

Licensing Sub Committee A - 6 September 2016

Minutes of the meeting of the Licensing Sub Committee A held at Council Chamber, Town Hall, Upper Street, N1 2UD on 6 September 2016 at 6.30 pm.

Present: **Councillors:** Gary Poole, Asima Shaikh and Flora Williamson.
Also **Councillors:** Raphael Andrews.
Present:

Councillor Flora Williamson in the Chair

126 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Flora Williamson welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined. Members of the public present were informed that the hearing was to be filmed.

127 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Ward and Safi Ngongo.

128 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Poole substituted for Councillor Safi Ngongo and Councillor Shaikh substituted for Councillor Ward.

129 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

130 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

131 PREMISES LICENCE REVIEW APPLICATION - FABRIC, 77A CHARTERHOUSE STREET, LONDON, EC1 (Item B1)

In response to a question from the legal officer, the applicant's representative agreed that the interim steps remained in place pending an appeal hearing if the licence was modified or if the licence was revoked.

The licensing officer reported that all additional papers from Fabric had been circulated as a second despatch agenda.

The police representative reported that this main review hearing followed the recent summary review, submitted following the deaths of two 18 year olds at the nightclub, within a period of 6 weeks. The two 18 year olds were in possession of Class A drugs and were able to enter the premises, consume and purchase additional drugs in the premises. It was

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considered that a serious breach of conditions and the operation at the premises had helped to create an environment that was tolerant of serious crime.

The Sub-Committee moved into private session at 6.45 pm to hear further evidence from the police under Schedule 12a of the Local Government Act 1972 under Category 1, Category 2 and Category 7.

When returning to open session the police representative continued with the evidence. It was stated that a visit had been carried out on 2nd/3rd July 2016 over the Saturday evening/Sunday morning. At page 71 of the agenda, there was a statement which noted that there had been a lack of compliance with the search policy and an open ability to purchase Class A drugs in the premises. Customers were seen taken drugs visibly within distance of the bar and there was evidence of drug taking in the toilets. Staff were seen within earshot of drugs being sold. There was evidence that the door staff were static. It was also stated that officers on the visit were searched for less than five seconds. These were statements which were consistent with those in the exempt papers. There was evidence of breaches of conditions 2, 9 and 35. Page 95 of the agenda papers referred to a police visit on the 22 July where a customer in the chill out area was in a state of undress and was highly intoxicated and this had not been acted upon by staff. This was evidence across a range of recent dates which signified breaches of conditions 9 and 35 and indicated an ease of access to drugs and consumption of drugs being open and frequent and which created an environment that was tolerant of drugs and serious crime. No denial of this evidence had been put forward by Fabric. There had been six drug related deaths between January 2012 and August 2016. The death in September 2014 had the same consistent theme as the more recent deaths at referred to at page 173. At the 2/3 July visit the internal security staff remained static rather than moving throughout the venue and the full search procedure had not taken place.

There had been a review of the premises licence in 2014 due to a number of deaths and also 8 collapses at the premises. It was stated that the number of deaths and collapses were disproportionate in relation to the premises. Conditions were placed on the licence but the conditions advising the use of drugs dogs and an ID scanner had been appealed and the appeal was successful in December 2015. The licensing objective for the prevention of crime and disorder needed to be promoted. The operation of these premises conflicted with licensing policies 9 and 10 regarding high standards of management and policy 17 regarding the management of dance venues and their safety. The Home office guidance at paragraph 11.23 and 11.27 should be considered which stated that members must consider the financial impact but where a company was trading irresponsibly, tough action be taken including a revocation of the licence if necessary. Certain criminal activity should also be taken particularly seriously including revocation of the licence in the first instance.

The visits on the 24 June, 5 August and 22 July provided evidence of the sale and distribution of drugs in the premises. The police stated there had been management failures but even if this were not the case paragraph 11.26 of the guidance stated that, even despite the best efforts of management, the licensing authority must take steps to promote the licensing objectives.

Fabric appealed against two conditions in December 2015 which they were now offering; the ID scan and the use of drugs dogs. The representative stated that the Council should seriously consider revocation. In December 2014, the Council imposed conditions, these were not adhered to, there were management failures at the premises and the police did not have any confidence that further conditions would be adhered to. He considered it appropriate and proportionate that there be a revocation of the licence. Finally the police called Superintendent Nicholas Davies, who had produced a witness impact statement. He stated that there had been an opportunity to work with the club and make some changes

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but he did not have confidence that further tragedies could be prevented and there should be a revocation of the licence.

In response to questions, it was noted that a covert visit had taken place the following weekend after the first death and another visit had taken place two weeks prior to the second death. With regard to conditions 18 and 20, PC Steve Harrington stated that Fabric had never shared their findings with the police. There was no other premises in the Borough that had this number of deaths. Following the death in June 2016 the police had met with the venue to clarify their policies. At this time the police asked for flyers to be changed and to give out a more rigorous message regarding drug use. At this time the police had no evidence that drugs were being sold in the venue. Since 2012 there had been 6 deaths and 10 collapses at the premises. All but one death in Fabric were to people under 25 years old. Using figures from the Office National Statistics it was noted that the two deaths in Fabric over three months accounted for nearly 10 percent of deaths from ecstasy. The police were not aware of another venue that had this high a percentage of deaths within the same time period. The police stated that they would not have confidence that any changes to the licence would be effective. Revocation should be seriously considered. The premises already had a substantial number of conditions on their licence. It was considered that a paper based system for relying on banned customers would be wholly ineffective in such a large premises. They therefore did not consider that, regarding condition 19, all reasonable steps were being taken to make staff aware of the identity of excluded customers. The police had looked at areas of good practice at Warehouse in Manchester which had similar problems. This club used police officers, paid for by themselves, had a similar capacity, had all customers inside by 1am with a no later entry time. Fabric had a different set up with different rooms so was difficult to compare with this venue. As the drugs dog condition was lost on appeal, this had not been reconsidered. It was noted that customers could enter Fabric through the night. They often came from other premises. They may have taken drink and drugs before entering but the expectation was that they could purchase more drugs if required. The Manchester venue had 'loop' drug testing within the venue. Within the current drug laws the police would not consider use of the loop. It was clarified that a comment from a welfare officer at page 113 of the report was from a college/university welfare officer and not from Fabric.

The Sub-Committee moved into private session at 7.40pm to ask further questions of the police.

Upon return, in response to a further question it was stated that, of the six deaths, three were 18 years old and one was over 25. Two deaths were across the Saturday/Sunday evening and four were across the Friday/Saturday evening. Fabric had stated that the music on a Friday evening was more likely to attract a younger crowd. The police visits were over both evenings. The police case was on non-compliance generally.

The Licensing Authority reported that two young men who had died in 2016 had brought drugs in and had purchased drugs in the premises. The Licensing Authority had a duty to promote the licensing objectives in this case, preventing crime and disorder and the promotion of public safety. Fabric had proposed a condition regarding ID scanning and a suggestion about the use of a police drugs dog which might not be feasible. It was considered that the current operating procedures were not sufficient to protect public safety. It was considered that there should be a change in management with a culture of zero tolerance and more robust procedures with a high level of transparency. Conditions needed to be robust. The condition offered regarding ID scanning needed further clarity, also conditions 2.2, 2.3, 2.7 and 2.11 may not be enforceable. The appointment of an auditor would need to be made in conjunction with the licensing authority and the police. It was considered that there was a lack of detail in the proposed security conditions and it was noted that a covert team already existed, so it was questioned how these conditions would

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be an improvement. A search policy would also require agreement with the police and licensing authority. Medical and welfare provision and documented protocols would be required. The Sub-Committee needed to be satisfied that there would be significant changes in the management culture and if not satisfied regarding this, the licence should be revoked.

In response to questions from the Sub-Committee it was noted that conditions from the last review had been implemented and were being monitored. The Licensing Authority stated that the evidence provided by the licensee's team regarding the use of drugs dogs was mixed and stated that they may not be effective. The Licensing Authority could not say what had changed with the proposed search policy and the previous one. It was stated that revocation was an option and further robust conditions could be considered, not just those proposed by Fabric. This could include ones relating to an age restriction but this was something that she could not advise upon. Regarding the possibility of a condition about beats per minute allowed in the music it was stated that this would be difficult to enforce and music tastes may change. The licensing authority had made one visit to the premises since January and were confident that conditions were being complied with.

The Public Health Authority considered that the venue had posed a significant and high level risk in terms of public safety and crime and disorder. There had been two recent deaths in the venue and also a number of serious drug related health incidents since 2011. It appeared that individuals had been able to take drugs into the venue and buy and consume those drugs in the venue. The ease of Class A drug purchasing at the venue was a significant risk to public safety. There had been no regard for their responsibility related to being a licensed premises. The possession of Class A drugs was illegal and the authority were concerned that the club could not uphold the licensing objective, the prevention of crime and disorder and also did not have regard for their responsibilities. It was considered that the licence be revoked unless there was evidence of customers being clearly monitored, there was assurance of zero tolerance of drugs in the club and evidence of clear protocols set out for customers queuing outside and appearing unwell.

In response to questions the officer from public health reported that in 2013 there were 46 deaths from MDMA, a third of these were aged 18/24. Two of these were at Fabric which totalled 2% of the total deaths. It was considered that there was nothing specific around the type of music played and drugs. In terms of public health requirements, a zero tolerance approach was required by Fabric and also, a speedy and assured response to those customers who appeared unwell was also necessary together with Health education about the risks from taking drugs. Clubs engaged with the public and voluntary sector authorities. Fabric had two paramedics and contacted the health services when necessary. They ordered cabs when necessary and did not always rely on ambulances. There were questions to be asked regarding staff observations in areas such as the chill out room, lighting conditions. Data did not distinguish between accidental deaths or intentional drug deaths.

Councillor Andrews spoke in favour of the police review. He stated that he had worked next to the club and seen how it had operated. He considered there was mismanagement in the club and staff did not take into account the welfare of the people who visited the club. He considered that steps should have been taken earlier and he urged the Sub-Committee to consider revocation of the licence.

Five interested parties spoke against the review. The Chair allowed each party to speak for two minutes, allowing ten minutes in total.

The first speaker, Anurag Jha, had attended Fabric for 15 years. He considered the staff highly professional. He had always been fully and thoroughly searched, which he

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welcomed. He had never been offered illegal substances and had not seen the picture painted by the police. Security was visible throughout and he felt a level of safety well above other venues. Fabric had a flawless reputation of global significance.

The second speaker, Douglas Carr, speaking on behalf of Michael Carr, considered that the venue should be supported and cherished. While the deaths were tragic, blaming Fabric was not the way to go but there was a need to tackle the problem directly. The people who died were those who chose to take illegal substances and Fabric should not be penalised for this. Fabric was professionally run, with talented international artists which supported all types of music. He spoke on behalf of his son, who was excited to raise his children in a great city and would not wish a less diverse, creative and cultural city.

The third speaker, Alan Miller, was the Chair of night-time industries association and travelled internationally to look at premises and venues. He considered that Fabric had the gold standard and was often referred to in that context. The licensing objective, the prevention of crime was at its forefront. The club had good measures in place and pursued strong safety measures. To impose onerous conditions would lead to more impromptu unlicensed activities and would be counter productive. Whilst he was deeply sad about the loss of life he considered that this was a question about society and Fabric did everything they could to prevent crime.

In response to a question from the Sub-Committee, Alan Miller stated that if people were taking drugs, it was inconceivable that Fabric would always be able to do everything. He considered that a death from drugs could happen in the premises again.

The fourth party, Alex Proud, considered that a discussion round a table should be used more constructively. Two million people attended the club over a five year period and a death was statistically less likely to occur in Fabric than other venues. Zero tolerance, the closure of public houses, strip searching the use of drug dogs, the ban of certain types of music was not the type of Britain he would wish to create. The young men involved took pills before they arrived at the venue. Fabric was the end of an adventure which had been started some hours before. Fabric did follow all the rules. They were considered by DJs, clubbers, bands, owners of other nightclubs and the police off the record, to hold a gold standard. Fabric had bad luck but was a well run business.

In response to a question from the Sub-Committee he stated that the deaths were not just one single persons fault but it was society's issue that was not being confronted. The Chair advised that the Sub-Committee had no control over the National Drugs Policy and could only consider the licensing objectives.

The fifth party who spoke in support of the nightclub, Kate Simko, lived near Angel station and was a music composer. She stated that electronic music was of our generation. She questioned why drug deaths were going up and stated that drugs were now two or three times stronger than previously. People would take them elsewhere at their homes or in other venues. Six deaths were horrific but she considered that Fabric did all that it could with a very invasive search policy and a strict door policy. It was an important club for Islington and London and its closure would affect the city in a major way.

Paddy Whur, representative for Fabric highlighted that the London mayor and the local MP had made comments in support of Fabric. He reported that nearly 900 representations had been received and there was an online petition with over 120,000 signatures. He reported that further conditions had been offered. He was more than happy to offer a distinct ID protocol and confirmed that 100% of people visiting the premises would be screened. A key issue was a change in music policy which he believed could reduce health issues by 54% and lead to a 77% reduction in ambulance calls. They offered to fund a police dog presence around the premises and two further conditions regarding a change in the designated premises supervisor and security company. It was accepted there was a need

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to refocus efforts. He asked Professor Measham, who had 25 years of experience, to give evidence in support of Fabric.

Professor Measham reported that the increasing drug problem was not necessarily a club problem. Ecstasy related deaths had increased five times in the past five years. The figures for deaths in 2014 were 50. Ecstasy use was not increasing. Ecstasy was five to ten times stronger than previously, pills were smaller and had variable shapes and were often very difficult to break in half as they had no score marks. They were smaller and therefore easier to smuggle into clubs and into the country. MDMA crystal was 80 to 90% pure and were often difficult to accurately dose. Testing in Manchester had shown a pill could contain a strength range of 20 – 250 milligrams. Two high dose tablets could potentially kill. There was increased vulnerability for younger, inexperienced users and women with a lower body mass index. She had been to many nightclubs and considered Fabric was one of the best run clubs with security and paramedics which reduced the risks on site. Fabric was the end of the pipeline which drew people who had consumed substances earlier in the evening. There had been more deaths this year at Festivals than at Fabric. The Warehouse project was supportive of drugs testing in partnership with the police. Evidence showed that customers tended to believe warnings if based on real testing. She had seen security staff at the club who importantly had a zero tolerance to sexual harassment which was not seen in other clubs. In her professional view, closing the venue would not reduce ecstasy related problems. This would create displacement and may potentially increase problems.

The Director of Fabric, Cameron Leslie, expressed sadness at the deaths and stated that the effect of the deaths of the two young boys on the team could not be underestimated. He took the opportunity to thank the team for dealing with them. He addressed the Police statements and stated that they were not accepted and that Fabric did not have a chance previously to defend themselves and refute the statements. He contested that the venue was a safe haven for drugs. He considered that Fabric was a progressive, open and honest venue whose procedures were showcased. They had never hidden anything and ran with transparency and openness. Drug dealers were arrested in the venue and their team sought their conviction. The co-owner had stood up to a drugs operation and had to move his family out of his house whilst doing so. They knew the challenges and responsibilities of running a clean venue. Since 2012, 80 drug dealers had been identified at the front door of the club. Only one of these had been prosecuted. Reports on Tripadvisor indicated the intrusive level of searches. He did not accept the police stance of endemic failure. The police evidence described a venue that he did not know nor was it shown by surveillance or the independent consultant. Nearly 1000 letters of support had been received and a petition. He considered that there had been a gross misrepresentation of a team that had managed over 6.75 million people with the highest ratio of security guards and a large security bill. There had been only two letters of opposition to Fabric and it did not have a history of violence or knife crime. The club had always worked co-operatively with the police and refined their search policies. The amount of drugs entering the venue had significantly reduced as detailed in the drugs log which the police had access to. The magistrates court judge described the club as a beacon of best practice. Even in June, the police invited another club to Fabric to look at their procedures. However, days later they were damned. He considered that the police would have previously visited the club undercover but they received no feedback from these visits. He stated that Fabric had been the unfortunate location of two more deaths. He considered that police had acted unprofessionally at their visit and it was pre-meditated to serve the summary review. He stated that the evidence in the statements, that well over 80% of people in the club had taken drugs, that 5/6 out of 10 people were willing to sell drugs, that the police noticed a person gurning and then committed his words as a statement of fact and that bouncers took away drugs to give them to people they knew, were very damaging. They had stood up to the police at appeal in 2014 for two out of 53 conditions and this had been upheld. They'd had a close relationship

with the police and the Council. They had launched a number of outreach initiatives. Drugs were a constant challenge and processes were reviewed. Venues had to locate very small drugs on customers carrying bags and wearing coats with the complexities of underwear and intimate places. It would be impossible to remove all drugs at the club and Fabric were proud of best practice. Fabric were constantly reinventing procedures and 35 conditions in 2014 were their own. They wished to continue to work with the police and he considered that professional and established operators were necessary. They needed to work to keep people safe, rather than demonise the club. Pills were circulated that were four times the dose of those in the 90s. Education for young people on the risks and recognising the warning signs was required.

There was a five minute break in proceedings.

Upon return, in response to questions it was noted that following the fatality in June, Fabric went through procedures with an independent consultant, a former inspector from Manchester who visited the premises. They debriefed staff, which they did before every session. There would be a high enforcement of systems that were already in place at the time. Their own intelligence did not give the same feedback as those recorded by the police in their covert operational visit at the beginning of July. An incident log for the first death was 12 pages long. Following the death in August they were already in the process of responding to an Environmental Visual Audit and were expecting to meet with the police. Prior to the second fatality Fabric suggested an earlier meeting with the police the following week. In the event, these meetings were cancelled as the summary review was about to be launched. The General Manager and designated premises supervisor, did not consider that it was the review, rather than the fatalities, that had prompted changes as detailed on page 31 of the second despatch agenda. He considered that reviewing procedures was a constantly evolving process. Regarding proposed condition 2.1, if there were problems and the procedures had not been carried out, the staff member would then be dismissed. The new condition stated that security must do everything by the book. The proposed conditions were to try and add a layer so there would be another member of staff monitoring all searches. Regarding proposed condition 2.2, Fabric wished to review a new security company in line with the local authority representation. As detailed on page 31 of the second despatch agenda, they had also detailed changes to the search policy and at pages 149 onwards, the security plan and heightened CCTV around the smoking area. Door supervisors would move around premises as detailed on a route map as there had been criticism that they had been static. In response to those search details that were new, it was stated that there would be more invasive search policies, pockets would be emptied and not just searched. Shoes and socks were searched which was a higher level of security than other venues. Concern was expressed that it had taken six deaths and only now there had been a suggestion that pockets would be emptied, it was reported that door supervisors could become fatigued and that they were trying to learn as an operator all the time. The new search captain would ensure that fatigue would not set in. CCTV would be constantly monitored by a new member of staff as an additional layer of support. In response to a question regarding proposed condition 2.5, it was stated that, whilst the condition might not be new, the condition was there to beef up processes and try to build in formal procedures. Regarding the body worn cameras, this was a condition that tried to address any weakness in supervising the queue. An amnesty bin could be considered although the police did not welcome this idea. With regard to drugs dogs, this had been thoroughly considered in the Magistrates court at appeal and there were concerns raised regarding the negative impact on the licensing conditions. The employment of drugs dogs was an unregulated private industry and DJ Allison did agree with these submissions and gave five reasons for her decision in the judgment. The applicant would still be happy to pay for the use of a police drugs dog on an ad-hoc basis but was not happy with the quality of the private supply of drugs dogs. Professor Measham stated that certain dogs were trained for particular drugs. She stated that drugs dogs gave both false positive and

negative results. She stated that when she had been at a festival the dogs had not picked up drugs from her walking past and she had never been identified by a drug dog and nor had any of her team. Councillor Poole stated that the dogs were not trained to work in this manner and any search would need to be carried out in a structured way and would need to be formally screened. Professor Measham stated that she had looked at various training measures as part of the review in 2014. She had stated on page 54 that ecstasy was arguably less pungent and difficult to detect by the dogs. She reported that the issue could be in relation to private security dogs and they had been unable to identify anything other than cannabis. Councillor Poole considered that if you invested properly you would get a quality product. Professor Measham stated that she agreed with a strict model of regulation. She did not think you could find that she had come to a decision on the legalisation side of the debate. She had been an adviser for the Home Office for seven years. In response to questions regarding how Fabric took responsibility for the welfare of their patrons, it was stated that training measures would be put in place to look for patterns of behaviour. A change in music on a Friday particularly may be a starting point. Removing clubs would not remove the drug problem. Issues regarding education and outreach work should be considered to better engage young people. Clubs were not necessarily the best place to engage young people. The earlier you could engage with young people, both in terms of years and their night out, the better it would be in relation to drug related problems. Professor Measham had set up the loop as she considered that not enough was being done to help young people.

In response to questions about the measures taken after each death the following was reported. After the death in January 2012, it was noted that the man who had died had a pre-existing medical condition. At this stage the search policy was reviewed and ramped up. Evidence of this had been from Tripadvisor comments in 2012 and was developed by the designated premises supervisor at the time. Fabric's representative stated that there had been a protracted period of engagement with the licensing team. The local authority was looking at a best practice programme and Fabric was the first operator to see if they could start this process. There was a very close level of engagement. At the time of the first death in 2012, the club would have been proactively involved with the police. At that time Professor Measham was engaged and they ran a leaflet campaign. It was stressed that a death in the premises had a huge effect on the team. The Director did not have the evidence to hand regarding the specific changes that were made as a result of the death in January 2012. Luke Laws, the designated premises supervisor, then stated that, at this time a defibrillator was introduced, an ad-hoc auditor was employed looking at all aspects of the premises, undercover security was increased for a period of time, the air conditioning was reconditioned and the medical room was refurbished. Following the death in October 2012, there was a similar review undertaken. Fabric looked at first aid training, air conditioning, retraining, tap water bar was made available with no queue and staff were trained in looking for issues with customers and medical facilities were looked at. There were discrepancies found in their investigations which differed from other proceedings. In 2012, there was no question of drugs being sold in the venue. The patron who died took MDMA into the premises for his own personal use and took the whole amount in one go. At the time, flyers were increased, staff training on customer observations were increased and resus bags were placed in different areas in the club. The auditor was there all the time and reported back every night. There was not an annual review as procedures were looked at after every training session. Regarding the death in 2014, the patron was found by a patrol looking in the area. He had taken drugs at Farringdon station. He was found looking ill and was treated in the fire exit. There was a problem with the ambulance response time. The area around Cowcross Street was then monitored. At this time there was an influx of nitrous oxide sellers and people selling drugs in the back alleys. There was further retraining and all procedures were looked at. It was noted that the patron who had died in Sept 2014 had purchased drugs inside the club. Prior to this incident the club was looking at the use of dogs. On this occasion the female had taken a drug poured into a water bottle. She would have received an inconsistent amount. She was noted as being ill and

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picked up by the medical team. She seemed to have recovered but then became nothing in literally seconds. The club was commended by the coroner and stated that her best chance of survival had been at Fabric. There was further retraining and discussions were had around the proposed 53 conditions. Incident logs were kept but had been omitted from the papers. It was stated that the police were in receipt of all incident logs.

There was a five minute break in proceedings at 10.35 pm.

Following the break, it was stated that all staff had taken the BIIAB course and that training was on-going. All staff had been trained about new drugs and what to look out for. Refresher training was given every six months. In response to questions regarding the relationship with the police it was stated that there had been no information sharing regarding drugs. When drugs were seized there had been no discussion from the police. The police had advised that the club should make the decision regarding protocols in relation to drug seizures. The security team were identifiable from their coloured tabards. It was impossible to stop drugs from entering the club completely. One pill hidden in an intimate area would get past the search regime. The website indicated their zero tolerance to drugs at the end of each event. Known dealers were refused entry and also those who had been seen interacting with known dealers. The behaviour of customers was looked at and they were searched if suspicious. If customers were banned they would be refused entry. The club did not use discretion. If customers overheard that this was the case that was good. They had drugs warnings with big signage and had zero tolerance to drugs. Fabric regularly hosted and chaired the Clerkenwell pub watch. They also shared information with other venues and emailed about crime, including mobile theft and, bag snatches. Other relevant clubs visit the club through police recommendation. Staff would look for signs of illness. If customers are pale and sweaty they will be asked to go to the medical room. It was noted that this behaviour had been exhibited near staff during the police visit. The designated premises supervisor stated that this had been one gentleman during a three hour licensing visit. Supervision of customers was lacking on this occasion as they had been drawn away to concentrate on the licensing visit. This had not been raised with the police as an issue at the time. The designated premises supervisor stated that this had been an aggressive visit with a level of scrutiny and manner which was not conducive to a good working relationship. His entire focus at the time was on the police officer he was dealing with. The independent person to head up the security team would be from a police or security background. They would report to the director every evening. They would be happy to share any information required with the police and local authority.

The meeting moved into private session for further questions at 10.50 pm.

Upon return, in response to a question regarding an age restriction for customers it was stated that if a club was well run there could be an argument that this would be better for young people. If young people were excluded there might be the worse problem of displacement. In response to a question about the use of drug dogs for screening large groups of people who could then be refused admittance, it was stated that the dogs would be used for screening and then prompt staff for an enhanced search. Fabric were concerned that, if dogs found drugs on 28 customers in 100, 14 could ingest those pills and 14 could drop the pills on the floor. They had canvassed 15/20 private companies. The dogs used by the police and the Home Office were very good but Fabric had concerns regarding the drug dog unregulated industry. Fabric considered that if dogs were used it would need to be a proper operation with the use of police dogs. There had been an issue when there was a death following a dog drug search and the victim had ingested all his drugs and died. Fabric's representative stated that the operator had no issue with a trial with police dogs but would be concerned if there was a condition on the licence as the condition would be harder to remove if found not to be working. Councillor Poole stated that he would prefer that this be conditioned. In response to a question about the security

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company it was noted that there had been three security companies over the years but a continuous security manager for nearly 17 years. They considered that the security manager had done an excellent job, as had the designated premises supervisor, and were offering this as a condition to overcome the challenges. This would be to refresh, refocus and to prevent complacency. Fabric stated that there was no evidence that condition 30 regarding the number of persons accommodated in each area of the premises had been breached. The police stated that the evidence regarding the breach of this condition had been set out on page 30 of the agenda in the EVA report. Fabric responded by stating that there was an overall capacity in the premises of 1450 only at any one time. Tables were set out so numbers in the VIP Suite could not be greater than 280 and there would be 150 in the smoking area. At peak times the majority of customers would be in Room 1 and in the mezzanine. There would also be spread in Rooms 2 and 3. When the designated premises supervisor stated this to the police, they informed him that he was not adhering to the licence.

In summary, the police representative stated that the evidence that the purchase of drugs inside the premises had not been challenged. The Sub-Committee did have evidence from across four weekends which should carry significant weight. There had been a suggestion that the music be changed however, there had been collapses over these weekends and breaches of conditions across different days and at different times. Home Office guidance at 11.27, stated that where there was clear evidence of criminal activity, in this case the sale and distribution of drugs, there should be consideration of revoking the licence even in the first instance. This was the second review of the licence. The police representative stated that the Sub-Committee had evidence that there had been breaches of conditions on more than one occasion and asked what confidence would members have that additional conditions would be complied with. The police had no confidence and therefore they were seeking revocation. At the police visit on the 22 July it was clear that the member of staff who was dressed as a fire marshall, did not give a responsible response to a customer. As detailed at pages 115 and 116 of the report, the police had directly raised an issue regarding evidence that drugs were taken into the venue in customers socks and shoes, the designated premises supervisor had stated that there was a procedure for that, they always had and always would. The police were concerned that this response was not from a premises that was learning lessons. Fabric had accepted the need to remove designated premises supervisor which was an acceptance of the evidence. He considered it was appropriate to revoke the licence.

The local authority stated that the venue needed to deliver change. If the Sub-Committee did not consider there had been enough change to ensure that the licensing objectives had been promoted and if they had not, the licence should be revoked.

The public health officer reported that there should be clear protocols and pathways for those who had been taken unwell. It was stated that if these changes could not be made then the licence should be revoked.

Paddy Whur, Fabric's representative, stated that there could not have been more invasive testing and that the Sub-Committee could not ignore the past seventeen years with no suggestion of breaches until the second of July. The licensing authority had stated that they did one test on compliance of conditions and they had found no breach. The police were now saying that they have no confidence despite successful compliance. He did not accept that Fabric had created a safe environment for drug use. There had been more than 800 positive representations and an online petition and if the venue was closed the safer clubbing documents that have been developed over the years would be thrown out. They had tried as a team and worked with experts in Manchester. They had enhanced search procedures and checked socks and shoes. This was an award winning venue and had an important role to play. The Sub-Committee had heard from Fabric about the desire to make

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things better. Fabric had sought to condition and wished to work together to finesse these conditions. They were transparent and had all documents available. The summary review was launched on the 8 August. There was still the desire to work with all of the authorities. A proportionate and appropriate response would be to add conditions and not to revoke the licence. The Sub-Committee could change the security team and the designated premises supervisor if it was felt they needed to be refreshed. There were examples of where police got it wrong sometimes. He asked if the point had been reached where the Sub-Committee needed to remove the premises by revocation. This was an important case for the industry and for London. This was a responsible operator.

At 11.40pm The Chair thanked all for the contributions and passed their condolences to all those friends and relatives of those who had died. The Chair asked all parties to remain in the room while the Sub-Committee left to deliberate and consider the evidence. The Sub-Committee returned to announce their decision at 1am.

RESOLVED

That the premises licence in respect of Fabric, 77A Charterhouse Street, EC1 be revoked.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The following relevant facts were found to have occurred:-

- In 2014 a review of the premises licence took place following deaths at the premises.
- Two 18 year old patrons died at the club between 25th June 2016 and 6th August 2016
- The two people concerned consumed MDMA (Ecstasy) - Class A drugs, in the nightclub and purchased the drugs inside the nightclub.
- On both occasions the deceased and their friends that accompanied them to the club, were able to conceal drugs on their person and get through the search and entry system without the drugs being detected.
- People entering the club were inadequately searched.
- The extent of the drug use was such that security and staff would have or should have been able to observe not only the use of drugs but also the effect of drug use on a large number of patrons and these groups in particular.
- Staff intervention and security was grossly inadequate in light of the overwhelming evidence that it was abundantly obvious that patrons in the club were on drugs and manifesting symptoms showing that they were. This included sweating, glazed red eyes and staring into space and people asking for help.
- Undercover officers witnessed, during a visit to the premises on 2nd July 2016, open drug use at the premises with drugs being offered for sale. Searches on entry were again inadequate and in breach of the licensing conditions.
- People in the smoking area enquired about the purchase of drugs within earshot of the security officer and in contravention of the licensing conditions relating to the dedicated smoking area.
- Deaths at the club have involved people who are very young (mainly 18 to 24 age group)
- Conditions 9, 20, 30, 35, 40 and 52 were being breached.

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Conditions already existed on the licence which enabled the licence holder to properly prevent serious crime taking place at the premises. These conditions have not been observed. A culture of drug use existed at the club which the existing management and Security appears incapable of controlling. The Sub-Committee had considered adding further conditions but had come to the conclusion that this would not address the serious concerns that they had with Management of the premises. The Licensing Sub-Committee had a duty to treat criminal activity taking place in the club (in this case the sale and distribution of Class A-drugs) particularly seriously.

The Licensing Sub-Committee found that the crime prevention objective was being undermined. A previous review of the licence took place less than 2 years ago following deaths at the premises. The problems that manifested themselves at that review had not been addressed adequately resulting in further tragedy and crime.

The Sub-Committee decided that revocation of the licence was both appropriate and proportionate in light of all the circumstances.

The interim steps remain in place pending any final determination of any appeal.

N.B. Following the meeting Councillor Asima Shaikh asked that her disagreement with the decision above be recorded in the minutes.

132 EXCLUSION OF PRESS AND PUBLIC (Item)

RESOLVED

That the press and public be excluded during consideration of the following item as the presence of members of the public and press would result in the disclosure of exempt information within the terms of the Local Government Act 1972 for the reasons indicated.

Premises Licence Review – Fabric 77a Charterhouse Street, EC1

Category 1 – Information relating to any individual.

Category 2 – Information which is likely to reveal the identity of an individual

Category 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

133 PREMISES LICENCE REVIEW APPLICATION - FABRIC, 77A CHARTERHOUSE STREET, EC1 (Item)

The meeting ended at 1.10 am

CHAIR