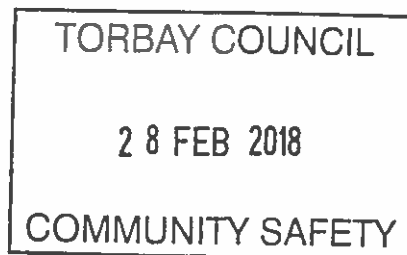


Memo



To: Licensing Committee
From: Niki Munford, Environmental Health Investigation Officer , Torbay Council
Date: 28 February 2018
Re: Representations for Committee - Peaky Blinders

Please find the representations for consideration concerning Peaky Blinders at 107-109 Winner Street, Paignton, TQ3 3BP.

This pack contains a witness statement together with 9 exhibits of related documents and photographs from 'NM1'-'NM8'.

WITNESS STATEMENT

(CJ Act 1967, S.9 MC Act 1980, SS. 5A (3a) and 5B MC Rules 1981, R. 70)

STATEMENT OF:	Niki Munford	
OCCUPATION:	Environmental Health Investigation Officer, Torbay Council	
AGE IF UNDER 18 (IF OVER 18 INSERT "OVER 18")	OVER 18	

THIS STATEMENT (CONSISTING OF PAGES EACH SIGNED BY ME) IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND I MAKE IT KNOWING THAT, IF IT IS TENDERED IN EVIDENCE, I SHALL BE LIABLE TO PROSECUTION IF I HAVE WILLFULLY STATED ANYTHING WHICH I KNOW TO BE FALSE OR DO NOT BELIEVE TO BE TRUE.

DATED: the 27 Day of February 2018

SIGNATURE	
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I am the above named person and have worked for Torbay Council since February 2015 and held the position of Environmental Health Investigation Officer for 3 years. In this role I investigate environmental health issues including flytipping and escape of residential and commercial waste and I enforce any issues that arise during those investigations.

This statement is collated from my own information, where not I shall state the source of that information and I write this statement in relation to the licensed premises Peaky Blinders, 107 Winner Street, Paignton, TQ3 3BP.


Following a number of complaints from Tor2, our sub contracted refuse collectors and also members of the public; I was first made aware of refuse issues in November 2017 just a few months after the premises first opened.

On 02 November 2017 a report was received including photographs of a large pile of commercial waste outside 109 Winner Street indicating that when the waste was checked that it was from Peaky Blinders. I was asked to remind the owners of their duty of care and for Peaky Blinders to arrange the removal of the waste. I refer to exhibit 'NM1' showing these photographs.

On 16 November 2017 I received a report that Tor2 had removed a number of black bags from Banner Court bin store, which is a bin store beneath housing association flats opposite Peaky Blinders. Tor2 reported that they had taken the bags back to the transfer station to go through them and the bags contained receipts and food order slips relating to the Peaky Blinders premises and photographs were taken. I refer to exhibit 'NM2' showing the photographs taken by operatives from Tor 2.

The bin store was floor to ceiling with waste and this was causing a significant fire hazard for the flats above, together with a public health issue, given how much waste had been piled into the small bin area. Sovereign Housing, who own the bin store, have since had to repeatedly spend money clearing this bin store and are now considering installing cameras and changing the type of bins and also restricting access into the bin store. I was sent a pile of receipts which I also refer to as exhibit 'NM3' showing these receipts taken from the bin store, which were sent to me and received on 11 December 2017.

After receiving the reports above, on 16 November 2017, I made a call and spoke to Jamie Devon who said he was the director of Peaky Blinders. After discussing the issues, he advised that he didn't know how it had happened or how the waste from his premises ended up in the bin store opposite.

Signature:	
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Mr Devon advised that he takes all his waste to the pub he owns in Totnes, so we discussed whether he was a licenced and authorised waste carrier and that transferring waste across towns is not acceptable without adequate licences and following protocols in line with that legislation. He didn't seem to know what I was talking about so I pressed these issues with him.

Whilst on the phone Mr Devon also spoke to a female who was on another phone to Devon Contract Waste Zero to Landfill at that time and that they were starting the next day with collecting their waste. A verbal warning was given that we would monitor this and that there must be no more waste in doorways or piled up outside and reminded him that he must recycle where he can. He must not transport waste himself due to the reasons discussed.

On 07 December 2017, a further complaint was received from a member of the public reporting that there were lots of boxes stacked up below their property which were causing a major fire hazard and causing rats. The report stated the new owners of Peaky Blinders had moved in 4 months ago and that they had piled up lots of boxes in their garden area below their front door and window.

They had asked someone from Peaky Blinders when they would be moved and was told me no longer than a week but after 4 weeks and becoming a problem it was reported to me. It was identified as a major fire risk as if the boxes caught on fire and travelled into their shop where there is lots of alcohol the complainant felt concerned they would not be able to get out of their property. On 08 December 2017 a call was made to Jamie Devon to ask him to remove as soon as possible and was told he would do so after first stating that it was nothing to do with him.

On 19 December 2017, we received 2 further photographs showing the doorway next to peaky Blinders was full to the top with cardboard, all labelled and placed on top of overflowing bins from Peaky Blinders. I refer to exhibit 'NM4' showing these 2 photographs.

Following the repeat disregard for our agreement in November 2017 or the legislation concerning commercial waste disposal; on 20 December 2017, I issued 2 notices under Environmental Protection Act. The first notice was a Section 34 concerning seeing copies of their waste transfer notes, which states each business has a duty to keep all transfer notes, or copies thereof, for at least two years and to produce to an officer of a Waste Collection Authority on demand within 7 days. If you give waste to someone else, you must be sure they are authorised to take it and can transport, recycle or dispose of it safely. Businesses must ensure that the person removing the waste is either from the Local Authority or a licensed waste collection company. The licensed carrier must complete a Waste Transfer Note to cover the duration of the contract, which includes a written description of the waste container and type of waste that is to be collected. Both parties involved in the transaction must sign this note. I refer to exhibit 'NM5' as a copy of this notice.

We also issued a Section 47, this notice was served because Peaky Blinders owners have failed in their Duty Of Care with regards to their commercial waste. The duty of care applies to anyone who produces or imports, keeps or stores, transports, treats or disposes of waste. The duty of care is a law which says that businesses take all reasonable steps to keep waste safe. Waste must be stored safely and securely and must not cause pollution to people or the environment. The waste must be packaged in suitable containers so that it cannot fall out, blow away or escape from the receptacle. It must be secured against unauthorised removal as far as is reasonably practical.

Security should be sufficient to prevent the breaking open of containers and removal of waste by vandals, thieves, animals, accident or weather. If this law is broken, a business can be fined an unlimited amount. I refer to exhibit 'NM6' as a copy of this notice.

On 20 December 2017, an officer from this department reported that when passing Peaky Blinders she witnessed a number of beer barrels blocking the pavement and also a number of black bin bags not in seagull bags or in adequate receptacles.

On 21 December 2018 2 photographs were received showing the cardboard boxes were still building up around the rear of the property as mentioned on 07 December 2017, so a report was made to Fire & Rescue concerning these issues. I refer to exhibit 'NM7' as a copy these photographs.

Signature:



On 2 January 2018 an email was received from Jamie Devon stating that "In relation to your recent letter regarding bins at Peaky Blinders. You have ask for controlled waste notes for the period of August 2017 to date, however we only started trading on the 15th September 2017, I have enclosed our current duty of Care notice from the period starting 10th November 2017, for the period of 15th September - 10th November we used an alternative company, details of this are currently with our accountants office and they do not open until 8th of January, I trust you are able to wait for this information until then". Extension given by phone to Jamie Devon.

On 04 January 2018 we received a further complaint from a neighbour concerning the boxes to the rear of Peaky Blinders being a fire hazard and reporting that although Peaky Blinders had done a great job of clearing out the front of the pub but that they still hadn't made any improvement of the mess around the back with the boxes still being untouched and soaking wet from all the bad weather and they're starting to smell.

On 09 January 2018 I sent an email to Jamie Devon stating "I reiterate that I look forward to receiving your waste transfer notes as soon as possible to avoid further action being taken. The waste transfer notes that you sent were not readable on our systems so this notice is now in breach. Failure to take action could lead to a fine and/or prosecution. Whilst writing please can you confirm you have cleared the rear of your premises of the excessive amount of cardboard that was being stored there? We ask that you do this as a matter of urgency due to the Health and Safety concerns this pile causes. We would like to see waste transfer notes for this clearance also."

Response from Peaky Blinders was received on 09 January 2018 "Firstly we don't have a rear to our premises that is anyway linked to Peaky Blinders you have asked this before". I responded that following our many visits to the area, we have been able to ascertain that the attached cardboard belongs to Peaky Blinders and is a fire risk and reiterated it must be cleared. I also stated "This is a health and safety hazard due to the fire risk should anyone need to use this area to escape in case of a fire. The cardboard will also attract rats so we can take action under Section 4 of Prevention of Damage by Pests Act 1949. This may affect any food licence you may have due to proximity. Under this act, we can issue a notice to the responsible person to remove the cardboard and if it is not removed we can remove it under works in default and charge an additional administration fee."

On 12 January 2018, I received a call from Jamie Devon from Peaky Blinders asking if I has received the paperwork and asking for a meeting. I advised I would call him the following week to discuss. He was confused if I was the Food Rating Officer so advised who was who at Torbay Council.

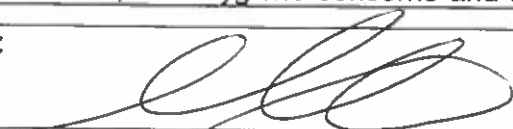
On 12 January 2018, I had also received the paperwork from Jamie Devon on behalf of Peaky Blinders which consisted of 6 waste transfer notes labelled 'Local Man & Van' which listed 6 times when this man and van had collected from Peaky Blinders. These were dated sporadically from September 2017 to January 2018, and Jamie Devon also sent a Devon Contract Waste showing a waste transfer note for period from 10 November to 14 February 2018.

Also on 12 January 2018, an officer from this department reported that she visited Peaky Blinders where she photographed that an attempt had been made to clear the rear area of the cardboard but that this area was still problematic and would attract rats and if the fire exit was used would be a slip hazard. I refer to exhibit 'NMB' showing these 2 photographs.

On 14 January 2018 I was advised that the Waste Carrier Licence Number was invalid that was cited on the 6 Waste transfer notes listed above. This has led to further investigation and a statement from Vince Edwards, who is listed as the waste collector that 2 or 3 of these were not written by him and although they looked like his waste transfer notes, he was not aware of these and had categorically not collected from Peaky Blinders on these days. This investigation is still ongoing.

On 16 January 2018 I attended a meeting was held at Torquay Police station with Police licencing and officer from Torbay Council licencing for alcohol and also food. Jamie Devon attended with partners Samantha and Jodie Butterfield, of the new limited company Shelby Family Ltd. Discussions around licencing concerns, food hygiene concerns and also the issues Environmental Health had concerning

Signature:




his poor waste disposal were discussed. A final verbal warning was issued and they were advised that we were considering prosecution options and that their ongoing disregard for their duty of care was not acceptable and they needed to start taking responsibility for their waste and the environment they operate a business in.

It was also discussed that there is a large amount of waste outside of the flat doors leading above Peaky Blinders. In the meeting, Mr Devon advised that he is the landlord for those flats, but it later transpired that this is not the case.


On 13 February 2018 I went to an agreed meeting with Mr Devon at Peaky Blinders to review his waste arrangements. I was shown the kitchen area, which was dirty and had pots and pans everywhere and was advised that a member of staff had not shown up. The kitchen bin seemed to be contaminated and have mixed waste within it. Mr Devon showed me into a premises 2 doors away at 113-115 Winner Street, where he is storing furniture, beer kegs and waste receptacles at a cost of £350 a week rental and we revisited the area at the rear that he had advised was nothing to do with Peaky Blinders on 09 January 2018. On this instance he advised he would get a member of staff to clean the whole area the following day.

Mr Devon also advised that he gets waste collections from Devon Contract Waste on Monday, Wednesday and Friday for his general waste, glass collected Tuesday and Friday and food collected Tuesday and Friday.

Shelby Family Ltd at Peaky Blinders are still under the Section 47 notice and Section 34 notice due to it not being complied with correctly due to irregularities on the Waste Transfer notes supplied.

Mr Devon has advised me that he intends to open 2 further establishments in Paignton and this concerns me greatly as the last 5 months have been resource intensive for Torbay Council with the seemingly unwillingness of Shelby Family Ltd to initially take responsibility and then to focus their efforts on ensuring their current premises at Peaky Blinders is run in line with legislation. 

Signature:



'NMI'



2017/11/02 01:59:05



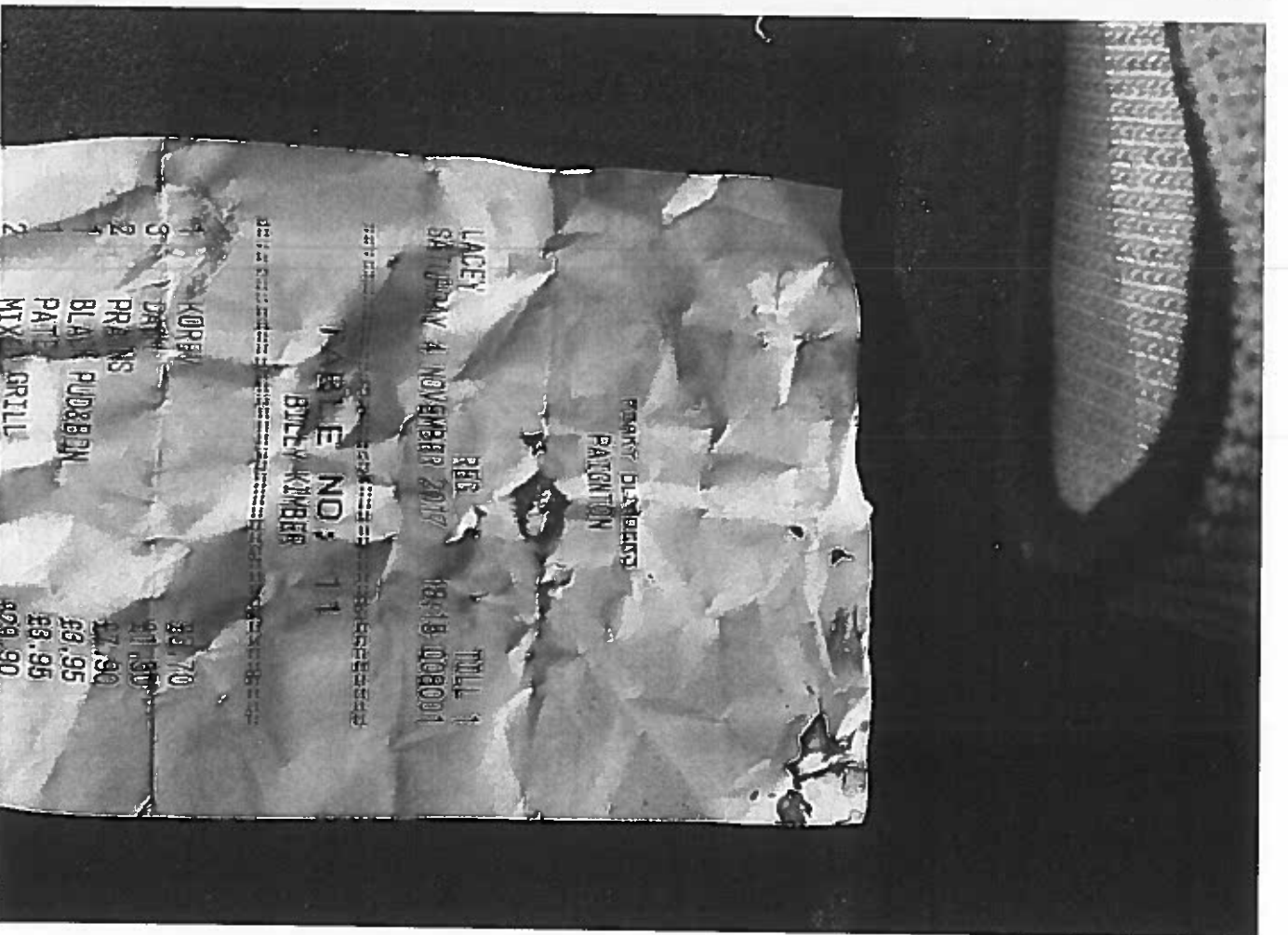
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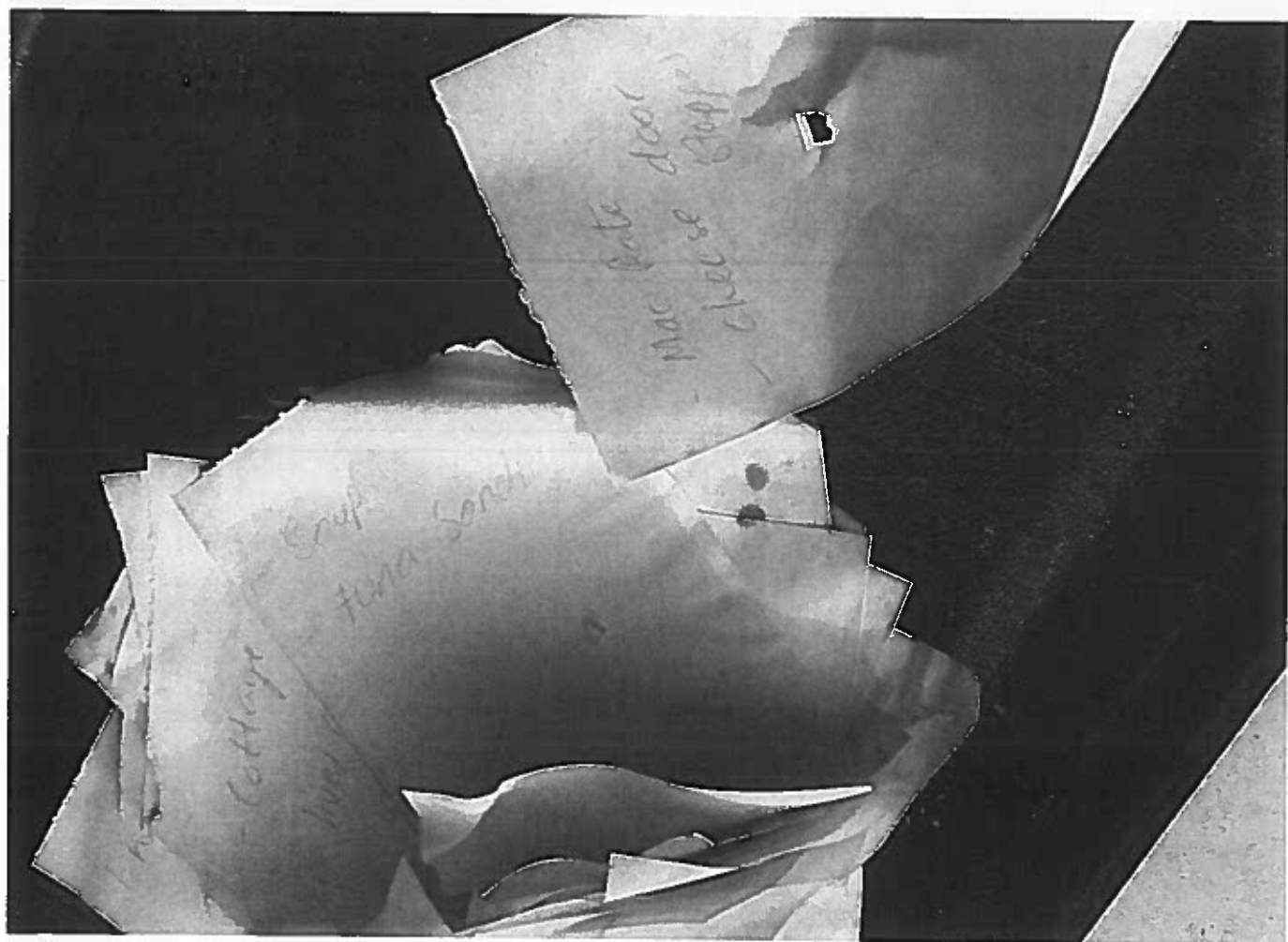
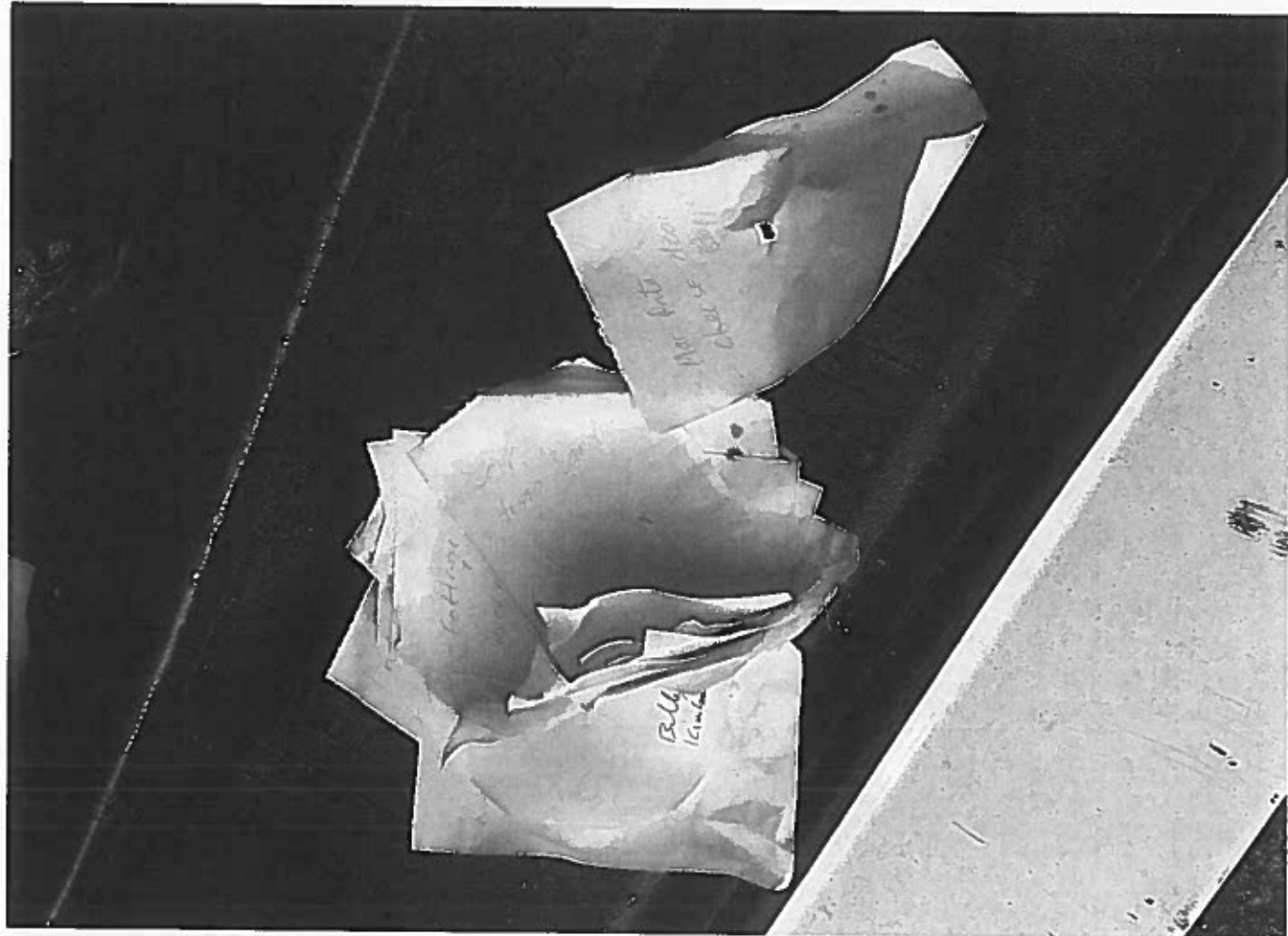








1NM2'



Limited
Way
ton Industrial Estate
on, Devon TQ4 7QR

Phone: 01803 402900
Mobile: 01803 402986
or2.co.uk

TORBAY COUNCIL

11 DEC 2017

COMMUNITY SAFETY

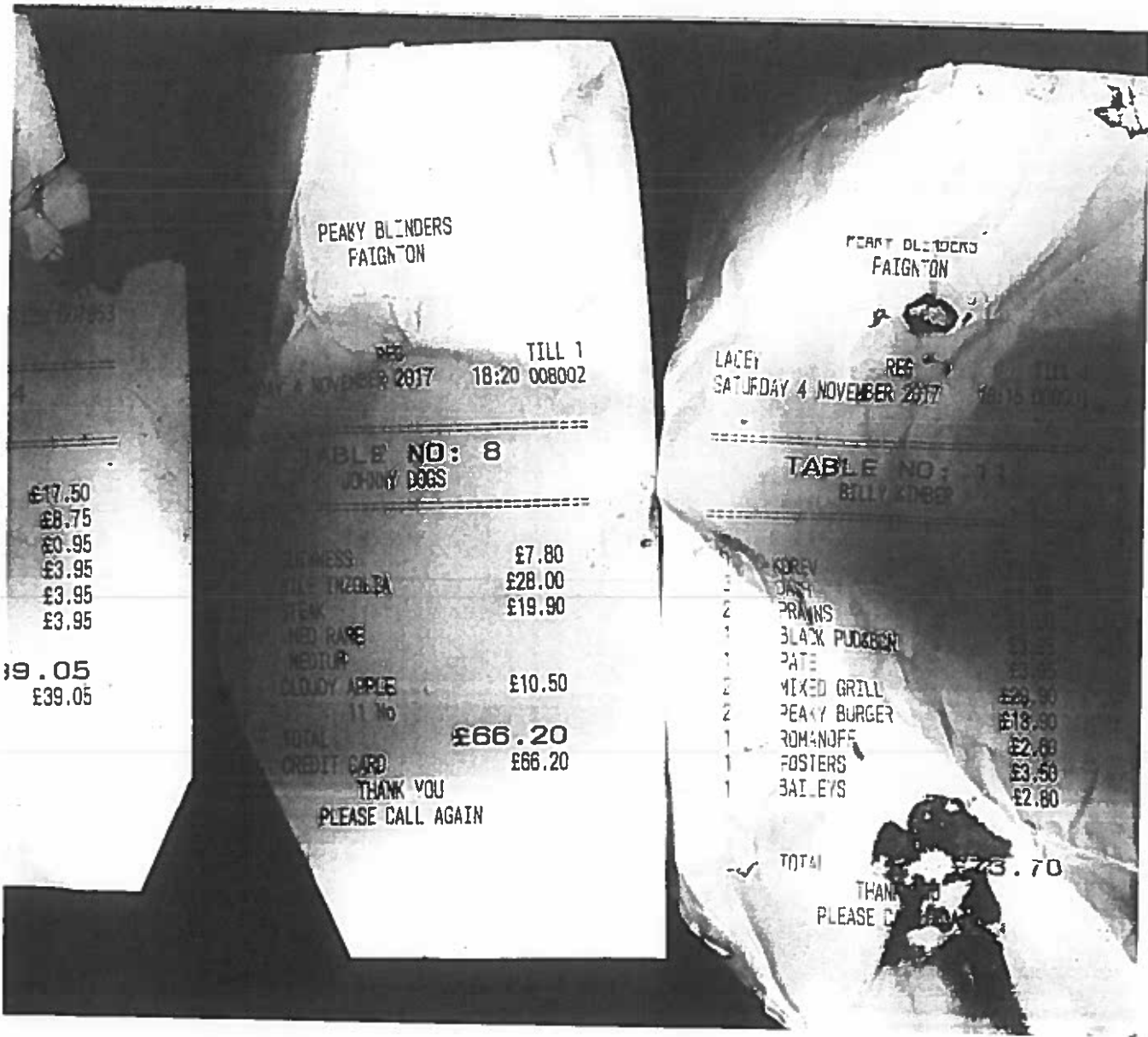
TOR

Torbay Council & Kier Group

NW10

Ki,
Please see the enclosed Receipts,
Brac retrieved from Banner court.
Many Thanks
Heidi

compliments



1 x Flavour

21

Temporarily
Flavours
x Claps
All together
x onion Rings

Back Bros

23

paul

1 mixed Grill

1 pack of Doritos
+ 1 glass of...

Belly
1 Cinnamon

OR2 Limited
Open Way
Alberton Industrial Estate
Tain, Devon TQ4 7QR

Telephone: 01803 402900
Facsimile: 01803 402986
www.tor2.co.uk

TORBAY COUNCIL
11 DEC 2017
COMMUNITY SAFETY

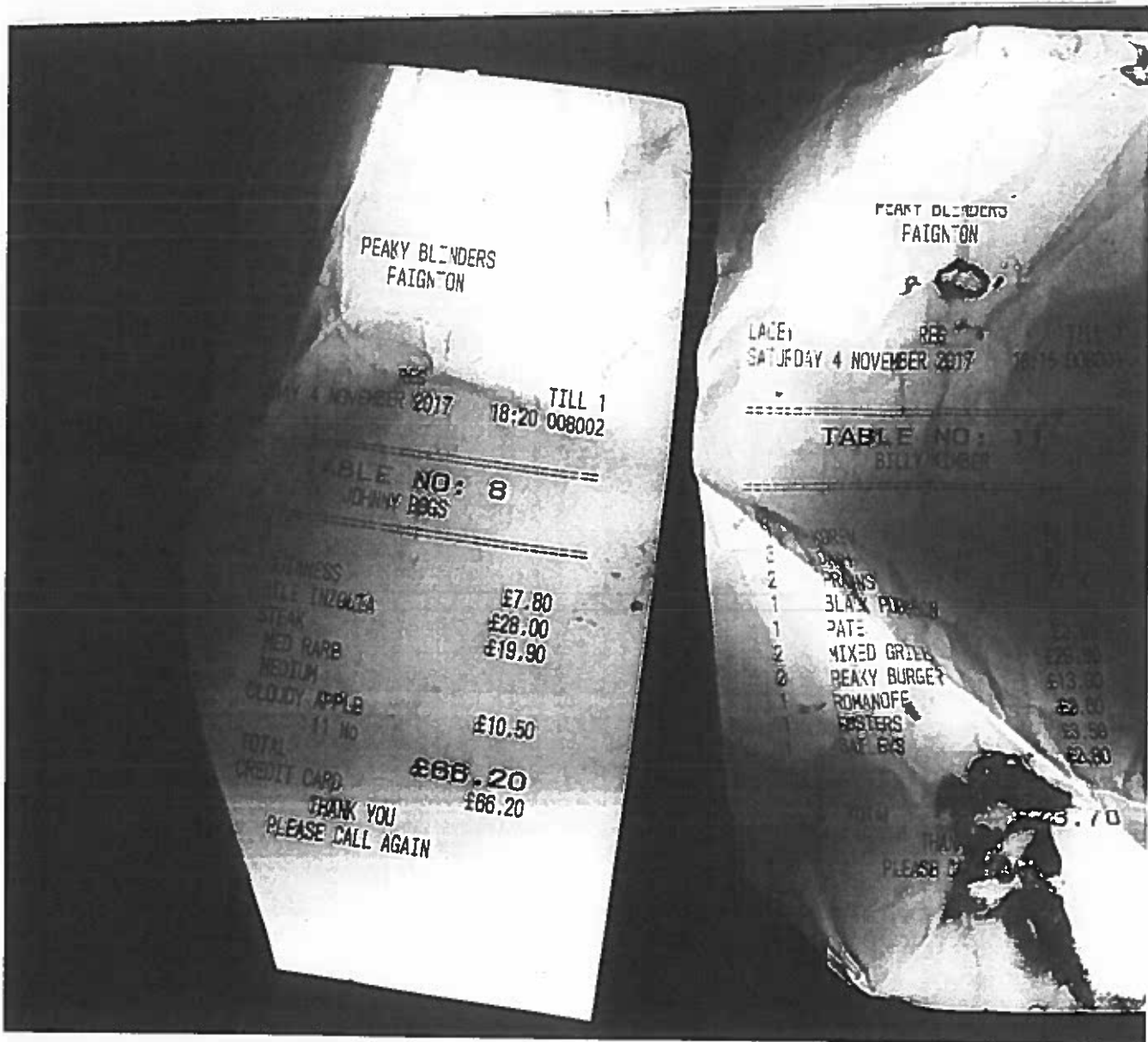
TOR2

Torbay Council & Kier Group

Niki,

Please see the enclosed Receipts,
Brad retrieved from Banner court
many Thanks
Heidi

With compliments



Vodka 1/2 bottle

PT TRUBO

2x Soup

Turkey legs

Pork ribs

Onion rings

Jameson & coke x2

4

2x Soup

PT TRUBO

Jameson & coke

2x Soup

PT TRUBO

Jameson & coke

1 bottle vodka (M)

PT TRUBO

32

Keogh (Retired)
+ Family

CVH... SS
S...
B...

34

Pr...

11/28/88

- Collage 1/2
- Mac & Cheese

Common Eggs
with New
Potatoes
Take away

Mac Pate

Stuffed

2

Stuffed
Pasta

Apple pie

Apple
Sandwich

4MN



Please reply to: Miss Niki Munford
Community Safety, C/o Town Hall, Castle Circus,
Torquay TQ1 3DR

My Ref: NOU Ref: 002432

Telephone: 01803 208025

E-mail: community.protection@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 19 December 2017

Ms Jodie Harris
Peaky Blinders
107 Winner Street
Paignton
TQ3 3BP

Dear Ms Harris

Re: Notice under S47 Environmental Protection Act 1990 and notice demanding the production of transfer notes for controlled waste under Section 34 Environmental Protection Act 1990.

The attached Notice under Section 47 concerns commercial waste offences found to have been committed by your premises. We originally sent this to Mr Jamie Devon but have been informed that you are the person responsible as the premises licence holder so we are reissuing to you.

A recent phone call from me clearly outlined what actions you were required to take by law in respect of your commercial waste collection, which you have failed to abide by. A subsequent further inspection of your area has been carried out and evidence relating to your premises has been recovered which identifies the continued commission of offences under the above legislation. We have even found your pub receipts and food order chits have continued to be disposed of in black bin bags placed within the binstore for Banner Court in Winner Street which is unacceptable.

The situation has got worse since our conversation in November 2017 and your waste is causing significant environmental offences regularly.

The attached Notice under Section 47 now sets out clearly what you are required to do. Failure to comply with these requirements may result in a referral to our legal department for consideration of a prosecution at Magistrates Court where the maximum penalty is £1000, level 3 on the national scale.

Alternatively, you may be issued with a Fixed Penalty Notice which is currently fixed at £75 for each and every offence. We could issue these daily if the offences are identified as continuing daily. Officers from Torbay Council will continue to monitor your premises and I have informed both the licensing team and the food licensing team about the inappropriate disposal of your waste, who will work with me to ensure you take responsibility for the correct disposal in future.

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different format or language, please contact me.

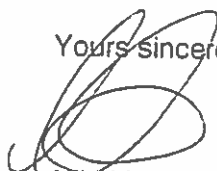
We are also issuing a notice demanding the production of transfer notes for controlled waste under Section 34 whereby we are requiring you to provide all transfer notes from the date you opened to date. You are required by law to keep these for 2 years and produce them to an officer of a Waste Collection Authority on demand within 7 days.

You are advised to read the notices very carefully.

There is a right of appeal and if you wish to do so, please state your objections clearly in writing and forward to this office as specified.

I look forward to you working with us to improve the environment surrounding your business.

Yours sincerely



Niki Munford
Environmental Health Investigation Officer

NOTICE UNDER SECTION 47 ENVIRONMENTAL PROTECTION ACT 1990

To: Ms Jodie Harris

Trading as Peaky Blinders, 107 Winner Street, Roundham With Hyde, Paignton, Torbay, TQ3 3BP

THIS IS A FORMAL NOTICE ISSUED BY TORBAY COUNCIL (THE COUNCIL).

Your commercial waste arrangements have been found to be causing a nuisance / or considered to be detrimental to the amenity of the area.

This Notice legally requires you to provide and have the following arrangements in place within **14 days** from the date of this Notice.

- 1) All waste must be stored in a suitable container to prevent spillage and the receptacle must be kept closed and locked at all times to prevent spillage and any spills must be cleaned up at all times.
- 2) The receptacle must also be kept locked at all times to prevent access by seagulls and/or vermin and also members of the public to potentially unsafe waste.
- 3) All bags and waste placed into the receptacle must be adequately bagged to avoid spills or increased odour from the bin so this may involve using 2 bags to hold your waste.
- 4) If your waste does not fit into the receptacle and the lid won't close, please organise an additional collection immediately and clear up any waste that escapes from your receptacle.
- 5) If overfilling happens regularly, please book additional collections to your weekly waste collection agreement.
- 6) Your commercial waste must not be placed in a waste bin belonging to another company/person.
- 7) The receptacle must be maintained in a serviceable and clean condition at all times. In particular, damaged or missing receptacle lids must be reported to your waste collector immediately and replaced. Until the fault has been rectified, you must take all reasonable steps to secure your waste against escape.
- 8) The receptacle must be secured in a position against a wall or secured to a permanent fixture such as a wall or post at all times to prevent it from being moved. The only time your receptacle should be moved is during collection of your waste.
- 9) Unless with prior agreement from Highway Authority at Torbay Council, no receptacles shall be placed on the public highway or footway at any time other than to facilitate collection. The highway and footway must not be obstructed and any receptacle in contravention of this must be removed immediately.
- 10) In the event that your collection fails to take place at the agreed time, you shall remove from the Highway any waste presented and contact your collector to arrange an alternative collection.
- 11) Recyclable material must also be stored in a suitable container and suitable collections organised to meet the amount of recyclable material you generate.

12) Cardboard presented for collection, shall be flat packed and bound to secure any individual items from escape and shall be clearly marked with the premises name and name of the collector.

What will happen if you fail to comply

If, without reasonable excuse, you contravene or fail to comply with any requirement or prohibition imposed by this notice:

You may be issued with a fixed penalty notice (currently £75)

or

You may be prosecuted for a criminal offence under Section 47(6) of the Environmental Protection Act 1990 for which you would be liable on summary conviction to a fine not exceeding level 3 on the standard scale, (currently £1,000).

Your right to appeal

You may appeal to a magistrates court against this notice within 21 days beginning with the date on which the notice is served upon you, on the grounds that:

(a) the requirement is unreasonable:

or

(b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.

In the event of an appeal against any requirement of this notice, that requirement shall be suspended until the appeal has been abandoned or determined by the Court.

Dated: 19 December 2017

Signed: C. Widdecombe 22/12/17.
Mr C Widdecombe, Principal Officer, Community Protection

Address to which all communications should be sent:
Community Safety, C/o Town Hall, Castle Circus, Torquay TQ1 3DR

Tel: 01803 208025
Email: Community.Protection@torbay.gov.uk

What does this Notice mean to me?

This Notice has been served on you because you have failed in your Duty Of Care with regards to your commercial waste.

What does this Notice mean to me?

This Notice has been served on you because you have failed in your Duty Of Care with regards to your commercial waste.

Waste – Duty of Care - What it means

The duty of care is a law which says that you must take all reasonable steps to keep waste safe. Waste must be stored safely and securely and must not cause pollution to people or the environment. The waste must be packaged in suitable containers so that it cannot fall out, blow away or escape from the receptacle. It must be secured against unauthorised removal as far as is reasonably practical. Security should be sufficient to prevent the breaking open of containers and removal of waste by vandals, thieves, animals, accident or weather.

If you break this law, you can be fined an unlimited amount.

Does it affect me?

The duty of care applies to anyone who produces or imports, keeps or stores, transports, treats or disposes of waste. It also applies if you act as a broker and arrange these things.

What is waste?

It can be anything you own or produce, and you want to get rid of, or are required to get rid of.

What is controlled waste?

It is household, commercial or industrial waste.

Transfer of Controlled Waste

If you give waste to someone else, you must be sure they are authorised to take it and can transport, recycle or dispose of it safely. Businesses must ensure that the person removing the waste is either from the Local Authority or a licensed waste collection company.

Only they are authorised to remove waste, transport it and dispose of it safely. The licensed carrier must complete a Waste Transfer Note to cover the duration of the contract, which includes a written description of the waste container and type of waste that is to be collected. Both parties involved in the transaction must sign this note.

To check whether or not your waste carrier is licensed with the Environment Agency, either check online at <http://www2.environment-agency.gov.uk/epr/search.asp> or by telephone on 08708 506506

For further information on the Environmental Protection Act 1990 and the legal obligations of businesses under the Duty of Care regulations ring Torbay Council Environmental Health Team on 01803 208025 or Tor2 Commercial Waste Enquiries on 01803 701317 or email: tor2-enquiries@tor2.co.uk

**NOTICE DEMANDING THE PRODUCTION OF
TRANSFER NOTES FOR CONTROLLED WASTE**

**Environmental Protection Act 1990, Section 34 (as amended).
The Waste (England and Wales) Regulation 2011.**

Being a producer of controlled waste in pursuance of section 34(1)(c) of the Environmental Protection Act 1990, as amended, you are under a duty to make and by regulation 35(6) of The Waste (England and Wales) Regulations 2011, under a duty to keep all transfer notes, or copies thereof, for at least two years and to produce it to an officer of a Waste Collection Authority on demand within 7 days.

Take notice that by virtue of regulation 35(6) of The Waste (England and Wales) Regulations 2011, Torbay Council, a Waste Collection Authority, hereby demand:

The Person Responsible/Company Secretary
Peaky Blinders
107 Winner Street
Roundham With Hyde
Paignton
TQ3 3BP

produces to an officer at:

Torbay Council Community Safety team, C/o Town Hall. Castle Circus,
Torquay TQ1 3DR

by 4.00 pm on **02 January 2018**, a copy of the transfer notes for all controlled waste transferred during the period **from August 01 2017 to date** showing who your waste carrier is and the frequency of the collections.

Please also detail any arrangements you have with your waste carrier to ensure your waste is secure and any provisions you have to increase the collection frequency during busy periods.

Should this be an issue please let me know on 01803 208025 or
niki.munford@torbay.gov.uk.

Regards


Niki Munford
Environmental Health Investigation Officer
Neighbourhood Team

What is a Section 34 Notice under the Environmental Protection Act 1990?

It is all about your Commercial waste and your legal responsibilities regarding its safe disposal. Breach of the duty of care is an offence, with a penalty of an unlimited fine if convicted on indictment.

Does this Duty Of care apply to me?

The duty of care applies to anyone who is the holder of controlled waste. "Holder" means a person who imports, produces, carries, keeps, treats, or disposes of controlled waste or, as a broker, has control of it. The only exception to this is for the occupiers of domestic property for the household waste which comes from their home. Anyone subject to the duty of care who has some "controlled waste" must identify and describe the kind of waste it is.

Is it "controlled waste"?

"Controlled waste" means waste from households, commerce or industry. At present, the main kinds of waste that are not "controlled waste" are waste from agricultural premises, waste from mines and quarries, explosives and most radioactive waste.

What is a transfer note?

A transfer note (TN) is a formal written description of the waste in accordance with regulation 35(2) of The Waste (England and Wales) Regulations 2011 which must accompany any transfer of controlled waste in accordance section 34 of the Environmental Protection Act 1990. The purpose of a TN is to allow other people who handle your waste to know what they are dealing with so that they can manage it safely and properly. You must create a TN for each load of waste that leaves your business. For repetitive transfers, you can use a 'season ticket', i.e. one transfer note will cover multiple transfers over a given period of time of up to 12 months. However, you can only use a season ticket if the parties involved in each transfer are the same and the description of the waste transferred remains the same.

What information should a Transfer Note contain?

The TN must contain all the information required by regulation 35(2) of The Waste (England and Wales) Regulations 2011.

Who needs to sign the TN?

This needs to be signed by the transferor and the transferee in accordance with regulation 35(2)(b) of The Waste (England and Wales) Regulations 2011.

Documentation for hazardous/special waste

The transfer documentation for hazardous/special waste is called a 'consignment note'. If your waste has hazardous properties, you may need to treat it as hazardous/special waste. In this case, you need to complete a consignment note to comply with your duty of care. The consignment note must contain similar information to a WTN. A separate WTN is not required. Waste that is defined by the European Waste Catalogue (EWC) as hazardous can only go to a waste treatment facility that is licensed to receive hazardous waste.

What is hazardous waste?

Hazardous waste is waste that may be harmful to human health or the environment. Examples of hazardous wastes include:

- asbestos
- chemical wastes
- healthcare wastes
- electrical equipment containing hazardous components such as cathode ray tubes or lead solder
- fluorescent light tubes
- lead-acid batteries
- oily sludge's
- pesticides
- solvents.



Please reply to: Miss Niki Munford
Community Safety, C/o Town Hall, Castle Circus,
Torquay TQ1 3DR

My Ref: NOU Ref: 002432

Telephone: 01803 208025

E-mail: community.protection@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 19 December 2017

Mr Jamie Devon
Peaky Blinders
107 Winner Street
Paignton
TQ3 3BP

Dear Mr Devon

Re: Notice under S47 Environmental Protection Act 1990 and notice demanding the production of transfer notes for controlled waste under Section 34 Environmental Protection Act 1990.

The attached Notice under Section 47 concerns commercial waste offences found to have been committed by your premises.

A recent phone call from me clearly outlined what actions you were required to take by law in respect of your commercial waste collection, which you have failed to abide by. A subsequent further inspection of your area has been carried out and evidence relating to your premises has been recovered which identifies the continued commission of offences under the above legislation. We have even found your pub receipts and food order chits have continued to be disposed of in black bin bags placed within the binstore for Banner Court in Winner Street which is unacceptable.

The situation has got worse since our conversation in November 2017 and your waste is causing significant environmental offences regularly.

The attached Notice under Section 47 now sets out clearly what you are required to do. Failure to comply with these requirements may result in a referral to our legal department for consideration of a prosecution at Magistrates Court where the maximum penalty is £1000, level 3 on the national scale.

Alternatively, you may be issued with a Fixed Penalty Notice which is currently fixed at £75 for each and every offence. We could issue these daily if the offences are identified as continuing daily. Officers from Torbay Council will continue to monitor your premises and I have informed both the licensing team and the food licensing team about the inappropriate disposal of your waste, who will work with me to ensure you take responsibility for the correct disposal in future.

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different format or language, please contact me.

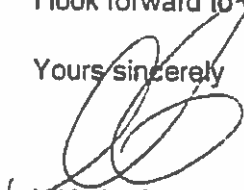
We are also issuing a notice demanding the production of transfer notes for controlled waste under Section 34 whereby we are requiring you to provide all transfer notes from the date you opened to date. You are required by law to keep these for 2 years and produce them to an officer of a Waste Collection Authority on demand within 7 days.

You are advised to read the notices very carefully.

There is a right of appeal and if you wish to do so, please state your objections clearly in writing and forward to this office as specified.

I look forward to you working with us to improve the environment surrounding your business.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Niki Munford', written over the typed name.

Niki Munford
Environmental Health Investigation Officer

**NOTICE DEMANDING THE PRODUCTION OF
TRANSFER NOTES FOR CONTROLLED WASTE**

**Environmental Protection Act 1990, Section 34 (as amended).
The Waste (England and Wales) Regulation 2011.**

Being a producer of controlled waste in pursuance of section 34(1)(c) of the Environmental Protection Act 1990, as amended, you are under a duty to make and by regulation 35(6) of The Waste (England and Wales) Regulations 2011, under a duty to keep all transfer notes, or copies thereof, for at least two years and to produce it to an officer of a Waste Collection Authority on demand within 7 days.

Take notice that by virtue of regulation 35(6) of The Waste (England and Wales) Regulations 2011, Torbay Council, a Waste Collection Authority, hereby demand:

The Person Responsible/Company Secretary
Peaky Blinders
107 Winner Street
Roundham With Hyde
Paignton
TQ3 3BP

produces to an officer at:

Torbay Council Community Safety team, C/o Town Hall, Castle Circus,
Torquay TQ1 3DR

by 4.00 pm on *02 January 2018*, a copy of the transfer notes for all controlled waste transferred during the period *from August 01 2017 to date* showing who your waste carrier is and the frequency of the collections.

Please also detail any arrangements you have with your waste carrier to ensure your waste is secure and any provisions you have to increase the collection frequency during busy periods.

Should this be an issue please let me know on 01803 208025 or
niki.munford@torbay.gov.uk.

Regards


Niki Munford
Environmental Health Investigation Officer
Neighbourhood Team

What is a Section 34 Notice under the Environmental Protection Act 1990?

It is all about your Commercial waste and your legal responsibilities regarding its safe disposal. Breach of the duty of care is an offence, with a penalty of an unlimited fine if convicted on indictment.

Does this Duty Of care apply to me?

The duty of care applies to anyone who is the holder of controlled waste. "Holder" means a person who imports, produces, carries, keeps, treats, or disposes of controlled waste or, as a broker, has control of it. The only exception to this is for the occupiers of domestic property for the household waste which comes from their home. Anyone subject to the duty of care who has some "controlled waste" must identify and describe the kind of waste it is.

Is it "controlled waste"?

"Controlled waste" means waste from households, commerce or industry. At present, the main kinds of waste that are not "controlled waste" are waste from agricultural premises, waste from mines and quarries, explosives and most radioactive waste.

What is a transfer note?

A transfer note (TN) is a formal written description of the waste in accordance with regulation 35(2) of The Waste (England and Wales) Regulations 2011 which must accompany any transfer of controlled waste in accordance section 34 of the Environmental Protection Act 1990. The purpose of a TN is to allow other people who handle your waste to know what they are dealing with so that they can manage it safely and properly. You must create a TN for each load of waste that leaves your business. For repetitive transfers, you can use a 'season ticket', i.e. one transfer note will cover multiple transfers over a given period of time of up to 12 months. However, you can only use a season ticket if the parties involved in each transfer are the same and the description of the waste transferred remains the same.

What information should a Transfer Note contain?

The TN must contain all the information required by regulation 35(2) of The Waste (England and Wales) Regulations 2011.

Who needs to sign the TN?

This needs to be signed by the transferor and the transferee in accordance with regulation 35(2)(b) of The Waste (England and Wales) Regulations 2011.

Documentation for hazardous/special waste

The transfer documentation for hazardous/special waste is called a 'consignment note'. If your waste has hazardous properties, you may need to treat it as hazardous/special waste. In this case, you need to complete a consignment note to comply with your duty of care. The consignment note must contain similar information to a WTN. A separate WTN is not required. Waste that is defined by the European Waste Catalogue (EWC) as hazardous can only go to a waste treatment facility that is licensed to receive hazardous waste.

What is hazardous waste?

Hazardous waste is waste that may be harmful to human health or the environment. Examples of hazardous wastes include:

- asbestos
- chemical wastes
- healthcare wastes
- electrical equipment containing hazardous components such as cathode ray tubes or lead solder
- fluorescent light tubes
- lead-acid batteries
- oily sludge's
- pesticides
- solvents.



NOTICE UNDER SECTION 47 ENVIRONMENTAL PROTECTION ACT 1990

To: Mr Jamie Devon

Trading as Peaky Blinders, 107 Winner Street, Roundham With Hyde, Paignton, Torbay, TQ3 3BP

THIS IS A FORMAL NOTICE ISSUED BY TORBAY COUNCIL (THE COUNCIL).

Your commercial waste arrangements have been found to be causing a nuisance / or considered to be detrimental to the amenity of the area.

This Notice legally requires you to provide and have the following arrangements in place within **14 days** from the date of this Notice.

- 1) All waste must be stored in a suitable container to prevent spillage and the receptacle must be kept closed and locked at all times to prevent spillage and any spills must be cleaned up at all times.
- 2) The receptacle must also be kept locked at all times to prevent access by seagulls and/or vermin and also members of the public to potentially unsafe waste.
- 3) All bags and waste placed into the receptacle must be adequately bagged to avoid spills or increased odour from the bin so this may involve using 2 bags to hold your waste.
- 4) If your waste does not fit into the receptacle and the lid won't close, please organise an additional collection immediately and clear up any waste that escapes from your receptacle.
- 5) If overfilling happens regularly, please book additional collections to your weekly waste collection agreement.
- 6) Your commercial waste must not be placed in a waste bin belonging to another company/person.
- 7) The receptacle must be maintained in a serviceable and clean condition at all times. In particular, damaged or missing receptacle lids must be reported to your waste collector immediately and replaced. Until the fault has been rectified, you must take all reasonable steps to secure your waste against escape.
- 8) The receptacle must be secured in a position against a wall or secured to a permanent fixture such as a wall or post at all times to prevent it from being moved. The only time your receptacle should be moved is during collection of your waste.
- 9) Unless with prior agreement from Highway Authority at Torbay Council, no receptacles shall be placed on the public highway or footway at any time other than to facilitate collection. The highway and footway must not be obstructed and any receptacle in contravention of this must be removed immediately.
- 10) In the event that your collection fails to take place at the agreed time, you shall remove from the Highway any waste presented and contact your collector to arrange an alternative collection.
- 11) Recyclable material must also be stored in a suitable container and suitable collections organised to meet the amount of recyclable material you generate.

12) Cardboard presented for collection, shall be flat packed and bound to secure any individual items from escape and shall be clearly marked with the premises name and name of the collector.

What will happen if you fail to comply

If, without reasonable excuse, you contravene or fail to comply with any requirement or prohibition imposed by this notice:

You may be issued with a fixed penalty notice (currently £75)

or

You may be prosecuted for a criminal offence under Section 47(6) of the Environmental Protection Act 1990 for which you would be liable on summary conviction to a fine not exceeding level 3 on the standard scale, (currently £1,000).

Your right to appeal

You may appeal to a magistrates court against this notice within 21 days beginning with the date on which the notice is served upon you, on the grounds that:

(a) the requirement is unreasonable:

or

(b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.

In the event of an appeal against any requirement of this notice, that requirement shall be suspended until the appeal has been abandoned or determined by the Court.

Dated: 19 December 2017

Signed: C. Widdecombe
Mr C Widdecombe, Principal Officer, Community Protection

Address to which all communications should be sent:
Community Safety, C/o Town Hall, Castle Circus, Torquay TQ1 3DR

Tel: 01803 208025
Email: Community.Protection@torbay.gov.uk

What does this Notice mean to me?

This Notice has been served on you because you have failed in your Duty Of Care with regards to your commercial waste.

What does this Notice mean to me?

This Notice has been served on you because you have failed in your Duty Of Care with regards to your commercial waste.

Waste – Duty of Care - What it means

The duty of care is a law which says that you must take all reasonable steps to keep waste safe. Waste must be stored safely and securely and must not cause pollution to people or the environment. The waste must be packaged in suitable containers so that it cannot fall out, blow away or escape from the receptacle. It must be secured against unauthorised removal as far as is reasonably practical. Security should be sufficient to prevent the breaking open of containers and removal of waste by vandals, thieves, animals, accident or weather.

If you break this law, you can be fined an unlimited amount.

Does it affect me?

The duty of care applies to anyone who produces or imports, keeps or stores, transports, treats or disposes of waste. It also applies if you act as a broker and arrange these things.

What is waste?

It can be anything you own or produce, and you want to get rid of, or are required to get rid of.

What is controlled waste?

It is household, commercial or industrial waste.

Transfer of Controlled Waste

If you give waste to someone else, you must be sure they are authorised to take it and can transport, recycle or dispose of it safely. Businesses must ensure that the person removing the waste is either from the Local Authority or a licensed waste collection company.

Only they are authorised to remove waste, transport it and dispose of it safely. The licensed carrier must complete a Waste Transfer Note to cover the duration of the contract, which includes a written description of the waste container and type of waste that is to be collected. Both parties involved in the transaction must sign this note.

To check whether or not your waste carrier is licensed with the Environment Agency, either check online at <http://www2.environment-agency.gov.uk/epr/search.asp> or by telephone on 08708 506506

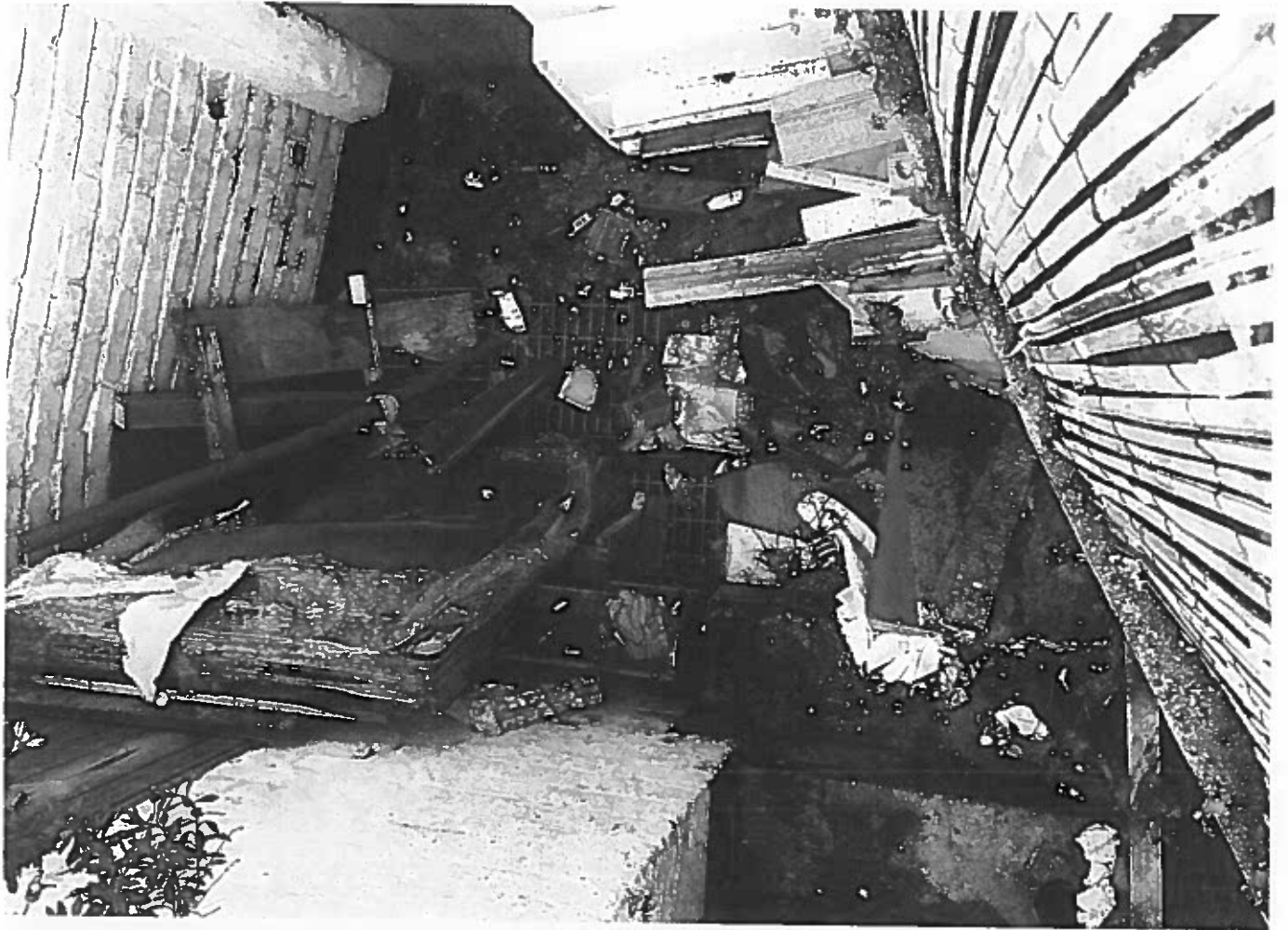
For further information on the Environmental Protection Act 1990 and the legal obligations of businesses under the Duty of Care regulations ring Torbay Council Environmental Health Team on 01803 208025 or Tor2 Commercial Waste Enquiries on 01803 701317 or email: tor2-enquiries@tor2.co.uk

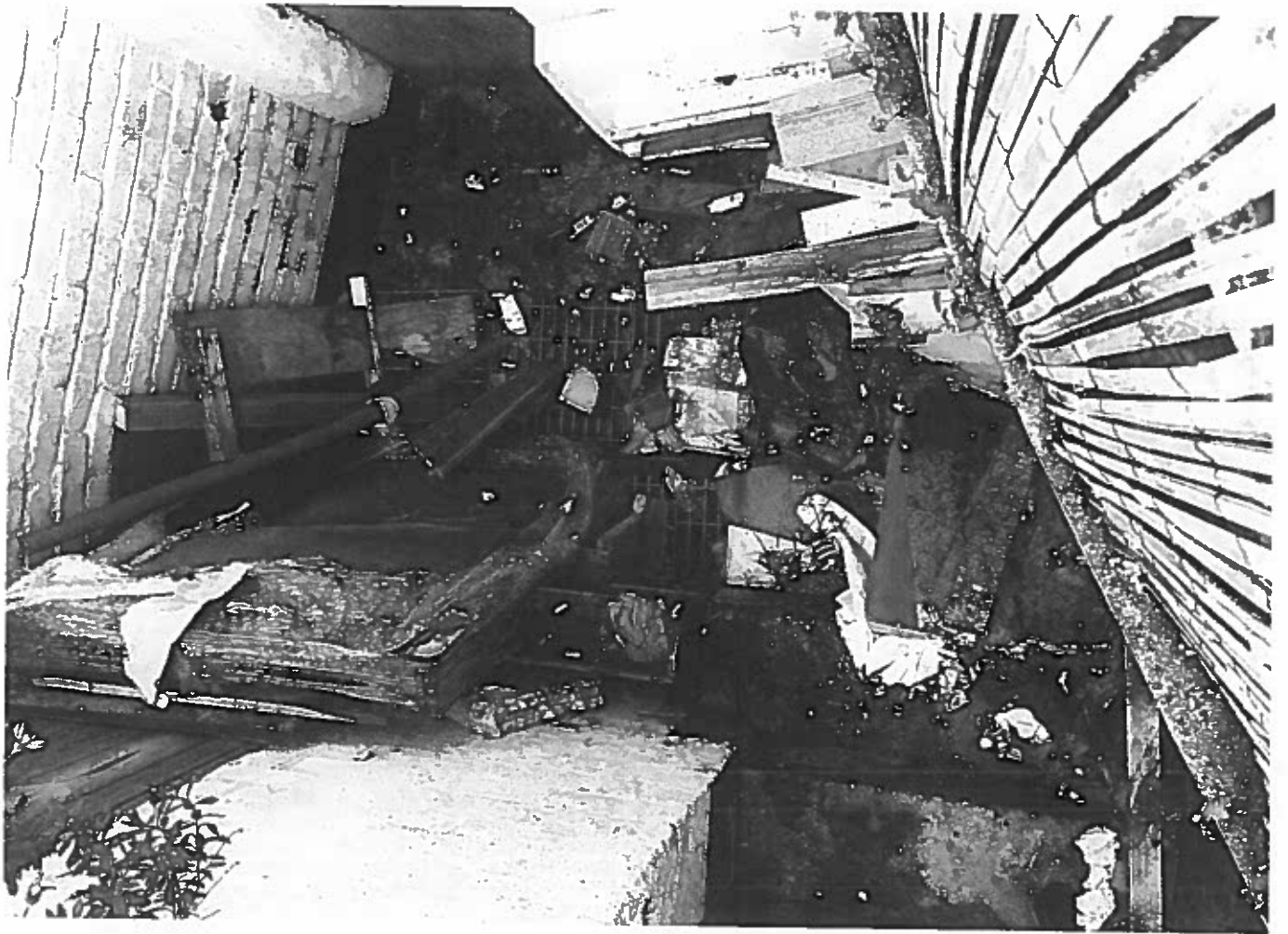


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