

Memorandum

To: Licensing

From: Licensing Authority

FAO: Gary O'Shea
Principal Officer Licensing and
Public Protection

Contact: Mandy Guy

Ext : 8025

Ref:

Date: 17 July 2018

Re: Review of Premises Licence PL0433 The Terrace Bar, 12-14 The Terrace, Torquay TQ1 1BN

I refer to the application for a Review of the Premises Licence in respect of the above named premises, submitted by Devon and Cornwall Police.

The premises currently has the benefit of Premises Licence PL0433 which was granted by Torbay Council on 24 November 2005. The premises operates as a bar which provides live and recorded music. There are no kitchen facilities at the premises so it does not provide any substantial food. It is situated within the Cumulative Impact Area at the bottom of The Terrace close to the junction with Fleet Walk. This area is part of Torquay's Late Night Economy.

I have made several visits to this premises since the 24 April 2015 when Mr Jamie Lawrence took over the running of the premises. As such I would like to support the Review submitted by the Police with the following information which relates to inspections I have done to the premises and information exchanged with Jamie Lawrence.

1. On the 24th April 2015 I was inspecting the Young Farmers event at the Riviera centre, Torquay with my colleague Shaun Rackley, Licensing Enforcement Officer. Whilst we were there we received some information about 12-14 The Terrace, Torquay, which at that time was called R & B's. The information stated that the premises had opened up for the Young Farmers and was not safe and had live electrical wires hanging out of the walls and that the paint on the walls was still wet. I left the Riviera Centre with Mr Rackley and we headed to R & B's. We arrived at the

premises at 23.20. When we arrived the Police were already at the premises and we introduced ourselves to Sergeant Carmen Desborough. We then met Mr Lawrence who claimed he was the new Designated Premises Supervisor (DPS). There were two other men with Mr Lawrence who said they were a shareholder and the Bar Manager.

During our inspection we found a number of breaches of Licensing, Food Hygiene and Health and Safety legislation. These included the bar being relocated without a change in the Premises Licence, no Nightnet radio, CCTV issues, no door staff, electrical issues, dangerous chemical storage, restricted access to the fire exit. All the details of the breaches are show in *Letter A* attached to this memo.

It was apparent from what we saw at the premises that it had opened in a hurry without considering anyone's safety or compliance with the relevant legislation.

We also had concerns that Mr Lawrence said he was the DPS and that we didn't have any evidence of the application. However we later found out that he had submitted an application but it was rejected as it was wrong so on the night of the visit he was not authorised to be the DPS.

During this inspection it was difficult to communicate with Mr Lawrence as in my opinion he was in drink and he also got himself a drink from the bar whilst we were talking to him. This is not what we would expect to see from a person running a licensed premises. Before we left the premises Mr Lawrence agreed to close the bar and not to reopen it again over the weekend.

2. On the 27 April 2015 I met with Julie Smart, Police Licensing Officer, the 2 holders of the licence and Mr Lawrence. It was confirmed Mr Lawrence had been given the lease for the premises.

During this meeting we went through the issues from the inspection the 24 April 2015 and what work needed to be done. We also discussed that if the premises opened again before successfully obtaining a variation of the premises licence, or alternatively moving the bar back to the position on the premises licence plan, that it would be an offence under Section 136 of the Licensing Act 2003.

We also had a discussion about how the application for a variation to the premises licence and the variation to the DPS had been rejected as they were not correctly submitted. A letter was sent to the licence holders to confirm this. *Letter B*.

3. At 23.15 on 19 September 2015 I visited Shark Bar (name was changed from R&B'S in July 2015) which my colleague Matt Redmond, Licensing Enforcement Officer. We were accompanied by the Police. The purpose of the visit was to check how the premises was being managed.

The initial challenge when arriving at the premises was for the 3 people who I spoke to, one being Mr Lawrence, to decide who was actually running the premises that evening.

There was also confusion about what time they were closing, and the number of door staff that should be working. There was a clear lack of understanding of the conditions on the licence. There was also structural repairs needed in the cellar and we were given different answers as to when this was being repaired. A copy of the letter shown as *Letter C* goes into further detail on this visit.

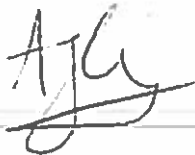
4. On the 11 April 2016 at 17.15 I visited Shark Bar with Julie Smart, Police Licensing Officer, as a result of a complaint about noise at the premises. The level of the music was excessive and could be heard as we approached the premises. We spoke to Mr Lawrence who was unable to provide a copy of the Premises Licence which is an offence under the Licensing Act 2003. Mr Lawrence was also unable to provide a copy of his Pavement Café Licence. There were a number of conditions of both the premises and Pavement Café Licence that were being breached. A letter detailing these breaches was written by Julie Smart. Shown as *Letter D*.

5. Another visit was carried out on Saturday 6 August 2016 at 22.00 by myself, Julie Smart, Sergeant Norsworthy and Gary O'Shea, Principle Officer Licensing and Public Protection. Mr Lawrence was not at the premises but once again the person left in charge was not clear on how to run the premises. As an example I asked about the noise limiter, which is a condition on the licence. I was initially told it was installed and working and then on further questioning I was told it was locked in the safe. To work the equipment needs to be correctly installed and set up not locked away in a safe. There were a number of other concerns that have been documented in the letter written by the Police. This is *Letter E*.

6. On the 25 May 2018 at 18.15 I was walking along The Terrace by Hoopers with a colleague Tara Harris, Executive Head Community Safety. We could hear some very loud music which as we continued we realised was coming from The Terrace Bar (name changed from Shark bar on 6 April 2018). We had finished work but the noise was so loud I decided to go into the premises. I couldn't see Mr Lawrence so I produced my ID and asked to speak to the person in charge. A lady told me she was now running the bar. I asked her to come outside as it was so loud I couldn't hear what she was saying. All the windows and doors were open so it was still difficult to have a conversation outside the premises. There was one doorman outside the premises. We had not received any applications to change the DPS so I asked her to contact Mr Lawrence but the lady didn't know how to get hold of him. They couldn't produce a copy of the Premises Licence or Pavement Café Licence and had no idea about the conditions on the licences. A letter was sent to Mr Lawrence regarding the issues and explaining how disappointed I was to see that he had not taken any notice of previous letters sent by Licensing or the Police. This is shown as *Letter F*.

7. I have received recent emails from Mr Lawrence in June and July 2018 explaining he is no longer the DPS or licence holder and that the company has been struck off on Companies House so he can no longer be responsible for the premises. However he has been informed he is still the DPS as no applications to change this have been accepted by the Licensing team and on Companies House the company who holds the licence for The Terrace Bar, for which is the sole Director is still active.

Even though numerous visits have been done to this premises, followed up with detailed letters it is disappointing to see that the management of this premises is still not at the standard that would be expected. As a result of this the Licensing Objectives are not being promoted.



Mandy Guy

Senior Licensing Officer

Torbay Council



Please reply to: Ms Mandy Guy

Community Safety

c/o Town Hall

Castle Circus

TORQUAY

Devon

TQ1 3DR

Mr

My ref: R:214890/AJG

Your ref:

Telephone: 01803 208025

Torquay
TQ

Website:

Date: 20 May 2015

Dear Sirs,

Licensing Act 2003

Health and Safety at Work Act 1974

Food Safety and Hygiene (England) Regulations 2013

Re: Premises Licence PL0433 R & B's (to be renamed Shark Bar and Grill), 12 – 14 The Terrace, Torquay TQ1 1NB

I am writing to you with regard to the visit done by myself and Shaun Rackley, Licensing Enforcement Officer, to R & B's at 23.20 on Friday 24th April 2015. We visited the premises as we received information from a member of the public that they felt the premises was unsafe and should not be open. When we arrived at the premises there were already Police Officers, Sergeant 6633 Desborough and PC 6896 Cull, in attendance that also had concerns about public safety at the premises.

During this visit we spoke to Jamie Lawrence who claimed he was the new Designated Premises Supervisor, [REDACTED] a shareholder in Shark Bar and [REDACTED] the Bar Manger. There were customers in the premises during our visit and the bar was open to customers to purchase drinks including alcoholic drinks.

On Monday 27th April 2015 at 14.10 myself and Julie Smart, Police Licensing Officer, met with yourselves and Jamie Lawrence to discuss the breaches of legislation that had been noted. These were as follows:

Licensing

1. There were no door stewards at the premises as required by your premises licence when the premises remains open for the sale of alcohol after midnight on any Thursday, Friday or Saturday night. Jamie Lawrence informed me they were planning to stop selling alcohol at midnight and close by 12.30 so they didn't need door staff. However I highlighted to Mr Lawrence that there were over 5000 Young Farmers in town and as such there was an expectation that premises in Torquay Town Centre would be providing door staff. Mr Lawrence contradicted himself by telling me he was only allowing locals in and then that he would welcome in any Young Farmers that did turn up. I understand that you had spoken to

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Mr Lawrence previously about door staff and had expected them to be employed at the premises over the Young Farmers weekend.

2. The premises did not have a Nitenet Radio and the CCTV was not working. We were told there had been a power issue with the CCTV but a Police Officer noted it was not plugged in. Both of these issues are breaches of your premises licence. Failure to comply with conditions on your premises licence constitutes an offence under Section 136 of the Licensing Act.
3. It was quite evident when we entered the premises that it was undergoing refurbishment and that it had been opened with the refurbishment only partly completed. This was evident not only from the smell of fresh paint and the paint with the roller that we found in the cupboard next to the men's toilets, but also from the number of half finished jobs. One of these was the new bar in the center of the premises. This bar was much larger than the previous bar which was at the side of the premises. The location of the bar and the removal of the disabled toilet were discussed with Mr Lawrence. He said he had submitted an application for the bar to be moved and also an application for him to be put on as the Designated Premises Supervisor. We informed Mr Lawrence that we had not received these applications. I can confirm when we returned to the office the applications had been received but were not able to be accepted as they were wrong. Further enquires revealed that [REDACTED] who was named as the Designated Premises Supervisor had thought she had been removed from the licence and was unaware of the premises being open. Therefore you were selling alcohol without the authorization of a Designated Premises Supervisor which is an offence.

4. There was a further offence under section 136 of the Licensing Act 2003 as the layout of the premises had been substantially changed without the licence being amended by the correct process of correctly submitting an application to vary the licence to reflect the changes.
5. There are a number of other conditions on the premises licence that were being breached during the inspection. However due to the concerns we had with regard to public safety only the main licensing issues were addressed on the evening. This was also in part due to the difficulty we were having communicating with Mr Lawrence as in my opinion he was heavily in drink. He did confirm he had been called to the premises from a celebration he was at in the Old Skools Bar. He also got himself a half pint of what appeared to be an alcoholic drink from behind the bar when we were talking to him.

Health and Safety

6. There were a number of electrical issues with the fixed wiring throughout the premises. Mr Lawrence offered to touch the wiring to prove it was not live however he was advised not to do this. One of the electrical sockets that was hanging off the wall had a working gaming machine plugged into it so was obviously live.

You must undertake an Electrical Installation Condition Report (EICR) in accordance with the Electricity at Work Regulations 1989. Any remedial items in this report must be remedied and a 'satisfactory' EICR report submitted to this department within 6 weeks.

7. There was no sign of any gas safety paperwork on site during my visit. The gas boiler in the cupboard off the ladies toilet appeared to be in a poorly maintained condition. You must ensure the gas system on site is inspected by a suitably qualified 'Gas Safe' engineer and a copy of their report forwarded to this department within 6 weeks.
8. There were chemicals stored in a haphazard manor throughout the premises including in the cupboard there the boiler is located. Chemicals must be stored in accordance with the

manufacturers' recommendation and away from potential sources of ignition.

9. The flooring throughout parts of the premises, including the bar and around the men's toilet were found to be uneven and constituted a tripping hazard. Floors must be of a sound construction and free from defect so as to prevent the risk of patrons injuring themselves.
10. Egress via the upstairs fire exit was restricted and there were a number of wires and miscellaneous items behind the door and on the stairs. This matter has been referred to the Devon and Somerset Fire Rescue Service.

Food Hygiene

11. There was no water supply to the hot water tap at the wash hand basin behind the bar. A supply of hot and cold or suitably mixed water must be available for the hygienic washing of hands. This must be completed prior to the premises being opened.
12. The floor behind the bar had no floor covering and was unsealed. A washable and impervious floor covering must be provided.
13. The shelving behind the bar where the glasses were stored were bare wood causing the glasses to be dusty. The shelving must be suitably sealed to provide a washable and impervious surface that is easy to clean.

As you will understand from the breaches of legislation above and the discussion we had with you on the 27th April we have had to decide what further action to take in relation to the premises. After careful consideration and discussion with our Legal advisor and the Police it has been decided on this occasion not to take any legal action against you. This is mainly due to the cooperation eventually given on the evening by Mr Lawrence and [REDACTED] volunteering to close the premises and for your reassurance at the meeting on the 27th April that the issues would all be addressed. However should there be further breaches found in the future legal action will be considered and this letter will be used as evidence.

With regard to the opening of the premises we discussed a number of options. As the bar had been repositioned without authorisation by way of a correctly served and granted application we would need to receive either a variation to the premises licence or a new premises licence application. The new application was discussed as preferable to protect your interest in the business without the risk of losing the licence. Should you wish to leave the licence in your names you will need to ensure you have an involvement in the way the premises is run. The other option available to get the premises open again would be to put the bar back to its original position as shown on the existing plan.

An application for a Designated Premises Supervisor to be put on the licence must also be submitted prior to the premises opening. I suggest you give careful consideration to who you wish to fill this position.

A copy of this letter has been sent to Mr Lawrence for information for him and [REDACTED].

Should you wish to discuss any of the items in this letter please contact me via the above telephone number and quote the reference number above.

Yours sincerely

Ms Mandy Guy
Senior Licensing Officer
Licensing and Public Protection

cc Police Licensing (by email)

cc Mr J Lawrence, C/O Shark Bar and Grill Ltd, The Old Skools Café Bar, 18-20 Market Street,
Torquay TQ1 3AQ

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.



Please reply to: Ms Mandy Guy
 Community Safety
 c/o Town Hall
 Castle Circus
 TORQUAY
 Devon
 TQ1 3DR

Mr

My ref: R:214890/AJG

Your ref:

Torquay
 TQ

Telephone: 01803 208025

Website:

Date: 14 May 2015

Dear Sirs,

Licensing Act 2003

Re: Premises Licence PL0433 R & B's (to be renamed Shark Bar and Grill), 12 – 14 The Terrace, Torquay TQ1 1NB

I write with reference to the applications received by this department for a 'Variation to a Designated Premises Supervisor' to specify Jamie Lawrence as the Designated Premises Supervisor and an application to 'Vary a Premises Licence' in respect of R & B's. As discussed with you at a meeting with Jamie Lawrence and Julie Smart from Police Licensing, both these applications are invalid as copies were not served on the Police as required by the Licensing Act 2003.

As such the applications are now being returned to you. We did discuss about keeping the fee for when the application was correctly submitted. However since the application is now being completed by Chris Hart at Wollen Mitchelmore I am arranging for the money to be refunded, I can confirm £239 will be refunded to the cardholder who made the payment whom was Mr Jamie Lawrence. This will be arranged directly by our finance department and may take a couple of weeks to be processed.

Should you need to contact us please quote the reference number above.

Yours faithfully

Ms Mandy Guy
 Senior Licensing Officer
 Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

cc Jamie Lawrence, 18 Market Street, Torquay TQ1 3AQ
 cc Julie Smart, Police Licensing (by email)

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LETTER C

Please reply to: Ms Mandy Guy
Community Safety
c/o Town Hall
Castle Circus
TORQUAY
Devon
TQ1 3DR

Miss
Designated Premises Supervisor
Shark Bar
12/14 The Terrace
Torquay
TQ1 1RN

My ref: R:222113/AJG
Your ref:
Telephone: 01803 208025
Website: Torbay.gov.uk
Date: 13 October 2015

Dear Miss

Licensing Act 2003

Re: Premises Licence PL0433 Shark Bar, 12-14 The Terrace, Torquay TQ1 1BN

I write with reference to my visit to the above premises at 23.15 on Saturday 19th September. I was accompanied on my visit by Matt Redmond, Licensing Enforcement Officer.

The purpose of the visit was not to undertake a full licensing inspection but to see how the premises was being managed. The following concerns were noted during the visit:-

Management of the premises

When we arrived we were informed that you had finished working at 18.00. I asked to speak to the person in charge in your absence. The responses we then received gave me great concern as there seemed to be a number of different people thinking that you had left them in charge.

We were initially met by [REDACTED] who told us he had been left in charge and that he held a personal licence. Upon later investigation back in the office it was apparent that Mr [REDACTED] did not have a personal licence. A personal licence application for [REDACTED] was received by our Department shortly after our visit confirming that at the time of the visit the information given was not true.

[REDACTED] then returned inside the premises as Jamie Lawrence and [REDACTED] then came outside to meet us. I asked the question again about who had been left in charge of the premises in your absence. Both Mr Lawrence and [REDACTED] proceeded to say they had been left in charge. I can confirm after further discussion it was agreed [REDACTED] would be the person that we would discuss any issues from the evening with. As discussed with you on the telephone after the visit, this situation is not acceptable. A premises with a late licence situated within Torquay's Cumulative Impact Area requires

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strong management. There should be no confusion amongst staff about who is in charge when you are not at the premises.

Door stewards

When we arrived at the premises at 23.15 there was one doorman on the door who told us his name was [REDACTED]. I understand that you have a verbal agreement with the police that you will employ two door stewards from 22.00 until closing on Friday and Saturday nights. (This is referred to in the letter from the police dated 15th September 2015). We were informed you have ceased using Emerald Security and that [REDACTED] was self employed and that this was his first evening working with you.

When I spoke to [REDACTED] he was not aware what time he was suppose to be finishing that evening. I did find that [REDACTED] was quite reluctant to answer any questions I asked him, although I am not sure if this was due to it being his first night and that he hadn't had a very thorough brief or if he felt he was not in a position to answer the questions. I would have expected as a minimum for a door steward to know what time he would be expected to work until.

Jamie Lawrence joined us outside with his SIA badge and informed us he had been on the door but had stopped working just before we arrived. When we arrived Mr Lawrence was drinking at the bar. As the designated premises supervisor it is your responsibility to ensure that there are the correct number of door stewards on and that they are aware of what time you expect them to work until to ensure they are fulfilling the licensing conditions and agreements you have with the police.

Closing time

When we asked [REDACTED] what time you were closing he informed us that the premises was going to close at 2.00 but now last orders would be at midnight. However we were going through the conditions of the licence at 23.52 when [REDACTED] suddenly announced he hadn't called last orders. Music was also still being played by the DJ at this time. The music was turned off at 23.55 and last orders called under the instruction of Mr [REDACTED]. I would like to refer you to condition 7, The Prevention of Public Nuisance, on page 6 of the premises licence "The premises shall remain open for at least one hour after the sale of alcohol is served (while patrons are on the premises) during which time patrons shall be dispersed gradually. Music shall be toned down at least one hour before the close of the premises."

There must be clear instruction to all staff about what time the premises is going to close so licence conditions can be complied with.

Cellar

The ceiling in the beer cellar upstairs was damaged and had mould growing on it. We were informed this was being refurbished, however we were told by one person that this was being done on the following Wednesday and by another that it was the following Friday. You must ensure the cellar is suitably repaired and maintained in good condition. Up to date COSHH paperwork, gloves and protective eyewear must also be available for staff handling hazardous chemicals. The carbon dioxide canisters must also be secured to prevent them falling over.

I can confirm a number of structural items highlighted in my previous letter had been dealt with. However we have still not received final confirmation that the electrics are now safe. This will be picked up by my colleague David Walker.

If you wish to discuss any of the items in this letter, please contact me on the above telephone number.

A copy of this letter has been forwarded to the Police for their information.

Yours sincerely

Ms Mandy Guy
Senior Licensing Officer
Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

[REDACTED]



Devon & Cornwall Police

Mr J J Lawrence
Shark Bar
12/14 The Terrace
TORQUAY
Devon
TQ1 1BN

Licensing Department East
Devon and Cornwall Constabulary
Force Headquarters
EXETER
EX2 7HQ

Telephone: 01803 218900

13 April 2016

Dear Sir

Shark Bar, 12/14 The Terrace, Torquay, Devon, TQ1 1BN

I write to you in your capacity of Premises Licence Holder and Designated Premises Supervisor of the above named premise, which has the benefit of Premises Licence Number PL0433 issued by Torbay Council.

At approximately 1700 hrs on Monday 11 April 2016, my Police Licensing Officer, Mrs Julie Smart, attended your premises in the company of Mrs Mandy Guy, Senior Licensing Officer of Torbay Council, as Torbay Council had received a complaint of loud music coming from your premises and numerous persons stood up drinking in the road.

As Mrs Smart and Mrs Guy approached your premises from The Terrace they could clearly hear loud music and as they drew closer to your premises this music was established to be coming from Shark Bar. Additionally they noticed about 6 males stood up smoking and drinking outside your premises, one of whom had a bottle in his hand. They also noticed that the windows and doors of your premises were wide open.

Mrs Smart and Mrs Guy then entered your premises and advised you of the complaint. They asked you to produce your Premises Licence but you were unable to do so. Section 57(2) of the Licensing Act 2003 states that the Premises Licence Holder must secure that the licence is kept at the premises. Section 57(4) states that the Premises Licence Holder commits an offence if he fails, without reasonable excuse, to comply with this requirement. In addition Section 57(5) states that a constable or authorised person may require the licence to be produced and Section 57(7) states that a person commits an offence if he fails, without reasonable excuse, to produce the licence.

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

✉ 101@devonandcornwall.pnn.police.uk ☎ 101

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Mrs Smart then drew your attention to conditions 16 and 17 under the heading The Prevention of Crime and Disorder on your Premises Licence which state:

16. *Bottles must not be taken outside*

17 *Patrons must be seated in the outside side area*

I would advise you that failure to comply with the terms and conditions of a premises licence constitutes an offence under Section 136 of the Licensing Act 2003, and that a person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Mrs Guy then asked you to produce a copy of your Pavement Cafe Permit, issued by Torbay Council in line with the requirements of Section 115 of the Highways Act 1980, but again you were unable to do so. I would take this opportunity to inform you that the Torbay Council Pavement Cafe Licensing Policy 2016-2021 states:

Page 9 –

The area forming the Pavement Cafe must be clearly demarcated by way of barriers or other street furniture and/or planters in order to identify the agreed location and size of the Pavement Cafe area and to help guide persons with visual impairment around its use. Any items used as demarcation of the licensed area must be no less than 800mm in height.

Page 12 –

Where the premises sells alcohol by way of a Premises Licence granted under the Licensing Act 2003 a premises is prohibited from serving alcoholic and non-alcoholic drinks in glass bottles to persons using the Pavement Cafe areas at all times. The management must ensure bottled drinks are de-cantered into suitable drinking vessels at point of sale.

Page 14 –

The Licence Holder/s shall, before exercising the privilege granted by this licence, place removable physical barriers within the perimeter of the area so indicated on the attached plan to the Licence which must be to the satisfaction of Officers of the Licensing and Public Protection Team, and shall ensure that such barriers are removed at the end of each daily period of use and at the expiry, surrender or revocation of this licence.

Page 21 –

The Licence Holder/s shall ensure that customers who purchase food or drink for consumption on the premises shall not consume such items outside of the permitted area (as per the Licence Plan).

Page 21 –

All customers using the Pavement Cafe will be required to be seated. Vertical drinking will not be permitted within the licensed area.

Page 18 –

The Licence Holder/s shall ensure that all drinking glasses in which drinks are served shall be of strengthened glass and no drink shall be served in a glass bottle from which it is intended or likely that a customer shall drink.

Page 18 –

The Licence Holder/s shall ensure that adequate supervision by means of a waiter/waitress service is provided over the permitted area during the times of operation.

Page 19 –

The Licence Holder/s shall ensure that a copy of the Pavement Cafe Licence and accompanying conditions is at all times on prominent display within the Pavement Cafe premise.

The Licence Holder/s shall produce this permission on demand when so required by an Authorised Officer of Torbay Council, a Police Officer or a Police Licensing Officer.

It appears that you are not complying with the above requirements and I would advise you to liaise with Mr Karl Martin of Torbay Council in connection with this matter.

In relation to the noise complaint and noise levels witnessed by Mrs Smart and Mrs Guy, Mrs Guy referred you to condition 2 under the heading the Prevention of Public Nuisance on your premises licence which states:

A limiter shall be installed within the sound system and cannot be over ridden.

Following discussions it was ascertained that your premises does have a noise limiter and Mrs Guy recommended that you liaise with Mr Karl Martin to ensure that it is set at an appropriate limit. Mrs Guy also gave you advice concerning monitoring noise levels from your premises to ensure that it does not cause annoyance or disturbance to persons in the area.

As Premises Licence Holder and Designated Premises Supervisor I would remind you that it is your responsibility to ensure that your premise is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times.

Should you wish to discuss this matter further, please do not hesitate to contact Mrs Smart.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Lawler', written in a cursive style.

Superintendent M Lawler
Territorial Policing & Partnership Department



Devon & Cornwall Police

Mr J J Lawrence
 Shark Bar
 12/14 The Terrace
 TORQUAY
 Devon
 TQ1 1BN

Licensing Department East
 Devon and Cornwall Constabulary
 Force Headquarters
 EXETER
 EX2 7HQ

Telephone: 01803 218900

6 October 2016

Dear Sir

Shark Bar, 12/14 The Terrace, Torquay, Devon, TQ1 1BN

I write to you in your capacity of Premises Licence Holder and Designated Premises Supervisor of the above named premise, which has the benefit of Premises Licence Number PL0433 issued by Torbay Council.

The below matters have been brought to my attention:

On Sunday 31 July 2016 a 16 year old female stated that she had attended your premises in the company of 2 other females, and she purchased and consumed alcohol. This female indicated that she attended your premises as she knew that there would be no door stewards on duty.

On 19 August 2016 a male was ejected from the Green Ginger. This male was spoken to by the police and told to leave the town centre but proceeded to your premises where he walked straight in. There were no door staff present at the time he entered your premises. This male was heavily intoxicated, very unsteady on his feet, his speech was very slurred and he was aggressive towards members of the public. His appearance was approximately 5'10" tall, slim build with scruffy stubble facial hair. He was wearing a black leather jacket and blue jeans.

On Monday 22 August 2016 between 2000 and 2230 hours a group of 16 year old males state that they were served and consumed alcohol within your premises. This information has been provided by a reliable source.

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@devonandcornwall.pnn.police.uk 101

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At 0115 hrs on the morning of Saturday 17 September 2016 one of my officers was stood in Fleet Street, outside of Shoezone, in the company of a Special Constable, when he could clearly hear loud music coming from The Terrace. He walked around onto The Terrace to see if there were any issues, believing the music to be coming from your premises. Unfortunately as he approached your premises he was called by a member of the public to a fight outside another premises so he was unable to enter your premises to discuss the matter with the staff.

At 2220 hours on the evening of Saturday 6 August 2016 herself, Mrs Mandy Guy (Senior Licensing Enforcement Officer of Torbay Council) and Mr Gary O'Shea (Principal Licensing Officer of Torbay Council) were on duty. Whilst walking up Fleet Street they heard loud music being played and stopped outside the sandwich kiosk to try to identify where this noise was coming from. Having listened for a few moments it was apparent that this noise was coming from your premises. These persons then walked up to your premises and on approaching noticed that doors and windows were wide open. On approaching the premises there were 2 door stewards on duty but both appeared 'pre-occupied' entertaining female customers and having selfies taken, rather than observing who was entering the premises. Mrs Smart, Mrs Guy and Mr Shea, then entered your premises and spoke to [REDACTED]. He was asked to go outside your premises in order that discussions could take place without the need to raise voices due to the volume of music being played.

Mrs Guy discussed the conditions on the licence with [REDACTED] and he stated that he thought the windows and doors had to be closed at midnight. Mrs Guy informed him that the licence indicates they must be closed at 11.00 pm. Mrs Guy asked [REDACTED] if the premises had a noise limiter installed and he initially stated that there was one installed at the premises and it was set to 100 db, but as the conversation progressed it became apparent that there was no limiter installed and [REDACTED] finally admitted that it was locked in the safe.

Mrs Guy then advised [REDACTED] of various conditions contained within the Premises Licence in respect of a noise limiter, as follows:

- *The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the Licensee/Management and the controlling mechanism shall be operated from a part of the premises not accessible to the public.*
- *A limiter shall be installed within the sound system and cannot be over ridden.*
- *A limiter shall be installed on the PA system and the level set and agreed by Torbay Council. It must not be possible to bypass or override the limiter.*

Mrs Smart advised [REDACTED] that herself, Mrs Guy and Mr O'Shea had been able to enter Shark Bar without any interaction with the door stewards, who appeared distracted from their duties. Mr O'Shea has advised Mrs Smart that he spoke to two females who were talking to the door stewards and in his opinion they were heavily intoxicated but were allowed entry to the premises.

Mrs Smart noticed during her discussions with [REDACTED] that his breath smelt of alcohol and advised him that as he had indicated he was in charge of the premises he should not consume any more alcohol. For your information [REDACTED] did not appear drunk, but Mrs Smart has discussed the matter of staff consuming alcohol whilst working at the premises with you on a number of occasions. Whilst they are not doing anything illegal, it is imperative that staff have a clear head in order to deal with any incidents or issues arising.

On Wednesday 28 September 2016 my Police Licensing Officer, Mrs Julie Smart, and Mr Karl Martin, Public Protection Officer of Torbay Council attended your premises and met with you. At that time Mrs Smart discussed the above matters with you.

Underage Issues

Mrs Smart provided you with Challenge 25 posters, a CD-Rom for No ID No Sale, and a Torbay Council Age Verification Policy. She also gave you advice concerning the need to regularly provide training to bar staff on this matter and ensure they ask for ID when required. She also recommended that you keep a Refusals Register.

Nitenet Radio

Mrs Smart advised you that it is imperative that when door stewards are not on duty, a member of your bar staff has use of the Nitenet Radio in order that they can monitor radio activity and refuse entry/service to persons who have obviously caused issues elsewhere in the town centre. Mrs Smart further advised you that your Premises Licence contains a condition that the premises will join and maintain membership of the Nitenet Radio Communications Scheme but it does not state any times when the radio must be used, and therefore it should be used whenever the premises are carrying out licensable activities.

Noise Issues

On 28 September 2016 Mr Martin discussed the issue of the noise limiter with you and it was apparent that you had purchased one but it was locked in the safe and you indicated that there had been no noise limiter installed in the premises since you took over in April 2015.

I would take this opportunity to remind you of a letter I sent to you on 11 April 2016 in relation to a noise complaint in respect of your premises. At that time it appears that Mrs Smart and Mrs Guy discussed the noise limiter with you and at that time they were under the impression following discussions with you, that a limiter was installed at the premises but it was not set to a suitable limit agreed by Torbay Council. I am therefore extremely disappointed that some 5 months later, Mrs Smart, Mrs Guy and Mr Martin have had to have similar discussions with you concerning noise outbreak and the limiter has still not been set up satisfactorily.

I would take this opportunity to remind you that failure to comply with the conditions of a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable to an unlimited fine, or to 6 months imprisonment, or to both.

Mrs Smart has advised me that as you indicated that there were going to be some minor changes to the layout of the premises, she has told you that you have until Friday 14 October 2016 to comply with the noise limiter condition. Should you not be complying with the requirement after this date, I will instruct my officers to take further action in respect of this matter. I do hope that you will take advantage of the opportunity that Mrs Smart has given you to rectify this matter.

In respect of the layout changes you are to undertake I recommend that you discuss these with either Mrs Guy or Mr O'Shea of Torbay Council, who will advise you as whether this matter can be dealt with by way of a minor or full variation.

As Premises Licence Holder and Designated Premises Supervisor I would remind you that it is your responsibility to ensure that your premise is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times. Should any further concerns in relation to your premises come to my attention, I will consider applying for a Review of your licence and this letter will be used as part of our evidence. I do hope that this will not be necessary.

A copy of this letter has been forwarded to the Licensing Department of Torbay Council for their information.

Should you wish to discuss this matter further, please do not hesitate to contact Mrs Smart on 01803 218900.

Yours faithfully



Superintendent M Lawler
Territorial Policing & Partnership Department



LETTER F

Please reply to: Ms Mandy Guy

Community Safety
c/o Town Hall
Castle Circus
TORQUAY
Devon
TQ1 3DR

Mr J Lawrence
The Terrace Bar
12/14 The Terrace
Torquay
TQ1 1BN

My ref: R:245120/AJG
Your ref:
Telephone: 01803 208025
Website:
Date: 7 June 2018

Dear Mr Lawrence,

Licensing Act 2003

Premises Licence PL0433 The Terrace Bar, 12/14 The Terrace, Torquay TQ1 1BN

I write to you in your capacity of Premises Licence Holder and Designated Premises Supervisor of the above Premises Licence.

On the 25th May 2018 at 18.15 I was approaching Hoopers on the Terrace, Torquay. I could hear music which as I proceeded down the Terrace towards your Premises it was very clear that it was your premises that the music was emanating from.

I went into the premises accompanied by my colleague Tara Harris, Executive Head Community Safety. I spoke to a lady at the bar and asked for you. She told me she was called Andrea Harris and that she was now running the bar. I explained I was not aware of any application to amend the licence and hence you were still the DPS and licence holder. I asked to see the licence although she was able to show me two copies of the licence summary on the wall, one which was out of date, she was unable to produce a copy of the licence. I was also concerned that she was unclear how to get hold of you.

We continued our conversation outside as it was too noisy to hear anything inside the premises due to the volume of the music. All the windows were wide open and the music was very loud outside the premises. Ms Harris explained she had had a doorman on for the afternoon and they had removed someone from the premises. However she admitted she had not taken into account any of your neighbours being affected by the volume of the music. As you are aware your licence does not have a condition requiring you to close the doors and windows whilst playing music during the day but it is your responsibility to ensure you and your staff monitor noise levels to ensure they are not causing a nuisance to your neighbours.

I accessed your premises licence on my phone and went through the conditions with Ms Harris and a gentleman who was at the bar with Ms Harris when we arrived. I was told the jukebox goes through a noise limiter however the equipment being used at the time of my visit did not go through the noise limiter. Condition 9 in Annexe 2, Prevention of Public Nuisance on your premises licence states:-

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.

"A limiter shall be installed on the PA system and the level set and agreed by Torbay Council. It must not be possible to bypass or override the limiter."

It is concerning to hear that at the time of my visit not only did the Ms Harris not know the conditions on the licence but that she also admitted it was only the juke box going through the noise limiter.

As I stood outside the premise talking to Ms Harris I noted the people drinking were sat at tables however a number of people were standing in the road outside the premises. I asked Ms Harris if she had a copy of the Pavement Café Permit. She was not able to produce the licence which is one of the conditions. Without the licence being available you cannot expect your staff to properly enforce the conditions.

I am disappointed to see that although you were written to by Superintendent Lawler on the 4th May 2018 regarding the noise and pavement café area, and also prior to this on the 6th October 2016, you do not seem to have taken any steps to improve the problems. I have enclosed copies of these letters for your information.

I would like to remind you that as DPS and licence holder it is your responsibility to ensure all conditions re complied with. Should you continue to not promote the licensing objectives you may have your licence reviewed.

I have sent a copy of this letter to the Police Licensing Department for their information.

Kind regards

Mandy

Should you need to contact us please quote the reference number above.

Yours sincerely

Ms Mandy Guy
Senior Licensing Officer
Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

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