discussed in detail here. The Directors maintained that if they had received pro-active assistance from WYP they would not have got to this Review stage. Nevertheless, he reminded Members that the PLH had

- changed the toilet configuration
- changed control of the door
- changed the drug policy
- created a more pro-active search policy

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Mr Whur referred to the Safer Leeds communications contained within the pack which he suggested showed the Mission to be a major player in Leeds. Mission and Fibre attracted many customers from elsewhere to Leeds and as the management were aware of the comments made on the Facebook website he reiterated that Mission was working to exclude the drug element from the club.

The Directors were concerned that WYP/BTP had raised concerns about the CCTV on Friday 6 February – only the last working day prior to the hearing - which afforded them little time to deal with the issue. The Directors wished to put the last year behind them, wished to continue to trade and would accept a condition requiring liaison between the Club and WYP/BTP.

Statistics – He asked the Sub Committee to note the PLH felt that a lot of the statistics had been put forward to persuade the authority to revoke the licence. There was no way the PLH could assess the figures or determine whether there had been any subsequent convictions related to the reported incidents. Additionally “Mission” was used as a descriptive “tagline” to identify the location of any crimes but the crimes may not actually be associated directly with the Mission venue.

The Chair of the Sub Committee made a statement at this point regarding the contents of Section 14 and stated categorically that it was not the Sub Committee’s intention to take into account whether the Club was regarded as a gay club or not.

Mr T George then addressed the Sub Committee and explained that as a ‘Leeds lad’, he regarded himself as living his dream, formerly a DJ he now owned various companies and the Mission which had been described, by others, as the best nightclub in Leeds. He said he was thrilled to be able to bring journalists to the venue – as their coverage brought more customers to the venue and more to the local economy in general. He worked closely with the “Love It Live It” campaign established as joint public/private business venture to promote pride in the city of Leeds and with the Safer Leeds Partnership. Mr George stated that he felt proud of his achievements but recently he had felt disgraced because of the Review and this last year had caused him a massive amount of stress.

Mr George reiterated that as an independent operator he was used to making his own decisions and instant changes. However he felt he was working with his hands tied by BTP. Other clubs had told him Mission was crazy to hand over people detained by the doorstaff to BTP as it slowed business down and he should just eject people instead. Customers had complained that entering the venue was worse than going through Airport security searches. He stated he did have ideas about how the Club could do better, but his hands were tied. Mr George explained that Insp. P Nicholson used to have jurisdiction over the patch covering Mission, and Insp. Nicholson had said that due to the nature of society Mission would suffer from and be the target of assaults and crimes as it was a Nightclub. He had been told not to be frightened of calling the police and Mr George reported the management had not been, but were now. He reiterated that anything could be changed, but only if the police would liaise with them and explain their requirements. The future of Mission lay with the Sub Committee, but should the Members choose to close the venue he explained that Mission had a loan against it which would have a knock on effect on the other industries under the management umbrella such as the call centre and APN House.

Having noted the conclusions of the submissions on behalf of the PLH, the Sub Committee moved on to make comments and ask questions:

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- That despite the documentation suggesting the good work of the club and showing the experience and qualifications of the staff, bad things still happened which suggested something somewhere was seriously wrong. Mr George responded the Club had been under the microscope, but if the Club was closed, Members should not imagine that the dealers would stay at home on a Saturday night as they would simply go somewhere else. Mission were making an effort to deal with them
- Mr Whur responded that steps were taken to mitigate problems – Mission had been involved in the drugs campaign, as had his own solicitors firm, and wouldn't have done so if they didn't want to eradicate drugs. The removal of the Glasshouse event had improved the situation but the problem remained that drugs were so cheap and had flooded the leisure market
- Mr Barrow explained the location of the 15 doorstaff, 6 on the door to conduct the searches and ensure smooth passage in and 9 elsewhere inside the club. Those within stood on stages at a higher level to patrons, and wore high visibility jackets. The doorstaff also rotated duties, and 2 were always roving around the venue
- Some drugs were seized within the club, but the majority of seizures arose from the searches taking place at the point of entry. In general 80% seized on the door.
- The location of the CCTV depended on the internal design as it was difficult to locate cameras further into the rooms to provide coverage of the far end (away from the bar) as the movement of the lights/strobes could knock the cameras off their mountings or interfere with the picture
- With reference to the incidents of 17 January 09, the police report referred to "named staff" from Mission. Mr Barrow reported the police had taken no action at that time. The Mission had been unaware of this reported incident until that report had appeared within the Review application papers. The police had not attended the venue to deal with the incident. Mr Barrow stated his belief that a disgruntled customer had been refused entry and had later called the police and made this allegation, the wording of the report did suggest Mission were involved but he categorically stated they were not. He noted the report suggested that doorstaff and DJs were involved in the supply of drugs, and expressed his opinion that to include this in the report was scandalous and he reiterated that he had no knowledge of any police investigation and was sure the report was made by a disgruntled customer. With regards to the comments about fire doors being blocked or locked, Mr Barrow reported that records could be provided of Fire Authority visits which confirmed the fire doors were fine. If it was proved the Club had employed doorstaff or DJs found to be dealing drugs, Mission would report this to the police. He reiterated that Mission did maintain a very good relationship with the police officers on the ground and on patrol, the police; doorstaff and management knew each other well.
- Mr Barrow stated that he was the premises manager, with two deputy managers who looked after the club primarily. He dealt with the doorstaff. Previously he had met once a week with the head doorman weekly but procedure had now changed and he met with all 15 doorstaff at the start of every evening to discuss the search policy and any special events/ promotions that particular night. The whole team now started on shift at the same time. Previously there had been a staggered shift pattern whereby fewer staff attended at the start of the night with the full team being on duty when the club was full.
- Mr Barrow explained the search procedure undertaken at reception for customers entering the venue. The doorstaff search the persons downwards, if any drugs were found the person was asked to leave and the police were called. The drugs were

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removed from the person and taken to the office where the items were logged in the incident book, along with a description of the person and time the drugs were seized. One copy of the duplicate form was attached to the bag and deposited in the drugs safe; the other duplicate remained in the log book. The Club also had its own log book. Mr Barrow confirmed he had spoken to Insp. Alderson about the log. The customer would then be banned from the venue although Mr Barrow suggested that most would not try to come back as they would find the incident highly embarrassing

The Sub Committee then referred to the correspondence sent by Mission to Mr P Cahill, Chair of the Gay Police Association and expressed disappointment that the letter omitted any reference to the drugs related problems at the premises which had already been raised with the management. In response Mr Barrow stated that since the letter had been sent in April 2008 the IPCC had been made fully aware all the circumstances of the Review. The letter had been written before the application for this Review, but did refer to the previous Review application at which time the sexual assaults were the main concern. At that time, he maintained that no drugs were mentioned, WYP had undertaken more operations since then during which drugs were found and those operations now formed the basis for this Review. With regards to the police evidence at page 6, the Sub Committee were concerned over the difference of opinion about the incidents. Mr Barrow confirmed that Members would have to assume that someone had called the police but nothing had happened subsequently. He had spoken to Sgt Fullilove about the reported incidents but, in his opinion, had not received a satisfactory answer.

Referring again to the search policy, Mr Barrow stated the general search ratio was one search every third customer but it did vary. At the time the e-mails contained within the written submission were sent, the search policy was to search every customer in order to get the anti-drugs message across. With regards to the report at page 24 of the police submission regarding the smoking of cannabis, Mr Barrow stated this occurred prior to his employment, and also prior to the smoking ban and could not occur again.

The Sub Committee then dealt with the independent assessment which they commented was a rather damning report. Mr Child responded that this was the reality of what occurred. He noted the Sub Committee referred to the police report of the doorstaff and DJs dealing drugs, Mr Child stated he had found the doorstaff to be unfriendly. Mr Whur added that following on from Mr Child's report the doorstaff had received additional training. Mr Barrow added that as well as the training the nightly meetings had commenced. The doorstaff were also aware of recent newspaper reports stating they were all drug dealers, which had had a negative impact on morale. When Mission received Mr Child's report they showed it to the staff and that also had an impact. None of the staff were aware of Mr Child's operation, not even Mr Barrow.

Mr Child confirmed that he had recommended changing the agency which provided the doorstaff team. The Sub Committee queried whether Mission had done so. Mr Barrow responded that the doorstaff agency had not been replaced. Some of the team used inside the premises had been replaced but he had not been able to properly identify those singled out by Mr Child. However he had changed two he thought might have been those reported by Mr Child. He noted the report had also said the Club had a good atmosphere once inside, so he hadn't wanted to change the whole team as the atmosphere would change. He had seen the staff in action inside the club and knew them to be very good. He also confirmed that the staff would be able to recognise the smell of cannabis.

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The Sub Committee noted the end of the submission from the PLH and afforded WYP the opportunity to ask questions of the PLH through the Chair.

Mr Walsh addressed Mr George in the first instance and compared his comment that “Mission was the best nightclub in the world” with the findings of Mr Childs’ report regarding the state of the toilet facilities. Mr George responded the venue had been described as such in some newspapers and that on the particular night referred to in Mr Childs’ report it was not so; but he did not want that to be seen as indicative of every night. He said that he was sure that whenever he visited the premises he was shown that everything was fantastic, but knowing that, he had sought an independent view and that was why Mr Child had been engaged. Mr Barrow added that he had worked in the licensed trade since he was 17 years old and knew that every night club had problems on occasions with their toilet facilities. Two female members of staff were now employed to clean the toilets.

In response to a comment from Mr Walsh as to when Mr Child had been instructed, Mr Whur confirmed the date as October 2008. Mr Walsh went onto comment that he would expect any operator on receipt of the statements contained within the January 2008 Review application to take all the matters raised very seriously and he queried whether Mission did anything to deal with the issues. Mr Barrow stated his alarm on receipt of Insp. Metcalfe’s report, he felt that when the Mission apprehended people and handed them over to the police they were doing the right thing, however it now appeared those statistics were being used against the club. Nevertheless he stated that Mission had continued to detain persons and pass them onto the police. Additionally the management tried to make arrangements with the police to see how they could resolve the matters but he stated the police would not meet them. He confirmed the management did take the matters very seriously. Mr Walsh referred to the letter within Section 14 to Mr P Cahill dated 15 April 2008 and to that part in which Mr George stated “There is no doubt in my mind that their attempts to revoke our licence are unjustified and malicious”. Mr Barrow responded that Mission had taken the matters very seriously, and furthermore he had spoken to other officers from within WYP off the record, and they had told him they would not bring the Club to Review on this evidence.

Mr Walsh further queried what Mission did during 2008 to be more vigilant. Mr George responded that he had liaised with his DPS. Mr Barrow stated he had visited Insp. Metcalfe on several occasions, and she had told him that there had been no problems with the club except the two sexual assaults reported at that time. When Ins. Alderson took over responsibility; Mr Barrow had met with him and had started to develop a working relationship. Mr S Wilson, Director, Mission, also addressed the Sub Committee and confirmed that he too had attended those meetings with Insp. T Metcalfe, but he stated his belief that she would report no problems to the Mission but would record something different in her formal reports. Mr Whur referred to Section 29 containing correspondence between Mission and WYP; and specifically Mr Forshaw. Mr Walsh was concerned about the actual running of club, and suggested the responsibility for this lay with the management not the police. Mr Barrow responded by firmly agreeing that the management ran the club, but he pointed out that the Licensing Act 2003 encouraged liaison between the police and licensed premises. As such he had initiated meetings with Insp. Alderson but would not comment on the role of Insp. Metcalfe as she was not present at the meeting to respond.

Mr Walsh stated he was trying to determine whether the drugs policy was effective and referred to page 30 of WYP written submission and D. I. Boldisons’ statement. He noted the police had already visited the premises once and the management would have been aware of

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the findings of the first visit. He would have expected the management to deal with issues raised, but despite this, between April and May of 2008, 40 separate test purchases of drugs had been made and the officers at the time had stated "they could have purchased a lot more drugs from a lot more dealers". Mr Barrow responded stating the management had not claimed the Mission was perfect. He reiterated that he had repeatedly sought advice from BTP/WYP on how to deal with the problems; then Mission had received the independent report. He had not been aware of the amount of drug dealing occurring, but with a 960 capacity he noted that 17 drug dealers had been apprehended but said that dealers would not be highly visible within the club. They would keep away from the doorstaff and stewards, however an undercover police officer in plain clothes on a covert operation would be more likely to get close to and identify dealers in action. Mr Walsh queried whether the authority could have confidence in the management to which Mr Barrow responded that he hoped the police and the Club could work together in the future. Mr Walsh remained concerned about evidence of a long term action plan which Mr Barrow stated was difficult at the present time. Issues had been addressed immediately, the licence had been varied to approve the physical alterations to the venue regarding the toilets and to approve the drug policy change. He reminded the Sub Committee that WYP had made no representation to either of those and the variation had then been granted. He maintained it was not fair to suggest that Mission had made no effort as the club had made attempts to contact WYP and received no responses. As a result, Mission had decided to wait for the Sub Committee to determine the matter.

The Chair interjected and suggested Mr Walsh was trying to elicit why it had taken the Company so long to get Mr Child involved. Mr Whur answered, stating the first Review had been launched by BTP in January 2008, after which the Mission wrote to BTP regarding possible conditions to address the concerns and received no response. That Review application was withdrawn. Through August to September 2008 Mission applied to vary the Premises Licence in order to introduce the new drugs policy and gain approval for the alterations to the toilet area. No representations were received and the application was granted. The day after the variation was granted; WYP lodged the application for this Review. At that time, Mr Whur himself suggested Mr Child should get involved.

Mr Walsh queried when Mission ceased hosting the Glasshouse event as it appeared it was still being held after the first test purchase. Mr Wilson responded that comments about the Glasshouse event first appeared in Sgt Fullilove's statement submitted in September 2008. When Mission saw those comments, the Glasshouse event was pulled. Mr Walsh queried whether the cessation of Glasshouse at that point coincided with any reduction in drugs finds at the club, noting the number of items placed in the drug safe during the summer 2008. Mr Wilson responded he was satisfied with the amounts in the safe as this proved the searches were successful. Mr Barrow explained the search process whereby doorstaff would ask an individual to come to the Reception table to empty pockets or bags. Doorstaff would check their socks and undertake a full "damp down" of the outer garments only, as they only had certain search powers under the remit of their SIA registration. Mr Walsh suggested that if this amount of drugs was removed during 1 in 3 searches, then surely there would be more drugs if all customers were searched. Mr Barrow responded that he couldn't suggest all Mission customers took drugs.

The Sub Committee having regard to the contents of Mr Childs' report sought information on follow up action taken by the police. Sgt Fullilove stated WYP would take a close look at the contents and Insp. Alderson stated BTP was considering joint operations against premises in the city. In answer to a question as to whether the police operations were being undertaken

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fairly across the city, Sgt Fullilove confirmed that WYP had undertaken an operation on 14 and 15 October to target those premises continuing to sell alcohol to persons already drunk and the Mission was not one of the premises visited.

The Sub Committee permitted each representative a short time in which to sum up.

Mr Walsh reminded the Sub Committee that the changes to the licensing laws had enabled local authorities to set standards for their own city. He suggested the running a premises was a privilege and also the responsibility of the management and their livelihood; not a role for the police. In this case, BTP had responsibility for policing the railway arches which house the venue. Having looked at the venue and contrary to what had been said, BTP had attempted to alert the Mission management to the problems which BTP found to be unacceptable.

The statements highlighted the ease of drug use at the premises which the Mission appeared to be unable to deal with. He suggested that further trouble would follow if the venue was allowed to continue in this manner. Mr Walsh turned to the options available as the outcome of the Review. The Sub Committee now had the option of issuing a warning to Mission, but he suggested there would be no point in doing so as warnings had already been given to no avail. He noted that considerable quantities of drugs were still being found after the January 2008 Review application. The Sub Committee could choose to remove the DPS, but WYP would state that a change of DPS would not bring about a satisfactory change. Members could impose additional conditions, but WYP would argue this would not address the problems. Mr Walsh stated that Mission had attained a bad reputation which would be difficult to eradicate, as people knew the venue as a place to access drugs. He stated the question to the Sub Committee was whether to take a big stick and say "enough is enough" to send out a message. Not to do so would let down WYP who applied for the Review seeking the support of the licensing authority.

Mr Walsh referred to the report submitted by Mr Child and commented that Mission had taken 13 months to acquire it and still had not acted upon it. Finally he stated that Members could decide to suspend or revoke the licence as they may be convinced that nothing else would work. Mr Walsh concluded by commenting that drug related deaths were not pleasant but did occur; and should one occur people would ask why nothing had been done. Finally he reiterated WYP position that enough chances had been given and the licence must go. Mission was a blot on Leeds' landscape.

Mr Whur on behalf of the PLH then addressed Members asking them to take proportionate measures in respect of the Review. He reminded them that choosing to revoke or suspend the licence would not take effect until any subsequent appeal was dealt with. Mission requested the Sub Committee look very carefully at the events and to note the operator did run other clubs successfully. He noted that Mr Walsh had stated Mission did not make any effort to address the problems, but stated that was not true. Mission had addressed the sexual assault problems following the first Review application. This second Review application was of a different nature and tenor, but Mission had addressed the problems and undertaken the new toilet wall; the BIIAB drug awareness training course for all staff during the summer; requested an independent assessment from Mr Child and appraised staff of his findings. Mr Whur stated it was up to Members to determine whether these measures had been sufficient and successful.

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Mr Whur referred to the impassioned statement from Mr George and noted that Members would be aware all the directors were concerned about the attitude of BTP and were very frustrated. With regards to their position on the drugs seizures he confirmed the seizures did show that customers did take drugs, but equally it showed that the doorstaff did address this. He stated the Mission were concerned about the CCTV, especially as they were only made aware of WYP/BTP concerns the previous Friday. Mr Whur asked Members to note the contents of Mr Child's report and his recommendations, and suggested the Sub Committee could choose to adopt those. Mr Whur stated he found it hard to address the issue of the DPS when Mr Barrow was sat close by but he regarded Mr Barrow as a very experienced DPS and felt he answered the Sub Committees questions well. Mr Whur stated that, with regard to the crime statistics, Mission would want to work with the police, acknowledging that they managed the venue, not the police but although the management did accept some of what the police had said, Mission did have an issue with some of the statistics. Finally Mr Whur asked the Sub Committee to note that Mr Child could be employed again as a "mystery shopper" to re-visit the venue and concluded by stating his primary concern was to urge Members not to revoke the Licence.

The Sub Committee reviewed the Licence and had regard to all the representations, the Licensing Act and relevant Guidance. The Sub Committee considered the four options available to them as set out in paragraph 6.1 of the Licensing Officers report

Specific Incidents

The Sub-Committee in reviewing the Licence heard and considered the verbal and written evidence brought on behalf of the police. Mr Walsh spoke on behalf of the police and called Inspector Glen Alderson of the British Transport Police and Sergeant Robert Fullilove of West Yorkshire Police to give evidence. Members were also referred to the statements of Chief Inspector David Oram, Inspector Tracey Metcalfe, Police Sergeant Bain, Chief Inspector Katherine Riley and Detective Inspector David Boldison and the report of Rachel Hughes which they had read. They also heard and considered the verbal and written evidence from Mr Whur on behalf of the Mission who called Mr Terry George, Mr Christopher Barrow and Mr Dick Child. Members were also referred to a bundle of documentation which they had read.

In considering this evidence, the Sub Committee felt it first needed to establish if problems existed at the premises. If the premises were operating in a manner which did not undermine the Licensing Objectives, then the Sub Committee could conclude no action was required on the Review.

The evidence of the police was twofold. It was firstly said that there was a problem with sexual assaults in the main toilets. It was accepted however that no further incidents of this nature had occurred recently and that this was no longer considered to be a major problem since the toilets had been altered; although this still potentially presented a problem.

The Sub Committee heard of a long history of drug use and drug dealing in the premises. Further details of drug related incidents were recorded in the report of Rachel Hughes from 24 February 2006 onwards.

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It was noted that British Transport Police had made their own application for a Review on 28 January 2008 which for technical reasons was withdrawn. However the statement of Inspector Tracey Metcalfe of British Transport Police referred not only to several sexual assaults but also to three drug related incidents in August and December 2007 and January 2008. It was therefore considered that the Mission's management were aware of problems relating to drugs since that time.

The Sub-Committee noted from the statement of Detective Inspector Boldison dated 23 June 2008 that an operation had been run over three consecutive weekends commencing Friday 25 April 2008. During the course of that operation 40 separate test purchases of drugs were made within the Mission from 17 different dealers. The drugs purchased included quantities of ecstasy tablets and cocaine. It was said that the officers could have purchased a lot more drugs from a lot more dealers. Members noted that only one officer was searched upon entry during the 6 nights on which the operation was run.

The Sub-Committee were satisfied that there appeared to have been a lack of control exercised by the management over the door supervisors. This was found to be the case by Mr Child arising out of his team's visits.

The Sub-Committee heard from Mr Whur that it was accepted that there had been problems in relation to drugs in the premises but he asked Members to accept that steps had been taken and would continue to be taken to prevent the use and supply of drugs.

Decision

The Sub-Committee decided that, in their view, it was not necessary to revoke the Premises Licence in order to promote the licensing objective of the prevention of crime and disorder.

However the Sub-Committee did decide that in order to promote that licensing objective the Premises Licence should be suspended for a period 2 months and that the following additional conditions should be imposed:-

- 1 An adequately constructed barrier shall be erected to separate the men's and ladies toilets. This shall extend for the same length as the present barrier and from the floor to the ceiling, to the satisfaction of the Licensing Authority.
- 2 A new disabled toilet facility within the ladies toilets shall be provided.
- 3 Clear signage shall be provided for the secondary ladies toilet.
- 4 A CCTV system to be installed to a standard approved by the West Yorkshire Police. In the event there is a dispute as to what is acceptable the matter is to be referred to the Licensing Authority.
- 5 The Mission to employ a Security Industry Authority trained reception manager.

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- 6 The frequency of searches of persons entering the premises to be increased to at least one in two.
- 7 To remove the current door agency and to replace them with an agency which can provide door staff trained to Security Industry Authority Level 2.
- 8 All management to have completed the Level 2 National Certificate for Licensees (Drug Awareness) Course.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:
Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

Appeals should be accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours Faithfully

Helen Gray
Clerk to the Licensing Sub Committee
Governance Services

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