

## Not necessarily one strike and you're out

**Suzanne Davies, director of Clifton Davies Consultancy Limited**, provides an update on a licensing case originally brought to your attention in February

**D**avid Clifton wrote in issue 86 of **Pub & Bar** about what was then a recently decided High Court case. The background was the revocation by Newham Licensing Committee in London of a premises licence following an application for summary review made by the police after the pub manager had violently assaulted a customer.

The main point at issue was whether for licensed premises to be associated with serious crime or disorder, there would need to have been a pattern of such behaviour that could be found only in a series of such crimes and disorder, as the premises licence argued. The High Court found in favour of the Licensing Committee, deciding that just a single such incident would suffice for the purposes of the police certifying that the premises were associated with serious crime.

That had been the principal point of law that the High Court had been required to determine. It did not operate as a re-hearing of the merits of the case. That would only occur upon an appeal to the Magistrates Court, which is what happened when the premises licence holder's appeal against revocation came before district judge Rose.

The appeal was on the grounds that revocation of the licence had not been necessary to address the concerns that the police had raised and it was therefore not an appropriate and proportionate response, despite the Licensing Committee having concluded that the single incident that had given rise to the review had "clearly demonstrated a catastrophic failure in the management of the premises".

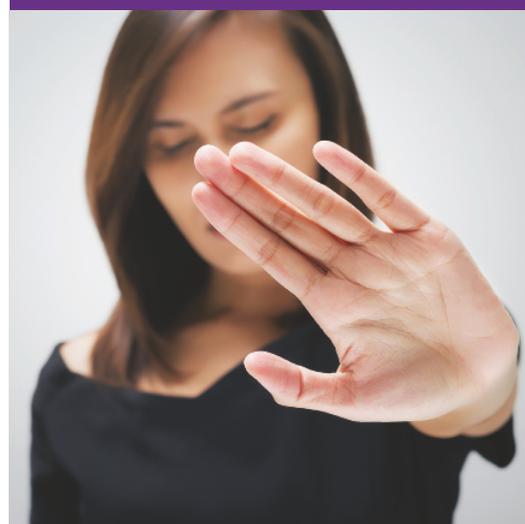


On 7 May, having viewed more extensive CCTV evidence than had been available to the Licensing Committee, the district judge concluded that the decision of the Committee to revoke the licence had been wrong and that the concerns raised on the review could be addressed by the inclusion of further licence conditions, including the exclusion from any future role in the running of the premises of the pub manager who had been responsible for the assault.

In so concluding and allowing the pub to re-open, the district judge relied on the government's statutory guidance that requires any determination whether an action or step is appropriate for the promotion of the licensing objectives to involve an assessment of what action or step would be suitable to achieve that end.

The case does not of itself provide any binding precedent and it does not represent any change in the law. As always, the decision needs to be considered in light of the particular facts that existed in the case. For example, it is relevant that until the assault occurred in July 2014 there had been no complaint about the way in which the pub was being run. There had been no report of crime at the premises since the appellant had become both the holder of the premises licence and the DPS, and no cause for concern had been raised when the pub had been granted extended hours in 2012, even though it was in a cumulative impact zone. Also, further conditions were also proffered by the appellant relating to conflict resolution training, first aid training and a protocol for calling the police if a similar situation was to occur in the future. 

## Questions & Answers



**Q: I read about Wetherspoon's being fined £24,000 damages for discrimination against gypsies and travellers. What is the law on this?**

**A:** It is unlawful to refuse entry to anyone because of their race, religion, disability, sex or sexual orientation. In the Wetherspoon's case, the judge found that there had been "racial stereotyping" on the part of the manager that "whenever Irish travellers and English gypsies go to public houses, violent disorder is inevitable because that is how they behave". Proper grounds of refusal are based on the promotion of the licensing objectives, meaning that it will be lawful to refuse entry if there is a real danger that otherwise crime, disorder or a public nuisance would occur, there would be a threat to public safety or children may be placed at risk of harm.

**Q: I want to play recorded music in my bar. Will I need a PPL licence and what will happen if I don't get one?**

**A:** If you play recorded music or music videos in your bar, you will almost certainly be required to have a PPL licence. It is the legal responsibility of the business using such recordings to obtain the necessary licence. If this is not done, the use of sound recordings is infringing copyright, and PPL is entitled to take action to prevent this infringement and to obtain compensation for the copyright owner.

**Q: I want to apply for a premises licence to allow me to sell alcohol in my new bar. How much do I have to pay the licensing authority?**

**A:** The fee for the licence application will be based on the rateable value of your property. Application fees range from £100 to £1,905, depending on the applicable fee band. If it doesn't have a rateable value, your premises will fall into the lowest fee band.

## Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson Wilson LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.  
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