



21st June 2018

Regulatory Services (Licensing)  
Brent Council  
Brent Civil Centre  
Engineers Way  
Wembley  
HA9 0FJ

DIRECTORATE OF LEGAL SERVICES

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Service not accepted by e-mail

Dear Sirs

**DIU Restaurant, 5 Heather Park Parade, HA0 1SL**

I write in relation to the above premises licence application which is to be determined by the licensing sub-committee at a hearing on Monday 25th June 2018.

The Metropolitan Police ['the MPS'], as a responsible authority, will serve written relevant representations, pursuant to Section 18(6) of the Licensing Act 2003. The licensing officer PC McDonald will attend the hearing together with counsel instructed by the MPS in order to make oral representations and, if necessary, make preliminary submissions of law as outlined below:

1. I acknowledge that the police representations are made outside the period set by Reg 22(1)(b) of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 ['the 2005 Regulations'].
2. However, that circumstance is entirely the fault of the council by reason of its misdirection to the police in the council's e-mail dated 22<sup>nd</sup> May 2018 [copy

enclosed]. That error on the part of the council tended to frustrate the statutory right of the police to make representations as a responsible authority and thereby to undermine (rather than promote, as is the council's statutory duty) the licensing objectives established by Section 4 of the Licensing Act 2003, in particular the prevention of crime and disorder.

3. Reg 22(1)(b) of the 2005 Regulations does not impose an automatic, absolute bar on the committee receiving and considering relevant representations from the police, even outside the statutory period. The principles relating to 'late' representations are well established in R (on the application of TC Projects Ltd) v Newcastle Justices [2006] EWHC 1018 (Admin) at Paras. 33-35; and Belfast City Council v Miss Behavin' Ltd [2007] 1WLR 1420 (HL(NI)) at Paras. 8 and 75 [copies enclosed]. The committee has a discretion whether to receive and consider 'late' representations. It would be unlawful for the committee to refuse to exercise its discretion at all (i.e. by erroneously treating the police representations as automatically and absolutely barred). It would also be unlawful for the committee to exercise its discretion irrationally.
4. When exercising its discretion, it would be irrational for the committee to refuse to receive the police objections because:
  - (a) The lateness of the police objections is solely attributable to the council's own misdirection to the police;
  - (b) The Applicant is not prejudiced (because we have served the objections directly);
  - (c) It would frustrate rather than promote the Licensing Act 2003 Section 4 licensing objectives, in particular that relating to the prevention of crime and disorder, to refuse to

receive the police objections and would therefore put the council in breach of its Section 4(1) statutory duty;

(d) There is in any event to be a hearing of objections from other parties.

5. Should the council fail to exercise its discretion rationally or at all, the police would consider an application for judicial review with the consequent risk on costs for the council.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Sally Gilchrist', with a long horizontal flourish extending to the right.

**Sally Gilchrist**  
**Chartered Legal Executive**