



## Minutes of the Licensing Sub-Committee

25 January 2018

-: Present :-

Councillors Pentney, Thomas (J) and Tolchard

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### 79. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

### 80. Maja Polish Shop Ltd, 37-39 Market Street, Torquay

Members considered a report on an application for a Review of Premises Licence in respect of Maja Polish Shop Ltd, 37-39 Market Street, Torquay.

Written Representations received from:

| Name                               | Details  | Date of Representation |
|------------------------------------|--|------------------------|
| Licensing Authority                | Representation in support of the application for a Review of a Premises Licence. | 14 December 2017       |
| Safeguarding and Reviewing Service | Representation proposing additional conditions should the licence be modified.   | 27 November 2017       |

Oral Representations received from:

| Name                | Details   |
|---------------------|---|
| Applicant (Police)  | The Police outlined their application for Review of the Premises Licence and responded to Members questions.                |
| Licensing Authority | The Licensing Authority outlined their representation and responded to Members questions.                                   |
| Respondent          | The Respondent addressed the issues raised by the Applicant and the Licensing Authority and responded to Members questions. |

### Decision

That:

- (i) Mr Marius Muskietorz be removed as the Designated Premises Supervisor with immediate effect;
- (ii) The premises Licence shall be suspended until midnight on Friday 23 March 2018; and

(iii) The Premises Licence will be subject to the following conditions proposed by the Police and agreed by the Applicant:

- (a) No super strength beers, lagers or ciders of 6.1% ABV or above shall be sold from the premises.
- (b) Cans of beers, lager and cider shall only be sold in multiples of 4 cans.
- (c) The premises shall adopt a Challenge 25 Policy whereby any individual who appear to be under the age of 25 shall be required to produce an approved form of photographic identification as indicated within the Torbay Council Licensing Statement of Principles 2016 - 2021.
- (d) Challenge 25 posters shall be prominently displayed within the premises.
- (e) All staff shall receive training in relation to their responsibilities under the Licensing Act 2003 on a 6 monthly basis. Records of such training shall be retained at the premises for a period of 12 months and be made available to the Police, Police Licensing Officers or Local Authority Licensing Officers for inspection on demand.

### **Reasons for Decision**

Having carefully considered all the written and oral Representations, Members resolved to remove Mr Marius Muskietorz as the premises Designated Premises Supervisor (DPS) as it was evident to them that his apparent absence from the premises was the primary factor in issues of concern not being addressed in a timely manner and a number of conditions of the premises licence being breached for what appeared to be for a prolonged period of time.

In coming to that decision, Members noted the oral submissions put forward by Mr Muskietorz at the hearing that he resides in London and visits the premises once a month, albeit that he was at the end of a telephone, if necessary and the fact that he is DPS to three other licensed premises which are outside of Torbay.

Whilst it was correct that the sale of a specific brand of lager had brought the premises to the attention of the Police and the Licensing Authority, it was alarming to Members that when the premises were visited by these Authorities, a number of conditions on the premises licence were found to be being breached. In Members opinion when considering all the evidence before them, it had been luck rather than responsible management that other conditions on the premises licence had not been breached and potentially criminal offences committed in respect of underage sales and an absence of knowledge by staff to the actual conditions on the Premises Licence itself. This was directly attributable to the fact that when asked, staff were unaware of, or the need for an age verification policy and did not have a copy of the premises licence at the premises. Both of which are requirements of the Premises Licence.

Members were pleased to note that the Premises Licence Holder has now put in place measures to address most of these failings but remain concerned that it had taken enforcement action to achieve this outcome.

Members gave careful consideration to revoking the premises licence but in this instance felt it appropriate, in addition to that of removing Mr Marius Muskietorz as the DPS, to suspend the premises licence for a period of two months. Thus allowing time for the Premises Licence Holder to appoint a suitable DPS and carryout staff training which ensured that all staff involved in the sale of alcohol were fully aware of the conditions of the premises licence and their responsibilities under the Licensing Act 2003.

In concluding, Members resolved that their decision should alleviate the concerns raised by the Responsible Authorities and ensure that the premises future operation would not undermine the Licensing Objectives.

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Chairman/woman