

Wednesday, 20 April 2022

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Thursday, 28 April 2022

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Ellery

Councillor Barbara Lewis

Councillor Mills

Together Torbay will thrive

Download this agenda via the free modern.gov app on your [iPad](#), [Android Device](#) or [Blackberry Playbook](#). For information relating to this meeting or to request a copy in another format or language please contact:
, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 4 - 16)
To confirm as a correct record the Minutes of the meetings of a Sub-Committee held on 24 and 31 March 2022.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence** (Pages 17 - 27)
To consider a report on the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence.

7. **Licensing Act 2003 – An application for a Transfer of the Premises Licence and to vary the Designated Premises Supervisor for Jackz Bar, Parkham Road, Brixham, TQ5 9BU**
This is an application to Transfer a Premises Licence and an application to vary the Designated Premises Supervisor under the Licensing Act 2003.

(Pages 28 - 78)

Meeting Attendance

Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering whilst moving around the building (unless exempt), the face covering can be removed once seated and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come into the office.

If you wish to attend a public meeting, please contact us to confirm arrangements for your attendance.

Minutes of the Licensing Sub-Committee

24 March 2022

-: Present :-

Councillors Ellery, Barbara Lewis and Barnby

40. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

41. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Barnby instead of Councillor Mills.

42. Jackz Bar, Parkham Road, Brixham

Members considered a report on an application for a Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Application and supporting information for a Review Hearing.	1 February 2022
Public Protection Officer	Representation in support of the application for Review.	2 March 2022
Devon and Somerset Fire and Rescue Authority Business Safety Officer	Representation in support of the application for Review.	4 February 2022
Member of the Public	Representation in support of the application for Review.	24 February 2022
Police	Additional information in support of the application for Review.	4 March 2022

Additional Information:

Name	Details	Date of Representation
Police	Additional information in support of the application for Review.	4 March 2022

Following a request from the Police, the Chairman agreed to extend the normal time allowed for oral representations from 10 minutes to 20 minutes for all interested parties.

At the Hearing, Council's Legal Officer advised that the Respondent's representative had requested additional evidence comprising of statements from a builder, Mr Hennessey and Mr Ralph, a photographer and photos of work carried out on the Premises be circulated and considered by Members. All parties were given the chance to make representations on whether the additional information should be circulated and considered at the hearing or if the hearing should be adjourned to enable more time for everyone to read and consider the additional information and if such action was in the public's interest.

Decision:

That the Premises Licence be suspended until 1 April 2022 and that this matter shall be deferred to 11.00 am on 31 March 2022 to enable all parties to consider the additional information.

Reasons for Decision

Having carefully considered all the oral Representations, Members resolved unanimously to adjourn the hearing, to enable the Responsible Authorities time to fully consider the additional papers. On the evidence before them, noting the concerns of the Responsible Authorities and the unsafe state of the premises, Members unanimously resolved to suspend the Premises Licence in the intervening period. Notwithstanding assurances given by the Premises instructed Counsel that the premises would remain shut.

In coming to that decision, Members were concerned to learn that the Premises Licence Holder had requested through his appointed Counsel, that additional papers be circulated on the morning of the hearing, having been satisfied on the evidence before them, that the Premises Licence Holder was in a position to have provided a more timely response, and whilst it may have been his preference to leave it to the experts, this in Members opinion, caused unnecessary delay and was a delegation of his duty. In forming that opinion, Members noted the Premises Licence Holder is an employee of Mr Hennessey since January 2022 and would have been aware of this Review and the concerns raised therein.

In concluding, Members determined in the adjourning period, that no further papers shall be accepted by the Licensing Authority.

Chairman/woman

Minutes of the Licensing Sub-Committee

31 March 2022

-: Present :-

Councillors Ellery, Kavanagh and Mills

43. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

44. Minutes

The Minutes of the meetings of the Sub-Committee held on 10 March 2022 were confirmed as a correct record and signed by the Chairman.

45. Torquay Thai Restaurant, 171 St Marychurch Road, Torquay

Members considered a report on an application for a Premises Licence in respect of Torquay Thai Restaurant, 171 St Marychurch Road, Torquay.

Written Representations received from:

Name	Details	Date of Representation
Ward Councillor	Representation objecting to the Application for a Premises Licence on the ground of 'Prevention of Public Nuisance'.	Unknown
Member of the Public	Representation objecting to the Application for a Premises Licence on the ground of 'Prevention of Public Nuisance'.	6 February 2022

Oral Representations received from:

Name	Details
Applicant	The Applicant presented the application and responded to Members' questions.
Ward Councillor	The Ward Councillor outlined their representation.
Member of the Public	The Member of the Public outlined their representation.

Applicant's response to Representations:

At the meeting the Applicant advised that they would agree to vary the operational times within their Licence if that was proposed by Members in order to meet the Licensing Objectives.

Decision:

That the application for a Premises Licence in respect of Torquay Thai Restaurant, 171 St Marychurch Road, Torquay be approved as applied for, subject to the following conditions:

1. that all licensable activities shall only take place between 8 am and 11 pm, 7 days a week;
2. that the premises shall close at 11.30 pm, 7 days a week;
3. alcohol shall only be served to persons seated and taking a table meal;
4. at the close of the operational hours, staff will survey the immediate surrounding area and ensure that any litter attributed to this premises is removed and appropriately disposed of; and
5. after 9 pm and during operational hours, no more than 5 patrons shall be permitted to congregate outside the front of the premises for the purpose of smoking and the area shall be monitored by staff to ensure that noise nuisance is not caused by patrons so as to unreasonably disturb nearby residents.

Reason for Decision:

Having carefully considered all the written and oral Representation, Members were unanimously satisfied that the imposition of the additional conditions would uphold the Licensing Objectives and alleviate the concerns of residents and the Ward Councillor.

In coming to that decision, Members acknowledged that the premises was situated in a mixed use area, comprising of both business and residential premises, and notwithstanding the absence of Representations from the Responsible Authorities, unanimously determined to reduce the operational hours, as they could not be satisfied on the evidence before them that there was sufficient measures to mitigate operational impact on nearby residential premises after 11pm.

It was noted that concerns raised which related to planning, parking and areas within the premises were not a consideration of the Licensing Sub-Committee and therefore Members made no determination in this regard.

In concluding, Members acknowledged that this was a new licence and if measures imposed through the additional conditions resulted in a 'Public Nuisance' occurring, then a Review of the licence could be undertaken.

Minutes of the Licensing Sub-Committee

31 March 2022

-: Present :-

Councillors Ellery, Barbara Lewis and Mills

46. Apologies

It was reported that Councillor Mills was present for this hearing having been substituted by Councillor Barnby at the original hearing on 24 March 2022 which had been adjourned until today.

47. Jackz Bar, Parkham Road, Brixham

Further to the meeting of the Licensing Sub-Committee held on 24 March 2022 (Minute 42/3/22 refers), Members considered a report on an application for a Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Application and supporting information for a Review Hearing.	1 February 2022
Public Protection Officer	Representation in support of the application for Review.	2 March 2022
Devon and Somerset Fire and Rescue Authority Business Safety Officer	Representation in support of the application for Review.	4 February 2022
Member of the Public	Representation in support of the application for Review.	24 February 2022
Police	Additional information in support of the application for Review.	4 March 2022

Additional Information:

Name	Details	Date of Representation
Police	Additional information in support of the application for Review.	4 March 2022

Respondent	Representation comprising of statements from a builder, Mr Hennessey and Mr Ralph, a photographer and photos of work carried out on the Premises against the application for Review.	Circulated on 24 March 2022
------------	--	-----------------------------

Following a request from the Police, the Chairman agreed to extend the normal time allowed for oral representations from 10 minutes to 30 minutes for all interested parties in light of the additional information which was circulated at the hearing on 24 March 2022.

At the hearing, Mr Ralph suggested that a further suspension of approximately one month would be appropriate to give him sufficient time to address the outstanding issues to ensure compliance with the premises licence.

Decision:

That in respect of the application for a Review of a Premises Licence of Jackz Bar, Parkham Road, Brixham, Members resolved unanimously to revoke the premises licence with immediate effect.

Reasons for Decision

Having carefully considered all the oral and written Representations, Members resolved unanimously to revoke the Premises Licence, as they could not be satisfied on the evidence before them, that the Premises Licence Holder, Mr Ralph, an employee of Mr Ross Hennessey, had autonomy, capacity nor capabilities to operate these premises in a manner which ensured that the Licensing Objectives would be promoted, and patrons would be kept safe.

In coming to that decision, Members noted the history of events leading to this Review and the continued involvement of Mr Hennessey in these premises, despite conditions in place to prohibit this.

In doing so, Members noted that Ms Harley, an employee of Mr Hennessey, was appointed as the Premises Licence Holder and Designated Premises Supervisor, on the afternoon of the 24 June 2021, following a Licensing Committee decision earlier that same day, to refuse the transfer of these licences to Mr Hennessey. Furthermore, on the 7 October 2021, Members noted under the licences of Ms Harley, these premises were subject to a Review hearing called by the Police, for the reasons outlined in the report before them. Furthermore, on the morning of the Review hearing, Members noted that Ms Harley had resigned from these positions and a Ms Trust, also an employee of Mr Hennessey, took up these positions and attended the hearing, stating that she was aware of the concerns raised within the Review application and agreed to modify the premises licence, to include the conditions proposed by the Police and Public Protection Officers, along with the following two conditions:

- 1) That Mr Ross Hennessey be prohibited from entering the premises during operational hours.
- 2) That Mr Ross Hennessey shall not be involved in or influence the operation of these premises; and

In addition to that modification, Members noted that the premises licence was suspended for a period of three months, until 7 January 2022, allowing Ms Trust time in the intervening period, to implement the measures outlined in the new conditions. Members also noted that this decision was appealed two days after Ms Trust's initial submissions to the Police, during their visit to the premises on the 16 November 2021, whereby she stated that she did not want to appeal the decision, that she was satisfied with the conditions and that she did not want to go to Court. It was therefore of great concern to Members to learn that during this discussion, Ms Trust also stated that she had not discussed the matter with Mr Hennessey, so she was not aware if he wanted to appeal. Notwithstanding that Ms Trust was the Premises Licence Holder. This evidenced to Members, operational control by Mr Hennessey, despite him having no legal standing in respect of the premises licence and his influence in this, was in their opinion, a direct breach of the second of the two conditions set out above.

Whilst the appeal was subsequently withdrawn by Ms Trust on the 22 December 2021, in lodging the appeal, Members noted that the premises were permitted to continue trading, as the decision to suspend the premises licence did not take effect until its withdrawal. During that period of operation, Members further noted with grave concern that the Police continued to raise issues of concern with Ms Trust in respect of the premises operation and non-compliance with conditions. This further alarmed Members and demonstrated to them that Ms Trust was out of her depth in managing these premises, especially as this was a period where Members could reasonably have expected full compliance with its conditions and strong management in place, given the high stakes associated with an appeal and the risk that Ms Trust could lose her licences.

Despite Ms Trust being afforded the opportunity of a suspension to implement change, it was also of great concern to Members to note that late on the 8 January 2022, a day after the suspension was lifted, leading into the early hours on the 9 January 2022, Responsible Authority Officers visited the Premises and noted concerns in respect of covid passport compliance checks, likely noise outbreak emanating from the premises, non-compliance with conditions of the premises licence and the premises layout, not being in accordance with its plan. During this visit, Members were alarmed to note that the personal licence holder on duty, was Ms Harley, the previous Premises Licence Holder and Designated Premises Supervisor who had resigned from these positions. In Members opinion, placing Ms Harley in this position of responsibility was a fundamental misjudgement by Ms Trust, especially noting her submissions at the Review hearing on the 7 October 2021, that she was aware of the concerns raised within the Review application and as such, would have been aware of Ms Harley's failings in compliance with licensing conditions, alleged drug supply, increase in recorded crime, drunkenness, and use of unlicensed SIA door stewards at the premises. This again cemented the opinion of Members, that Ms Trust was out of her depth and

did not have the capabilities required to operate this premises licence or to hold positions of responsibility. In doing so, Members formed the clear opinion on the evidence before them, that Ms Trust had been put into these positions, following the resignation of Ms Harley, as a front for Mr Hennessey which enabled him to continue operating these premises, as he had done so.

Members also noted that on the 9 January 2022, the Police served a Closure Notice under Section 19 Criminal and Justice and Police Act 2001 on the outcome of the visit referred, and that this Notice remains in force. Additionally, Members noted following further visits and communication with Ms Trust, the Police submitted a Review of the Licence on 1 February 2022.

Members further noted that Mr Ralph had been engaged by Mr Hennessey, to oversee the management of his three leased licensed premises which have all been identified by the Police as being high risk premises, including this one, from the 14 January 2022. This engagement coincided with Mr Trust's emails to the Police to reopen these premises, where she was advised that if she was satisfied that she could comply with the conditions, she could carry out licensable activities whenever she wished. Members noted that a Police Officer observed the premises being open and operating on the Saturday 15 January 2022, into the early hours of Sunday 16 January 2022.

Noting the dates, Members were satisfied that Mr Ralph would have had oversight of this opening, and this was significant to them, when considering Mr Ralph's suitability in operating these premises and determining if a further suspension was the right decision, to that of a revocation of the premises licence. In doing so, Members noted during a scheduled visit to the premises on the 21 January 2022, at the request of Ms Trust in respect of the Closure Notice, to which Mr Ralph was also present, Police Officers found breaches of the premises licence which in Members opinion, would have also taken place when the premises were noted to be open and operating on the 15 and 16 January 2022, at a time when Mr Ralph was engaged. Furthermore, and of great concern and significant worry to Members, Officers found that the premises itself was of such a poor state of repair which in Members opinion, was likely to have been the state of the premises on the 15 January 2022, some six days earlier, when it was open to the public. Such was the disrepair, the premises was found to have no electric in the ladies toilet, a free standing lamp placed inside the toilet, between the electric hand drier and sink which could have resulted in it coming in to contact with water in the sink or wet hands, the use of an extension lead for this which was plugged in to the main bar area which in Members opinion, was wholly unacceptable for this type of premises and would have been a trip hazard, cubicle in complete darkness when in use, a crack to one of the sinks which was plugged with paper towels and had sharp edges and was held together with silver tape and cellotape and no facilities to dry hands.

In respect of the male toilets, Officers noted that the cistern was not connected to the mains and therefore no water flushes through the urinals which on the admissions of Ms Trust, had been like this for some time but concerningly to Members, no action had been taken to address this, a strong smell of urine, likely to be attributable to this defect, an electric hand drier was not fitted properly to the

wall and was lying on a shelf but still connected to the mains electricity above the sink and in respect to a paper towel dispenser being pulled off the wall, Ms Trust response was to say staff had not informed her. In a position of responsibility, it was reasonable to expect the Premises Licence Holder, along with Mr Ralph, having been appointed for management oversight, to be aware of all aspect of the premises and this response showed in Member's opinion, the irresponsible attitude of Ms Trust and a failing of them both to allow the premises to open in this state.

In the main bar area, it was noted by Officers that a number of wires were hanging from the walls in at least three different locations and the number of extension leads being used with sockets potentially being overloaded.

When advised of the serious safety concerns and asked when the premises last had an electrical safety check, Ms Trust indicated that she did not know which was of serious concern to Members and again echoed the irresponsible attitude and lack of professional oversight required. Whilst Mr Ralph and Ms Trust agreed that the premise was not safe and that Ms Trust would not be opening again until an electrician had checked all wiring to ensure it is safe and provides her with a certificate to this effect, Members were of the opinion that this was a reactionary response to the serious safety concerns brought to their attention and had the visit not taken place, Members were absolutely certain that the premises would have continued to operate, as it had done so on the 15th and early hours of the 16th January 2022, placing patrons at a serious risk of harm and even death.

This was further compounded by the horrifying response given by Ms Trust and subsequent action taken by Mr Ralph, when asked about staff training and any guidance given to the door stewards before their shift, using fire safety and escape routes. To say she had not provided any staff training, did not know if there was a fire extinguisher, but if there was, she did not know where it was located and then for Mr Ralph to have to go and look for it, was woefully unacceptable to Members and filled them with absolute dread and fear that these two individuals were operating and overseeing the operation of this late licence. In the case of an emergency, customers under the influence of alcohol would be expected to be directed to an emergency exit by staff and stewards and therefore they had a duty to ensure all persons employed at the premises know where to find fire escape routes, fire extinguishers and alarms are located. To this end, Members had absolutely no confidence in either of them, should such an event occur and were filled with relief, that it had not. This is despite Mr Ralph producing a Fire Awareness Certificate dated 28 March 2021, as exhibited to his witness statement.

In respect of Mr Ralph's appointment as the Premises Licence Holder and Designated Premises Supervisor, again the day before what was a second Review hearing in less than a six months period, was of the upmost concern to Members. In forming this concern, Members noted that Mr Ralph was the third person to take up the position of Premises Licence Holder and Designated Premises Supervisor in respect of these premises, within less than a ten month period. Furthermore, Mr Ralph was a third successive employee of Mr Hennessey to hold these positions. Albeit Members noted that Mr Ralph did not have a formal contract in place which also caused them concern, understanding on the evidence before them, that Mr

Ralph had been engaged by Mr Hennessey to oversee three licensed premises leased by him but without, what appeared, to be firm arrangements in place.

In Members opinion, it appeared to them that these resignations and appointments were no more than an attempt by those involved in this premises operation, to frustrate the actions of the Responsible Authorities, in ensuring this premises operated in a responsible and safe manner. Noting also on the submissions of Mr Ralph, that those previously appointed as Premises Licence Holders and Designated Premises Supervisors under Mr Hennessey's employment, remained employed by him at these premises.

Furthermore, Members could not be satisfied that Mr Ralph was a suitable person to train up managers, as proposed by him, enabling him to have oversight of all three premises. Whilst this may have been an aspiration of his and Mr Hennessey, it did nothing to reassure Members in the immediate or the long term, that this premises would operate in a safe and responsible manner. In forming this opinion and in addition to the concerns already noted, Members were mindful that Mr Ralph had never held a late licence such as these premises and the only relevant qualification Mr Ralph appeared to possess, was a certificate exhibited to his witness statement which evidenced that he had completed the BIIAB Level 2 National Certificate for Licensees (On-Licence) on 2 May 2003, some nineteen years ago and before the Licence Act 2003 came in to force. In addition, when asked about his experience, noting his submissions in his witness statement, Mr Ralph was vague on his dates and the experience he alluded to, did not add up which also caused concern for Members.

Members further noted that Mr Ralph had inserted a noise limiter into the premises, as required but it was the opinion of the Public Protection Officer, that this particular limiter was an old model and not fit for purpose. Whilst Mr Ralph said he would change it, this again demonstrated to Members, the lack of relevant experience held by Mr Ralph in dealing with this type of premises, notwithstanding his witness statement stating he had a history as a sound engineer.

Despite agreed conditions to prohibit Mr Hennessey's involvement in the premises operations and the assurances given by Mr Ralph that he would be in control and his word was final, it is of great concerns to Members to learn that Mr Hennessey remains involved in this premises operations, nine months after a Licensing Authority determination was made to refuse to transfer the Premises and Designated Premises Supervisor licences to himself. This evidenced to Members that there was an absence of robust control measures or capabilities in place to prohibit the persistent and apparent devious nature of Mr Hennessey, who in Member's opinion, was using employees as a front, to enable him to operate these premises in circumvention of that decision and Mr Ralph's appointment, was no different.

In forming this opinion, Members were greatly concerned following Mr Ralph's admission that Mr Hennessey had sent an email to a Responsible Authority, holding himself out to be Mr Ralph, using Mr Ralph's email address, without his knowledge. The email stated that it was Mr Ralph's intention to re-open the premises on 4 February 2022, only a few days after the Responsible Authority had

been given assurances that the premises would not open, following fire safety concerns being identified. Whilst Mr Ralph sought to assure Members that it was not his intention to open until the premises were safe, they were alarmed to learn that Mr Ralph had no knowledge of this act, or control over it and in their opinion, showed that Mr Hennessey would go to any lengths to remain involved in the premises operation, with no real regard for public safety but instead, putting income and profit over this. In respect of this incident, Members were concerned to read in Mr Ralph's witness statement that he stated Mr Hennessey had not made any decisions about the licence since he came on board. This witness statement is dated 22 March 2022, Mr Ralph was engaged on the 14 January 2022, yet this incident occurred on the 9 February 2022. Therefore, Members found this submission to be misleading.

It was of further concern to Members to learn that Mr Hennessey had recently completed and submitted an Application for a premises licence in respect of Hennessey Cocktail Lounge, 2 King Street Brixham in Mr Ralph's name. This is a premises leased by Mr Hennessey and he was the Premises Licence Holder and Designated Premises Supervisor of that premises, until the licence was revoked by a Licensing Committee on the 24 June 2021. This decision was subsequently upheld by the Magistrates' Court, following an unsuccessful appeal of that decision, by Mr Hennessey.

Whilst it is accepted that Mr Ralph had knowledge of this application, Mr Ralph did not submit it as implied, and it was only at a Licensing Sub-Committee hearing on the 10 March 2022 that this became known. Members were further alarmed to learn that Mr Hennessey consulted Mr Ralph over the telephone as to the contents of the application and despite Mr Ralph not being happy with certain conditions, he was told by Mr Hennessey to put them in to get the application granted. Members noted that this application was subsequently refused and that a further application has been submitted by Mr Ralph, without sight as to the reasons for that refusal. This further evidenced to Members, continued control by Mr Hennessey, despite engaging Mr Ralph to oversee his leased licensed premises, demonstrating Mr Ralph's lack of autonomy.

Whilst Members were encouraged by Mr Ralph's honesty, noting at time this became to his detriment as a Respondent, they were seriously concerned to note within his witness statement, that Mr Ralph felt Mr Hennessey had been unfairly treated. Members determined this was a serious misjudgement by Mr Ralph, as it failed to recognise or appreciate the seriousness of the issues to date and the scale of intervention necessary by the Responsible Authorities.

Added to this, was Mr Ralph's oral submission at the hearing, whereby he confirmed that he had read all the paperwork relating to these premises, that of Hennessey's Cocktails and had discussed this with Mr Hennessey. Had he objectively done so, Members believed Mr Ralph would have arrived at a different feeling, given Hennessey Cocktails dealings had been independently test by an appeal Court, or at least would have reasonably expected him to have done so, even if in part, noting his loyalty to Mr Hennessey who Members were advised, was also providing Ralph and his wife accommodation at no charge.

Mr Ralph's further misjudgement was noted by Members, in reading Mr Ralph's witness statement, where he stated that in his view, this premises had improved since Mr Hennessey took over. However, in the Police's Review application and echoed in their oral submissions at the hearing, Members noted that under previous ownership, this premises did not regularly come to the Police's attention within a sixteen year period, due to what they say, was robust management in place. However, under Mr Hennessey's lease and employees, this premises licence had been subject to two Reviews and a Closure Notice, within a ten month period.

In Members opinion, a further and significant misjudgement by Mr Ralph, not connected to these premises or Mr Hennessey which was of great concern to them, as it evidenced the influence others could have over Mr Ralph, to carryout licensable activities, other than in accordance with its licence. This related to Mr Ralph's previous employment, where he states in his witness statement that his previous employer neglected to nominate him as a Designated Premises Supervisor when the previous one left after around six months. This would have resulted in Mr Ralph operating these premises as a general manager for about twelve months, without a Designated Premises Supervisor in place and on the evidence before them, there did not appear to be any continued challenge to his employer to rectify this or that Mr Ralph had reported this to the Licensing Authority, even if he had done so anonymously, in fear of losing his employment and associated accommodation. When asked about this, Mr Ralph stated that the person was closely connected to him and was there but had another job too. Members found this to be inconsistent, electing to give greater weight to that in his witness statement, as this would have been considered, as opposed to a reactive reply to Members questions.

Members also noted in Mr Ralph's witness statement that he had discussed with the Police the possibility of being named as a Designated Premises Supervisor for two of Mr Hennessey's licensed premises, including this one, and that the Officer was 'very enthusiastic and suggested there would be no issue'. However, at the hearing, Members heard from the Police that this submission was not true and if that had been the case, why would they have objected to the applications to enable this. Members found the Police account to be true.

Members further noted the content of Mr Hennessey's witness statement, much of which in their opinion, was an attempt to revisit matters which had been concluded and on one of the premises, upheld independently by an appeal Court. There were also a number of inaccuracies contained within the statement, such the Council suggested that, in order to avoid an appeal hearing, we try to negotiate conditions. Members were advised that it was in fact Mr Hennessey who indicated his wish to withdraw the appeal through his Counsel, at the conclusion of the Hennessey appeal. Notwithstanding again, that Mr Hennessey was not the Premises Licence Holder. Furthermore, the statement states that Mr Hennessey had removed himself from the premises operations but on the evidence before them and some of which is documented within this decision, Members know this not to be true and therefore found these submissions to be misleading.

As such, Members could not be satisfied on the evidence before them, that Mr Hennessey either accepted these determinations, would not continue to be involved in or influence these premises operations, as he had done so to date and would not exploit the misjudged feelings of Mr Ralph, that he had been unfairly treated which would enable him to influence and control Mr Ralph in the future. In coming to that position, Members determined that a revocation was both necessary and proportionate in all the circumstances before them.

In addition, Members could not be satisfied on the evidence before them that Mr Ralph had the necessary autonomy, foresight, experience or strength of character to implement the change required, noting in addition that already set out, that he was also engaged at these premises during Ms Trust's appointments as licensee and Designated Premises Supervisor. Therefore, when carefully considering a further suspension period for one month, as requested by Mr Ralph, they unanimously determined against this, believing the scale of change required would not be implemented at all and certainly not within this time frame and to believe otherwise, further evidenced to them, Mr Ralph's inexperience in operating this type of premises.

In Members opinion, all that was likely to occur within this intervening period, was the further completion of some building works which may enable the premises to reopen to the satisfaction of Environmental Health and Fire Safety Officers. However, to permit this request, Members determined unanimously would undermine the Licensing Objectives, further continue breaches of the premises licence conditions and place patrons at a real and substantial risk of harm or even death, given its operations to date under the lease of Mr Hennessey.

In concluding, Members had careful regard to what other options were available to them, as an alternative to revocation and determined that further conditions, given the recorded breaches to date, nor the exclusion or limiting of licensable activities, given the individuals continually involved in these premises operation, would alleviate their concerns. Members also considered the removal of Mr Ralph, as the Designated Premises Supervisor but given the appointments and resignations to date of these positions under the employment and lease held by Mr Hennessey, noting also the Police's submissions in respect of how these roles have been filled in the past, without proper scrutiny or consideration of qualifications or experience required to successfully hold this position, Members could not be satisfied that a suitable replacement would be found. Furthermore, for the reasons set out above, Members disregarded a further period of suspension and therefore unanimously determined on the evidence before them, that the only necessary and proportionate outcome in respect of these premises to uphold the Licensing Objectives, was a revocation of the premises licence with immediate effect.

Chairman/woman

TORBAY COUNCIL

Report No: Public Agenda Item: **YES**

Title: **Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **28th April 2022**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Shaun Rackley**
☎ Telephone: **01803 208026**
✉ E.mail: Shaun.rackley@torbay.gov.uk

1. What we are trying to achieve

- 1.1 This report asks Members to consider relevant facts relating to the holder of a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence. This follows receipt of information from Torbay Council's School transport team that the driver has failed in their duty to safeguard a vulnerable child in their care whilst conducting a school contract and also committing an offence under the Town Police Clauses Act 1847, by allowing an additional person to ride without the hirers consent. Members are requested therefore to determine on the facts laid before them, whether or not the Applicant remains a 'fit and proper person' to hold such a licence.

2. Recommendation(s) for decision

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony advanced at a hearing. Therefore, there is no recommendation. The options available to Members however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

3. Key points and reasons for recommendations

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriage and Private Hire Vehicles and drivers within Torbay.

- 3.2 Sections 51 and 59 of the 1976 Act, in conjunction with section 46 of the Town Police Clauses Act 1847, make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.
- 3.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an Applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- 3.4 This report follows information received by Torbay Councils School transport team regarding Mr Karl Dooley, who holds a Torbay Council dual drivers' licence number LD0069. Mr Dooley was conducting a school contract on the 8th February 2022 on behalf of a company who had sub-let him the work. Whilst transporting a vulnerable 11-year-old school child within his licensed Hackney Carriage, Mr Dooley received a phone call from another passenger requesting a taxi. Mr Dooley then proceeded to pick up the second unknown passenger on route whilst the vulnerable child was on board.
- 3.5 As Mr Dooley had admitted to the incident during the interview with Torbay Council's School transport team on the 10th of February, and due to the seriousness of the incident, he was written to by Shaun Rackley of Torbay Council's Licensing team, to request his submission be put before Licensing Committee. This document can be found at Appendix 2.

As stated in the letter, this is not only a child safeguarding incident, but an offence under the Town Police Clauses Act 1847, Section 59, where it states:

Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding [level 1 on the standard scale].

- 3.6 Mr Dooley has responded by email to the letter of the 8th of March 2022 and explained the incident. This document can be found at Appendix 3.
- 3.7 It is for the Licensing Sub-Committee to consider whether Mr Karl Dooley remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence.
- 3.8 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

For more detailed information on this proposal please refer to the Supporting Information.

**Steve Cox
Environmental Health Manager (Commercial)**

Annex 1 - Supporting information

A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- A1.4 Torbay Council has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants.
- A1.5 This report follows information received by Torbay Councils School transport team regarding Mr Karl Dooley, who holds a Torbay Council dual drivers' licence number LD0069. Mr Dooley was conducting a school contract on the 8th February 2022 on behalf of a company who had sub-let him the work. Whilst transporting a vulnerable 11-year-old school child within his licensed Hackney Carriage, Mr Dooley received a phone call from another passenger requesting a taxi. Mr Dooley then proceeded to pick up the second unknown passenger on route whilst the vulnerable child was on board.

The passenger was collected from Newton Road, Torquay and taken to Tweenaway Cross, Paignton. The child was placed in the front of the vehicle during this journey.

- A1.6 Mr Dooley was interviewed by an Officer from Torbay Council's School Transport team regarding this incident. This document can be found at Appendix 1.
- A1.7 As Mr Dooley had admitted to the incident during the interview with Torbay Council's School transport team on the 10th of February, see A1.6 above and due to the seriousness of the incident, he was written to by Shaun Rackley of Torbay Council's Licensing team, to request his submission be put before Licensing Committee. This document can be found at Appendix 2.

As stated in the letter, this is not only a child safeguarding incident, but an offence under the Town Police Clauses Act 1847, Section 59, where it states:

Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding [level 1 on the standard scale].

A1.8 Mr Dooley has responded by email to the letter of the 8th of March 2022 and explained the incident. This document can be found at Appendix 3.

A1.9 The Statutory Taxi and Private Hire vehicle standards, as issued by the Department for Transport state:

5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

5.13 Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Relevant excerpts of Torbay Councils Taxi policy state:

5.20 The Licensing Authority at its discretion, may require specific training to be undertaken where deemed appropriate. This training may include disability awareness, manual handling, equalities awareness, or anything else as deemed appropriate by the Licensing Authority.

Appendix A: Taxi & PHV Licensing Criminal Convictions Policy –

1.6 - The Licensing Authority will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an Applicant or licence holder, the Licensing Authority will take into consideration the following factors:

- Criminality*
- Number of endorsed DVLA driving penalty points*
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)*
- The previous licensing history of existing/former licence holders*

In addition, the Licensing Authority will also consider further information from sources such as, but not limited to, the Police, Children and Adult Safeguarding Boards, Multi-Agency Safeguarding Hub, Social Services, other Licensing Authorities, other departments within the Council, and Statutory Agencies

A1.10 Members are requested to consider whether Mr Karl Dooley remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence.

A1.11 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There are two risks. The first risk to be considered is whether Mr Karl Dooley presents a risk to the general public should he continue to hold a licence to drive a Hackney Carriage or Private Hire vehicle.

A2.1.2 The second risk relates to the potential for an appeal should Mr Karl Dooley's licence be revoked or suspended and/or have additional conditions imposed.

A3. Options

A3.1 The options are:

- (i) To do nothing, if satisfied that Mr Karl Dooley remains a 'fit and proper' person to drive a Hackney Carriage or Private Hire vehicle
- (ii) To give a formal written warning
- (iii) To require additional training and/or to successfully undertake Safeguarding training, or an equivalent higher standard training
- (iv) To suspend Mr Karl Dooley's licence to drive a Hackney Carriage or Private Hire vehicle and to require that additional training and/or Safeguarding training, or the equivalent higher standard training is required
- (v) To revoke Mr Karl Dooley's drivers licence on grounds that he is no longer considered to be a 'fit and proper' person to hold such a licence

A4. Summary of resource implications

A4.1 There are some resource implications if there is an Appeal to the Magistrates' Court.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter and there is no requirement

for the Licensing Sub-Committee to consult the public on this matter.

A7. Are there any implications for other Business Units?

A7.1 There are no implications for other business units.

Documents available in members' rooms

None

Appendices

Appendix 1 Interview between Torbay Council's School Transport Team and Mr Karl Dooley

Appendix 2 Letter to Mr Karl Dooley requesting further information

Appendix 3 Email from Karl Dooley

Background Papers:

The following documents/files were used to compile this report:

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2021
Department of Transports, Statutory Taxi and Private Hire vehicle standards 2020

Interview with Karl Dooley. 10th February 10:00 Am.

Present: JC – Jay Clark. School Transport Manager, Torbay Council

KD – Karl Dooley, Torbay taxi driver.

DL – [REDACTED]

JC: Completed introductions.

JC: Can you please confirm your name?

KD: Karl Dooley (confirmed as correct by DL)

JC: Thank you for attending today's meeting. We are here to discuss a concerning report relating to you collecting a member of the public who had not been authorised to travel whilst you undertook a school contract driving a vulnerable 11-year boy to their education setting. The incident occurred on Tuesday 8th of February 2022.

JC: During this meeting I would like to gather information from you which will then be used to determine whether you have ongoing authorisation to operate Torbay Council school contracts.

JC: All Torbay School contracts are awarded to operators who have agreed to the terms of the Passenger transport standard conditions of contract'. Within these terms we hold the right, as a local authority to require the contractor to remove any employee or contract from the provision of service.

JC: Also, within these conditions of contract clause 5.5 states - The Contractor must not convey any Unauthorised Passengers except where the Contract is registered as a local bus service.

JC: I have spoken to our licencing department regarding this report, as we do share information between departments. There will not be an outcome at today's meeting. I am here to gather information from you, this will allow me to work with other teams within the council to decide on any possible sanctions. The report is a safeguarding concern and will be treated accordingly.

JC: Firstly, can you confirm it is correct that you collected an unauthorised passenger whilst operating a Torbay Council school route on Tuesday 8th of February?

KD: Confirmed

JC: Can you talk me through the journey and give the details of why you collected the passenger?

KD: I was on my way to pick up CHILD A there was an accident on the dual carriageway, I was running late. I arrived to collect him about 20 mins late. After collecting CHILD A I received a call from a customer. The customer was running late for work, and asked if I could collect, it was a silly decision, but I didn't want to let anyone down. The passenger travelled in the back and CHILD A was in the front. I continued to drop CHILD A at Winner Street, Paignton before dropping the customer off.

JC: Can you confirm where you collected the customer from. The report stated it was PGL in Barton?

KD: No, I collected him from outside Lidl – Newton Road. Phone call came through whilst we were passing PGL.

JC: Is he a Regular customer?

KD: Yes, I have picked him up before he is a mate, not a mate a customer. He travels between Torquay and Paignton a lot, he uses lots of companies

JC: Do you know his name?

KD: No, I am not aware of name

JC: Where did you take him to?

KD: KFC at Tweenaway. No, actually Costa Coffee at Tweenaway.

JC: The report commented that the passenger collected smelt strongly of drugs?

KD: I guarantee that there was no smell of drugs. On the person or in the car, I keep my car clean. I would not know what drugs even smelt like, but there was nothing unusual.

JC: Have you done this before?

KD: Never done this before. I have worked for [REDACTED] for many years, and I have never done this before.

JC Explained then explained Safeguarding and why the report was concerning.

JC: What do you understand is your responsibility in regard to safeguarding?

I do understand. I have a duty to collect child and get him child from A to B safely. I didn't even think about it at the time, I was silly. I am gutted really as I get on well with CHILD A.

JC – Spoke of implications student / how KD should not have have put a vulnerable 11-year-old in this position.

JC: It has also been reported that you have previously stopped whilst transporting this child to drop off / collect something from a pub – leaving the child in the car.

Never left CHILD A in car on own. Driving past Prince of Orange in Barton which is en-route to drop CHILD A home. Stopped at the pub, friend passed jacket through the window, jacket was placed on front seat of taxi.

JC: explained no further questions. That I would now work with internal teams to investigate this. Explained it would be flagged to LADO. Explained role of LADO. Explained possible sanctions from a school transport perspective – ranging from permanent ban to a written warning. Detailed that suspension from school contracts would remain whilst the investigation is being completed.

KD: Questioned timeframes

JC: Explained that it could be anything from days to months.

KD: Questioned if this will impact on taxi badge.

JC: Explained that this will be reported through to licencing, it will be for them to decide if they wish to take it further. JC explained that his authority is school contracts and he is not involved with licencing decisions.

JC: Thanked KD for his time. Informed that he would be updated. Checked if KD wanted update via [REDACTED] – KD confirmed this was fine.

TORBAY COUNCIL

Please reply to: Shaun Rackley
Licensing,
Town Hall, Castle Circus,
Torquay,
TQ1 3DR

My ref: MAU/ [REDACTED]

Your ref:

Telephone: 01803 208025

E-mail: Shaun.rackley@torbay.gov.uk

Website: www.torbay.gov.uk

Mr K Dooley
[REDACTED]
[REDACTED]
[REDACTED]

Sent by email [REDACTED]

Date: 8th March 2022

Dear Mr Dooley,

Re: Taxi complaint, endangerment to child safety and breach of legislation

Section 59 Town Police Clauses Act 1847

I am writing to you with regard to correspondence which I have received from Torbay Councils School transport team on the 10th February 2022.

Torbay Council's school transport team received a complaint regarding a school contract which you were undertaking on behalf of [REDACTED] on Tuesday 8th February 2022. It was alleged that you were carrying a vulnerable 11-year-old passenger in your vehicle and whilst conducting this journey, you took a phone call from a male friend/customer and you picked them up and conveyed them in the same vehicle whilst the child was on board. This is an offence under Section 59 of the Town Police Clauses Act 1847 as you did not have the consent from the original hirer school transport. Not only is it an offence, but it questions your professional conduct as a Licensed driver with this Local Authority as you have endangered a vulnerable child's safety.

For reference, Section 59 of the Town Police Clauses Act 1847 states the following:

*59 Penalty for permitting persons to ride without consent of hirer
Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding [level 1 on the standard scale].*

I attach a copy of the interview that was conducted by school transport where you were present, along with [REDACTED] from [REDACTED] and Jay Clark, school contract manager for Torbay Council. During this interview, you admitted picking up the male passenger which you admitted was a mistake.

As this is a serious matter relating to child safeguarding along with being an offence under the above act, I am referring this matter to Torbay Council's Licensing Committee to determine if you remain a fit and proper person to hold a Licensed drivers badge with this Local Authority.

To help me prepare a report which will be presented to Committee members, please could you submit any submission that you wish to be presented by no later than **Friday 18th March 2022**. A date for the Licensing Committee has not been set and you will be informed and invited to attend when it has been arranged, you will receive a copy of the report for reference.

I look forward to receiving the required information in due course. If you do not wish to add anything further, then the report will be written without the information and presented.

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

Yours sincerely



Shaun Rackley
Licensing Officer

Enc – School Transport interview with Karl Dooley 10/02/2022

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.

From: karl dooley [REDACTED]
Sent: 16 March 2022 14:52
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: In response to your email regarding the incident on the date of

In response to your email regarding a complaint on Tuesday the 8th of February 2022

I was taking my school run to to winner street in Paignton and picked up a customer on our route the child on the school run with me was sitting in the front and the passenger got in the back this was a careless mistake and Very unlike me I've done this job for 15 plus years and school runs for [REDACTED] for around the same time and I've never had any complaints at all and always got on very well and had good working relationships with [REDACTED] and had very good reviews and compliments from parents also.....this was a careless mistake on my behalf and it was my first mistake in 15 years I value my job very greatly and it's my living and I'm disappointed in myself that I've jeopardised this I was trying to keep to many people happy and I'm very sorry for this error, I have already been punished from contracting and had a year suspension from school runs, [REDACTED] have stated that they are happy and want to have me back on board as soon as my suspension is finished as they value me as a driver for themselves.

Again I'm very sorry for my mistake and it was never my intention to cause any upset the child was never out of my sight or left on his own at any point and was dropped to his location safe and happy.

As stated above I value my job and it's the first mistake I've made in 15 years of contract work and it will never happen again given the chance sorry again

Mr karl dooley.



Briefing Report No:

Public Agenda Item: **No**

Title: Licensing Act 2003 – Applications for Transfer of the Premises Licence Holder and to Vary the Designated Premises Supervisor for Jackz Bar, Parkham Road, Brixham, Devon, TQ5 9BU

Wards Affected: **Brixham**

To: **Licensing Sub -
Committee**

On: **28th April 2022**

Contact Officer: **Steve Cox**
Telephone: **01803 208093**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine two applications, in respect of the Premises detailed above. The first application is to Transfer the Premises Licence, and the second application seeks to varying the DPS (Designated Premises Supervisor). In respect of both applications an objection Notice has been received from the Police Alcohol Licensing Officer, detailing concerns in that there are exceptional circumstances in relation to the proposed person which may lead to the Prevention of Crime and Disorder Licensing Objective being undermined. They therefore request that both applications are refused. The Notice is shown in Appendix 3.
- 1.2 The Sub-Committee must consider the effects of the applications against all the Corporate Priorities within the Community Plan.
- 1.3 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made either:-
 - (a) to grant the applications or,
 - (b) having regard to the Notice, reject the applications if it is considered that it is necessary for the promotion of the Prevention of Crime and Disorder Licensing Objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.

- 1.5 Where an application is received to Transfer a Premises Licence, it is necessary for the existing Licence Holder, where able to do so, to provide written consent to give permission for the licence to be transferred. This consent forms part of the application form and therefore has been provided. Where a Premises Licence has been issued under the Act to permit regulated activities to be provided at any Premises, one of which is the supply of alcohol, it is necessary for the holder of the Licence to also designate a Premises Supervisor. This can be the holder of the Licence or another person. In the latter case, the individual concerned must consent to the application being made.
- 1.6 The applications both include a request that the Transfer and Vary DPS applied for should take immediate effect.

2. Introduction

- 2.1 Applications have been made under Section 37 and section 42 of the Act for a Transfer of the Premises Licence and to Vary the DPS at the Premises detailed above. Details of the applications are shown in Appendix 1 and 2.
- 2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 42(5) but is unable to grant the applications as a Notice has been received from the Police under Section 42(6). The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 3.
- 2.3 The Authority is required to conduct a hearing by the provisions of Section 44(5) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the applications are refused, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the applications are granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 6(2) of Schedule 5 to The Chief Officer of Police (who had given an appropriate Notice which was not withdrawn).
- 2.7 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
 - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,
 - (d) and may make such order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

- Appendix 1 A copy of the Premises Licence Transfer Application form.
- Appendix 2 A copy of the Vary DPS Application form.
- Appendix 3 The Notice received from the Police
- Appendix 4 Supporting Documents from the Police

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.

Application ref: torbay-1195951
Licence: Application to transfer premises licence
Applicant email: [REDACTED]
Submitted on: 22/03/2022 14:34
Total fee: £23.00
Payment status: Paid
Civica ref: PLXW8226 ✓
Amount paid: £23.00
Fee outstanding: £0.00

Tacit consent applies

Process by: 22/04/2022

Status: Collected on
22/03/2022

Expires: Expires in 7 days on
29-03-2022

Application

application form

Supporting documents (2)

Premises plan

Consent form of premises licence holder

Authority Reference

Reference:

Recent History

Notification to

[REDACTED]
Sent on 22/03/2022 14:41

Notification to

Licensing@torbay.gov.uk:
Sent on 22/03/2022 14:41

Notification to :

Failed on 22/03/2022 14:41

Notification to :

Failed on 22/03/2022 14:41

Payment Successful :

at 22/03/2022 14:34

Marked as started processing:

on 22/03/2022 16:47 by



UK passport seen.

LICENSING ACT 2003
APPLICATION
FOR THE TRANSFER OF A
PREMISES LICENCE

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk



FORM I

Application to transfer premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
 If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
 You may wish to keep a copy of the completed form for your records.

I/We **Anthony Peter Ralph**

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

<p>YW037776D A0878</p>
--

Part 1 – Premises details

<p>Postal address of premises or, if none, ordnance survey map reference or description Jackz Bar, Parkham Road</p>	
<p>Post town Brixham</p>	<p>Post code TQ5 9BU</p>
<p>Telephone number at premises (if any)</p>	

<p>Please give a brief description of the premises (see note 1) Upstairs Bar</p>
--

<p>Name of current premises licence holder Stephanie Heather Trust</p>
--

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

- a) an individual or individuals* Please tick yes
YES

- b) a person other than an individual
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr

Other title

(for example, Rev)

Surname

First names

Ralph

Anthony Peter

Date of birth [redacted]

I am 18 years old or over

Please tick yes

Nationality British

Current residential address if different from premises address [redacted]

Post town [redacted]

Post code [redacted]

Daytime contact telephone number [redacted]

E-mail address (optional) [redacted]

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title [redacted] (for example, Rev)

Surname [redacted]

First names [redacted]

Date of birth I am 18 years old or over

Please tick yes

Nationality

Current residential address if different from premises address

Post town

Post code

Daytime contact telephone number

E-mail address (optional)

(optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect? YES

If not when would you like the transfer to take effect?

Day Month Year

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003) YES

Please tick yes

NO

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

n/a

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature Anthony Peter Ralph
.....

Date 21/03/2022

Capacity Manager

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. **Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued on or after 6 April 2017 will lapse if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport apply].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.



**CONSENT OF PREMISES LICENCE
HOLDER TO TRANSFER
PREMISES LICENCE**

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)

Torbay Council

Community Safety

C/O Torquay Town Hall

Castle Circus

Torquay

TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk



Consent of premises licence holder to transfer licence

I/ we **Stephanie Trust**

[full name of premises licence holder(s)]

the premises licence holder of premises licence number **PL0878**

[insert premises licence number]

relating to

Jackz Bar

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

PL0878

[insert premises licence number]

to

Anthony Peter Ralph

[full name of transferee]

Signed

Name
(please print)

Stephanie Heather Trust

Dated

22/03/2022



Consent of premises licence holder to transfer licence

I/ we **Stephanie Trust**

[full name of premises licence holder(s)]

the premises licence holder of premises licence number **PL0878**

[insert premises licence number]

relating to

Jackz Bar

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

PL0878

[insert premises licence number]

to

Anthony Peter Ralph

[full name of transferee]

Signed



Name
(please print)

Stephanie Heather Trust

Dated

22/03/2022

LICENSING ACT 2003

**APPLICATION TO VARY PREMISES LICENCE
TO SPECIFY AN INDIVIDUAL AS
DESIGNATED PREMISES SUPERVISOR**

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)

Torbay Council

Community Safety

C/O Torquay Town Hall

Castle Circus

Torquay

TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

FORM N



Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we Anthony Peter Ralph

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PL0878

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Jackz Bar
Parkham Road

Post town

Brixham

Post code (if known)

TQ5 9BU

Telephone number (if any)

Description of premises (please read guidance note 1)

Upstairs bar

Part 2

Full name of proposed designated premises supervisor

Anthony Peter Ralph

Nationality

██████████

Place of birth

██████████

Date of birth

██████████

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

SGC043872

Full name of existing designated premises supervisor (if any)

Stephanie Heather Trust

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

Y

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

N/A

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police

- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

[APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature	[REDACTED]
Date	23/3/22
Capacity	GENERAL MANAGER

For joint applicants signature of 2nd applicant 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

Post town

Postcode

Telephone number (if any)

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

LICENSING ACT 2003
CONSENT
OF INDIVIDUAL TO BEING SPECIFIED
AS PREMISES SUPERVISOR

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)

Torbay Council

Community Safety

C/O Torquay Town Hall

Castle Circus

Torquay

TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk



FORM R

Consent of individual to being specified as premises supervisor**I Anthony Peter Ralph***[full name of prospective premises supervisor]*

of

*[home address of prospective premises supervisor]***hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for**

Transfer of DPS

*[type of application]***by** Anthony Peter Ralph*[name of applicant]***relating to a premises licence PL0878***[number of existing licence, if any]***for Jackz Bar, Parkham Road, Brixham, Devon TQ5 9BU***[name and address of premises to which the application relates]***and any premises licence to be granted or varied in respect of this application made by**

Anthony Peter Ralph

*[name of applicant]***concerning the supply of alcohol at Jackz Bar, Parkham Road, Brixham, Devon TQ5 9BU***[name and address of premises to which application relates]***I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.****Personal licence number** SGC043872*[insert personal licence number, if any]***Personal licence issuing authority** SOUTH GLOUCESTERSHIRE COUNCIL*[insert name and address and telephone number of personal licence issuing authority, if any]*

Signed 

Name *Anthony Peter Ralph*

Date 21/03/2022

From: [SMART Julie 50403](#)
To: [REDACTED]
Subject: JACKZ BAR, BRIXHAM - TRANSFER AND VARY DPS APPLICATIONS FOR MR RALPH
Date: 05 April 2022 12:44:34
Attachments: [image001.png](#)
[image003.jpg](#)
[image005.png](#)
[image002.png](#)
[image004.jpg](#)
[image006.png](#)

Good afternoon

I refer to the below applications in respect of Jackz Bar, Brixham:

Transfer of Premises Licence to Mr Anthony Peter RALPH
Vary DPS to Mr Anthony Peter RALPH

The police object to both of these applications as we are satisfied that the exceptional circumstances of the case are such that granting the applications would undermine the crime prevention objective.

Our grounds in relation to the exceptional circumstances are that Mr RALPH has been employed as a general manager, with responsibility for overseeing the management of Jackz Bar, since 14 January 2022, but during this time he has had no positive impact on the ability of the premises to comply with the requirements of the premises licence.

Jackz Bar is a high risk premises, which can sell alcohol until 2.00 am every day of the week, with the premises closing at 3.00 am. It is the only premises in Brixham with this terminal hour and therefore it is natural that persons already highly intoxicated will gravitate to the premises. This means that the premises poses a high risk of crime and disorder in the future. Due to this the premises requires firm management by a responsible licence holder who is capable of formulating and implementing robust policies, has good problem solving skills and has excellent leadership and management qualities.

I would now draw your attention to the below matters, which support our grounds for objection:

The premises licence of Jackz Bar was subject to a review hearing in October 2021. At the conclusion of that hearing the licensing sub-committee imposed additional conditions on the licence, and suspended the licence until 7 January 2022. An appeal was lodged but subsequently withdrawn on or around 22 December 2021, when the premises closed to serve the remainder of the suspension period.

On or around 8 January 2022 the premise re-opened and Mr MARTIN, PC RANDALL and I attended during the early hours of Sunday 10 January 2022. We identified numerous breaches of conditions, which resulted in the service of a Closure Notice on 10 January 2022 on the then premises licence holder, Ms TRUST.

On 12 January 2022 Ms TRUST sent me an email in which she advised me that Mr RALPH would be joining her as a manager overseeing both Jackz Bar, Hennessey Cocktails and a further licensed premises owned by Mr HENNESSEY. Mr RALPH states he commenced employment in this role on 14 January 2022.

Following service of the closure notice Ms TRUST was provided with written and verbal advice from myself and Sgt CURTIS. However this advice was not followed and the premises opened and carried out licensable activities on 15 and 16 January 2022.

In February 2022 Mr RALPH submitted a Temporary Event Notice for Hennessey Cocktails. A few days later I received an email from a Brixham officer who informed me that he had witnessed a drunk female attempting to sweep up vomit outside the premises, but she was using the broom in a hopeless manner and said to him "I'm too fucking pissed to be cleaning up sick".

It appears that there were at least two people at the premises who were drunk that night, and one of these was given a bucket of water and a broom to clear up the mess. CCTV show that the female subsequently deliberately dropped the broom in the harbour. Mr RALPH indicated that this female was a former member of staff who volunteered to clean up the vomit. If this is the case it raises questions as to why a bucket of water and broom would be given to a heavily intoxicated customer to clean up vomit outside the premises unsupervised. It is probable that this female was a member of staff at the premises on the night in question, in which case, it raises further concerns regarding staff consuming alcohol whilst on duty and their ability to carry out their duties. Offences under Section 141 of the Licensing Act may have been committed on this occasion.

Mr RALPH was present at Jackz Bar on 21 January when various health and safety, fire safety and breaches of conditions were identified. Following that meeting I sent an email to Ms TRUST in which I recommend that she applies for a variation of the licence to modify the conditions in line with my advice, together with an amended plan of the premises.

On 28 January 2022 two fire officers met with Mr HENNESSEY and Mr RALPH. They were informed the premises would be closed for about 8 weeks, so they did not carry out a full audit, but they did identify a number of concerns in respect of fire safety issues at the premises. They advised Mr HENNESSEY and Mr RALPH to employ a competent risk assessor to provide a fire risk assessment. On 1 February 2021 Mr STEER, Fire Officer, received an email from Mr RALPH in which he indicated that he was intending to re-open the premises on 4 February 2022. On 31 March 2022 at a review hearing in respect of Jackz Bar Mr RALPH said that he did not send that email, and that Mr HENNESSEY had done so without his knowledge or authority.

A further review application in respect of Jackz Bar was submitted on 1 February 2022, and within a couple of days, Mr RALPH rang me and asked whether I could delay the review. I told him that I could not. He asked whether he could attend the hearing and I said he could. I explained that the hearing would not take place for about 6 weeks, so he should use that time to ensure all the concerns referred to in the application had been addressed. Although my email of 26 January was not sent to Mr RALPH, he was clearly aware of the review application and was provided with appropriate advice. Despite this, to date no variation application has been submitted in respect of Jackz Bar and therefore it appears that Mr RALPH has ignored my advice and recommendations.

On 21 February I received an email from Ms TRUST requesting the police attend Jackz Bar to carry out an inspection as she and Mr RALPH had worked tirelessly over the last couple of weeks to address the concerns raised by the police and other responsible authorities. On 4 March I

sent Ms TRUST and Mr RALPH an email advising that we could visit on 9 March. However neither of them responded to my email, and I only found out that Mr RALPH was attending this meeting having been advised of this by Inspector TREGASKES.

On 22 February an officer sent an email to Mr RALPH requesting a quote for damage caused to a window at Jackz Bar on 19 December 2021, and contact details for the suspect. Mr RALPH did not respond to this email until approximately 25 March 2022.

On 9 March myself, Sgt CURTIS and Inspector TREGASKES met with Mr RALPH at Jackz Bar but Ms TRUST was not present. On that day Mr RALPH informed us that he would be applying for a transfer within the next couple of days, but he failed to do so until 23 March 2022, and, when questioned about this at a hearing on 24 March 2022, he stated he was too busy to deal with the matter.

At the meeting on 9 March Mr RALPH advised us that since being employed by Mr HENNESSEY he has not been paid for his work and he now lives at Mr HENNESSEY's address. It therefore appears that there is no formal contract of employment in place, but rather it is a mutual arrangement between them.

At the meeting on 9 March Mr RALPH showed us physical improvements he had made to the premises but the premises still looked like a building site. When Mr RALPH was asked what action had been taken to ensure the licence conditions could be complied with, he stated he did not know. When we explained that we were there, at the request of Ms TRUST to carry out an inspection in relation to the licence conditions, he said he was unaware that that was the purpose of our visit, despite me having forwarded him Ms TRUST's email a few days prior to our visit.

During that meeting Mr RALPH showed me a fire risk assessment and I noted that this had been prepared by him. I informed Mr RALPH that Mr STEER had sent me an email in which Mr STEER states that he had recommended that Mr HENNESSEY and Mr RALPH employ a competent risk assessor to carry out a fire risk assessment. Mr RALPH claimed to have no knowledge or recollection of that advice, despite being present during the fire officers visit.

The police visit on 9 March took 10 ½ hrs of police time but served no useful purpose. The section 19 closure notice could not be cancelled, so remains in place.

It appears that Mr RALPH has been appointed as premises licence holder purely due to his personal relationship with Mr HENNESSEY with no assessment of his suitability or experience to carry out this role having taken place.

Mr RALPH has recently been employed in roles where he has been managed by others, but he has no recent experience of being solely responsible for a licensed premises and he has no proven track record of managing problematic or high risk premises.

In January Mr RALPH applied for a premises licence in respect of Hennessey Cocktails but his application was refused on 10 March. At that hearing Mr RALPH admitted that he had not submitted the application, that he did not agree with the conditions proposed in the application but went along with what Mr HENNESSEY told him, and that he would prefer a licence with no

strings attached. He also sought to assure the licensing sub-committee that he would ensure Mr HENNESSEY had no involvement or influence of the premises, and stated that if Mr HENNESSEY does not comply with his wishes or undermines him he will leave his employment.

On 24 March 2022 Torbay Council accepted a further application, submitted by Mr RALPH, for a licence at Hennessey Cocktails. He therefore intends to be premises licence holder and DPS of two high risk premises, and he has also stated that he will also be responsible for managing a third high risk late night premises owned by Mr HENNESSEY.

Mr RALPH's quick submission of this application, without being fully aware of the reasons for the previous refusal, demonstrates that his desire to open is of primary importance, rather than the need to ensure that the concerns identified and reasons for refusal have been addressed, which is not reassuring to the police and highlights his lack of problem solving skills.

On 23 March 2022 Mr RALPH applied for the transfer and vary DPS of Jackz Bar, with immediate effect, the day before the review hearing was due to take place. The hearing was subsequently adjourned to 31 March 2022 in order that additional statements produced by Mr RALPH's legal representative could be considered by the police and Mr MARTIN. It is the opinion of the police that Mr RALPH's statement contains numerous inaccurate or incorrect statements, and it appears that he has a lack of understanding in relation to the requirements of the Licensing Act.

At the review hearing on 31 March 2022 the licensing sub-committee determined to revoke the premises licence of Jackz Bar.

Despite the revocation of this premises licence (which is subject to a right of appeal), these applications are still within the representation period and therefore we are obliged to deal with them in the usual manner, hence we now object to both applications.

Documents in relation to various matters mentioned above will be provided to Torbay Council in due course.

Kind regards

Julie Smart

Alcohol Licensing Officer - Torbay

Tel [REDACTED]

Prevention Department

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

-

This e-mail is intended for the named recipient(s) only and may contain privileged information, which is protected in law. If you have received this e-mail in error, please contact the sender to advise them and delete this e-mail. Unauthorised use, disclosure, copying or distribution is prohibited.

E-mail should not be regarded as a secure means of communication, we take all reasonable steps to ensure that e-mails are protected from malware, but cannot accept liability for any loss or damage, howsoever arising, as a result of their transmission to the recipients' computer or network.

For more information, or to contact us, please visit us at www.devon-cornwall.police.uk or www.dorset.police.uk or e-mail 101@devonandcornwall.pnn.police.uk or 101@dorset.pnn.police.uk

From: [COPIK Karl 30544](#)
To: [SMART Julie 50403](#)
Cc: [HONEYBALL Daniel 17442](#); [RANDALL Peter 17113](#)
Subject: RE: Hennesseys
Date: 28 February 2022 15:36:57

Good afternoon, All noted [REDACTED] if there is CCTV covering the front entrance this would have been caught on it. The broom was being swept from road height and then to head level in a swinging motion due to the females intoxicated state and anything on within the broom would have come straight into my face but I think she was missing what ever was on the floor I didn't look. I walked home thinking what a cowboy town and what a terrible impression I had just witnessed and to anybody visiting my town.

Kind regards

Karl

From: SMART Julie 50403 [REDACTED]
Sent: 28 February 2022 15:28
To: COPIK Karl 30544 [REDACTED]
Cc: RANDALL Peter 17113 [REDACTED]; HONEYBALL Daniel 17442 [REDACTED]
Subject: Re: Hennesseys

Hi Karl

Many thanks for your email.

As you may be aware Mr Ralph, who used to work at The Bullers, has applied for a licence at Hennesseys. Myself and numerous residents have objected to the application and a hearing is being held on Thursday morning when the Licensing Authority will have to decide to grant or refuse it.

Last week Mr Ralph was permitted to open for 3 days as he put in a temporary event notice, and therefore the sale of alcohol was legal at the time you passed the premises.

[REDACTED]

[REDACTED]

Thank you for your diligence in bringing this matter to my prompt attention.

I'll update you on Thursday once the committee have made a decision.

Kind regards
Julie

From: COPIK Karl 30544 [REDACTED]
Sent: Monday, February 28, 2022 2:29:55 PM
To: SMART Julie 50403 [REDACTED]
Cc: RANDALL Peter 17113 [REDACTED]; HONEYBALL Daniel 17442 [REDACTED]
Subject: Hennesseys

Sorry to trouble you Julie, [REDACTED], are there any currently rules regarding the above premises at the moement, I walked past off duty 24/02/2022 at approximately 22:15 hrs and there were people inside, alcoholic drinks appeared to be on the bar but I cannot confirm this as I did not enter, what I was disgusted with to be quite frank is as walking past with my little dog, a female outside the address brush in hand was sweeping something away from the front entrance area on the road, she was clearly heavily intoxicated and due to her stood there with a brush I took it that she was an employee.

She was staggering whilst holding the brush, sweeping it hopelessly practically missing the ground and I heard her say " IM TOO FUCKING PISSED TO BE CLEANING UP SICK"

The brushing motion if anything was on the brush would have just come straight towards my face, ive written down the word disgusting which is my impression of what I saw.

[REDACTED]

Kind regards

Karl
Get [Outlook for Android](#)

From: [steph.shepherd](#)
To: [SMART Julie 50403](#)
Subject: Fwd: Jackz Bar Compliance with Conditions
Date: 12 January 2022 15:33:17

Sent from my iPhone

Begin forwarded message:

From: steph shepherd [REDACTED] >
Date: 12 January 2022 at 15:19:06 GMT
To: rosshennessey@[REDACTED]
Subject: Re: Jackz Bar Compliance with Conditions

Dear Julie,

Thanks for your response.

Firstly, in regards to best bar none we contacted them early last week via their online form on their website and haven't received a response from them.

I will contact Tracey now.

All remaining staff members who haven't done the course are obtaining their BIIAB certificates tomorrow.

Andy Ralph has resigned from his role at the bullers and will be joining myself as a group manager of the 2, soon to be 3 licenced premises when the downstairs is open.

Therefore he will be attending the meeting with us next week, I am available on Friday anytime

Kind regards,
Steph

Sent from my iPhone

On 12 Jan 2022, at 15:04, steph.shepherd [REDACTED] wrote:

Sent from my iPhone

Begin forwarded message:

From: SMART Julie 50403
[REDACTED]
Date: 12 January 2022 at 14:59:44 GMT
To: steph.shepherd [REDACTED]
Cc: CURTIS David 16415
[REDACTED]
Subject: Jackz Bar Compliance with Conditions

Good afternoon Stephanie

Sorry I didn't get back to you yesterday re the below, but I wanted some advice on the date that the new conditions imposed on your licence came into effect to ensure I provide you with the correct information. I have been advised that, as you withdrew your appeal on 22 December 2021, the conditions came into effect on that date, and therefore you were legally required to ensure that they were and are complied with whenever licensable activities take place from 22 December onwards.

In respect of the BIIAB Level 1 Award in Responsible Alcohol Retailing, the condition states that staff must attend and successfully complete this training within 2 months of employment. Therefore, all staff who were employed at Jackz Bar on 22 December 2021 have until 21 February 2021 to complete this training, and they can work at the premises whilst waiting to complete the course.

In respect of the matters contained in the S19 Closure Notice, your appeal notice was served on the Magistrates Court on 18 November 2021 and did not specifically refer to the conditions outlined within the Closure Notice, thus indicating that you accepted those conditions. Whilst we accept that you were required to comply with these conditions from 22 December 2021, myself and Sgt Curtis were surprised and disappointed that you had not taken any steps to ensure these conditions were complied with at the earliest opportunity, ie 18 November 2021, which is what we would expect from a responsible licence holder.

Furthermore, I have been in contact with [REDACTED] who is the chair of Best Bar None, Torbay, and, on Monday 10 January 2022, she advised me that you have not been in contact with her to sign up to Best Bar None, despite me giving you her contact details on 16 November 2021, and this constitutes a further breach of a condition contained in your premises licence.

I would take this opportunity to remind you that failing to comply with the requirements of a premises licence is an offence under Section 136 of the Licensing Act 2003, and a person found guilty of such an offence is liable on summary conviction to an unlimited fine, up to 6 months imprisonment, or to both. I therefore trust that you will address this matter immediately.

In respect of your request that I attend Jackz Bar on Friday, I am not working on Friday and Sgt Curtis has other commitments so is also unable to attend. However, I would take this opportunity to remind you that it is the responsibility of the Premises Licence Holder (yourself in this case) to ensure that the requirements of a premises licence are complied with at all times when licensable activities take place.

Therefore, if you are satisfied that you are now able to comply with all the licence conditions, you can open and carry out licensable activities whenever you wish, but if you do not think that you can comply with the licence requirements, you should not carry out any licensable activities until you are satisfied that you can comply.

In respect of your request for Karl to attend Jackz Bar on Friday, I cannot comment on this and you should make contact with him.

Myself and Sgt Curtis would like to meet with you one day next week, and would be grateful if you could advise us of your availability as soon as possible please.

Kind regards

Julie

-----Original Message-----

From: steph shepherd [REDACTED]

Sent: 11 January 2022 15:54

To: SMART Julie 50403
[REDACTED]

Subject: Jackies

Hi Julie

Holly is booked on to a course but can't do this Thursday with the rest of us.

As she is booked on the course can she still Work or does she have to complete the course before she can work

Many thanks

Steph

Sent from my iPhone

This e-mail is intended for the named recipient(s) only and may contain privileged information, which is protected in law. If you have received this e-mail in error, please contact the sender to advise them and delete this e-mail. Unauthorised use, disclosure, copying or distribution is prohibited.

E-mail should not be regarded as a secure means of communication, we take all reasonable steps to ensure that e-mails are protected from malware, but cannot accept liability for any loss or damage, howsoever arising, as a result of their transmission to the recipients' computer or network.

For more information, or to contact us, please visit us at www.devon-cornwall.police.uk<<https://www.devon-cornwall.police.uk>> or www.dorset.police.uk<<https://www.dorset.police.uk>> or e-mail 101@devonandcornwall.pnn.police.uk<<mailto:101@devonandcornwall.pnn.police.uk>> or 101@dorset.pnn.police.uk<<mailto:101@dorset.pnn.police.uk>>

From: [Hennessey Cocktails](#)
To: [SMART Julie 50403](#)
Subject: Jackz Bar Documents
Date: 01 February 2022 14:24:30
Attachments: [Jacks ECR.pdf](#)
[Jackz PAT testing.pdf](#)
[Jackz maintence certificate Fire.pdf](#)
[jackz fra.pdf](#)

Dear Julie,

Here are all of the in date documents you have requested from Jackz Bar regarding fire and electrics - we have made no alterations to any of the equipment or building since purchase.

Floor plan/Minor variation is being worked on this week.

Kind Regards

Andy

Hennessey Cocktail Lounge
2 King Street, Brixham, TQ5 9TF

From: [SMART Julie 50403](#)
To: [steph.shepherd](#); [apralph](#) [REDACTED]
Subject: Re: Jackz
Date: 04 March 2022 08:31:54

Morning Stephanie & Andy

As you're probably aware I've been on leave and I'm now trying to catch up.

Myself and Sgt Curtis could meet with you and Andy at 1.00pm on Wednesday 9 March at Jackz if that is convenient for you.

We also need to discuss a matter with Andy in respect of Hennessey's so would like to go there after.

Please let me know if this is convenient to you both.

Thanks
Julie

Get [Outlook for Android](#)

From: steph.shepherd [REDACTED]
Sent: Monday, February 21, 2022 5:36:25 PM
To: SMART Julie 50403 [REDACTED]
Subject: Jackz

Dear Julie,

Me and Andy have been working tirelessly over the past few weeks to go above and beyond recommendations from yourselves, the fire department and environmental health.

We would appreciate it if you and Sargeant curtis could meet with us on Thursday or Friday this week to come and have an inspection, and if required you are welcome to bring any other relevant authorities along too.

Kind regards
Steph



**DEVON &
SOMERSET**
FIRE & RESCUE SERVICE

**Environmental Health Manager
(Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR**

**Protection Delivery
Torquay Headquarters
Newton Road
Torquay
TQ2 7AD**

Your Ref:
Our Ref: BL969366/645429
Website: www.dsfire.gov.uk

Date: 04 February 2022
Please ask for: Gary Steer
Email: gsteer@dsfire.gov.uk

Telephone: 01803 653707

Dear Sir or Madam

**Licensing Act 2003
Fire and Rescue Authority Response to Police Representation
Premises: Jackz Bar, Parkham Road, Brixham, TQ5 9BU**

I refer to the application received on 02 February 2022 for the above premises, in this regard the Fire Authority would offer the following observations: -

At the request of the Police, who raised concerns in relation to fire safety matters at the above premises, I telephoned Stephanie Trust to arrange a fire safety audit. No contact was made so I telephoned Mr Ross Hennessey and made an appointment to conduct a short notice audit.

On Friday 28th January 2022 at 1100hrs, I attended the property with my colleague Watch Manager (WM) Roger Williams. We met with Ross Hennessey, the owner, and a gentleman called Andy.

We explained our reason for the visit and were informed by Mr Hennessey that the building was closed and would not be trading for about 8 weeks.

As the building was closed and the ground floor area was under refurbishment myself and WM Williams decided that an audit was not appropriate at this time as the Regulatory Reform (Fire Safety) Order 2005, enforced by the Fire Authority, was not applicable.

Instead, to assist Mr Hennessey and work with him to achieve compliance, we chose to conduct a brief inspection of the premises and provide suitable advice and guidance as to the steps necessary to meet the requirements of the legislation.

Tel. 01392 872567

Chief Fire Officer Lee Howell QFSM FIFireE

Our inspection highlighted the following issues: -

- A suitable and sufficient fire risk assessment should be undertaken to include a capacity for the premises. The existing assessment not being appropriate due to the change of ownership and interim measures would have needed to be taken into consideration with regards to the refurbishment taking place at the property. This assessment should evaluate the travel distances to a final exit, the external exit route (as the gate opens inward). This assessment should take into account both the width and the direction of opening of the final exit doors and the available floor space for safe occupancy on each level. The first-floor exit routes merge together externally and this needs to be addressed within the assessment. The access stair would also need to be assessed due to the low head clearance.
- The escape route to the rear of the first floor should be maintained and kept clear of all storage and the damage to the steps repaired.
- With no door being present to the ground floor bar that was under refurbishment at the time of our visit, steps needed to be taken to prevent unauthorised access. Building materials were present and parts of the ceiling in the ground floor bar area were missing as the floorboards were clearly visible. A fire in the ground floor bar area would spread quickly into the stair and through the ceiling.
- An appropriate fire detection and warning system should be provided for the premises. Such system to provide a suitable sounder to alert persons present in the first-floor garden area of the property.
- A management procedure to be introduced for the removal of all draw bolts from the first-floor exit doors whilst the public are on the premises.
- Consideration within the fire risk assessment should be taken regarding reducing the risk from extension leads and cables.
- All staff to be trained in procedures to be taken in the event of a fire.

The above list of works was not exhaustive and was provided verbally to Mr Hennessey at the time of the inspection. Discussions were had regarding the remedial works needed but, as the premises was not trading, no consideration was given to issuing a formal Notice regarding immediate closure of the building. For your information neither myself or WM Williams are authorised to make that decision and it would require the attendance of a Group Manager. It was agreed that a full inspection of the premises would take place during the week prior to re-opening at which time a formal letter or Notice would be provided detailing any requirements.

On Tuesday 01 February I received an e mail from Andy, who was present at our inspection, advising me that it was not possible to alter the doorways for the premises as it had listed status and it would be deemed to be altering the look of the building, which is protected, I was also asked if I could visit the property and conduct another inspection as it was intended that the premises would be re-opening this weekend (04 February 2022).

I telephoned Andy and advised him that due to the current workload I would not be in a position to attend as I had been told that the premises is closed and would not be re-opening for 8 weeks. During the call to him I confirmed the matters raised from our previous visit which are listed above and he wrote them down for his reference.

The timeframes Andy has now introduced are not ones that can be fulfilled by us. We are unable to check on any works carried out before the premises may reopen. The licensee will be able to confirm with you what works, if any, have been undertaken.

Yours faithfully



Gary Steer
Business Safety Officer

c.c. Julie.SMART@devonandcornwall.pnn.police.uk

From: [SMART Julie 50403](#)
To: [TRUST Stephanie](#) [REDACTED]
Subject: JACKZ BAR MEETING ON 21 JANUARY 2022
Date: 26 January 2022 13:20:00
Attachments: [image001.png](#)
[image005.png](#)
[image007.png](#)
[image009.png](#)

Hi Stephanie

I'm emailing you in connection with the meeting at Jackz Bar on Friday 21 January 2021 between yourself, Sgt Curtis, Mr Andy Ralph and I.

On entering the premises both myself and Sgt Curtis needed to use the toilets. You immediately advised me that there is no electric in the ladies toilets and you switched on a standard lamp, which was plugged into an extension lead and then into a socket within the main bar area with the cable running across the entrance to the ladies, thus causing a trip hazard. Within the ladies toilet the lamp was situated between the electric hand drier and the sink, meaning the portable electrical lamp could potentially come into contact with the water in the sink or wet hands. The ceramic sink was broken, with a large hole in the front which was plugged with paper towels, and held together with silver tape and cello tape. I noticed that the broken edges appeared very sharp. I also noticed that there are 2 steps within the ladies toilet and the door of one cubicle opens directly over the top of these steps. In my opinion these steps are a potential hazard, particularly if customers are wearing heels and/or under the influence of alcohol. On entering a cubicle and closing the door, the cubicle was pitch black and I was unable to see anything. There were no facilities for drying hands.

Sgt Curtis raised concerns with you in relation to the state of the male toilets. He pointed out that the cistern is not connected to the urinals and therefore no water flushes through the urinals. You indicated that the cistern has been like this for some time and prior to Mr Hennessey taking over the premises. He also showed you that the electric hand drier was hanging from the wall and lying on a shelf but still was connected to the mains electricity, and the paper towel dispenser was also on the shelf, both appearing to have been pulled from the wall, and again there were no facilities for customers to dry their hands. You indicated that you were not aware that the hand drier and towel dispenser had been removed from the wall as you had not been in the premises since the week before. There was no record of the damage being recorded in the incident records over the previous weekend.

Within the main bar area, Sgt Curtis raised concerns about the number of wires hanging from walls in at least 3 different locations, and the number of extension leads being used with sockets potentially being overloaded. He advised you that he had serious concerns about the safety of the premises and asked when you last had an electrical safety check, you indicated that you don't know. Sgt Curtis then advised you that if it was his business he would not open until things were checked electrically but that was not something he could enforce. Mr Ralph and yourself agreed it was not safe and said you would not open until an electrician had checked all the wiring to ensure it is safe, and provides you with a certificate to this effect. You agreed to stay closed until this has been completed.

I would take this opportunity to point out that our concerns in relation to the above matters sit under the Promotion of Public Safety licensing objective, which the police are not the primary

authority responsible for enforcing. However I have informed the Torbay Council Health and Safety Officers of our concerns.

We then went through the premises licence with you, and identified the below issues:

Annexe 2, Conditions Consistent with the Operating Schedule

General:

1. *There shall be no entry or re-entry after 1.00 am.* There is another condition on the licence in respect of this, so this condition can be removed.
2. *Drinks shall be served in shatterproof glasses .* You didn't seem confident that safety glasses are being used. I recommend that this condition is removed as a more specific condition is contained later within the licence.
3. *No bottles shall be served when open after midnight.* Again a further condition on the licence relates to this, so this condition can be removed.

The Prevention of Crime and Disorder:

1. *CCTV must be in good working order.* Again this condition can be removed as an updated CCTV condition is included within Annexe 3 of the licence.
2. *There shall be posters displayed regarding responsible drinking.* No posters about responsible drinking within premises and therefore this condition was not being complied with.
3. *There shall be promotions against drink driving.* No posters on display, condition not being complied with.
6. *SIA trained doorman shall be present at the premises.* This condition can be removed.

Public Safety:

1. *There must be 4 exits available in case of emergency, 3 of which are on the ground floor.* There is only one exit on the ground floor and therefore this condition cannot be complied with and should be removed. Advice was given to Ms Harley concerning this matter prior to the review hearing but it still has not been addressed.
2. *All safety checks and systems shall be maintained.* It is not clear what safety checks this relates to, however Sgt Curtis and I were not satisfied that a fire risk assessment was in place, and had concerns in relation to electrical safety within the premises. I recommend you remove this condition and add an additional condition to the licence that "All relevant Health and Safety requirements and legislation will be complied with".
3. *SIA door supervisors shall be present to control and look after customer welfare.* This can be removed as a further condition relates to door stewards.
4. *Accident records shall be present and maintained.* You indicated that you do not keep

any accident records, and therefore this condition was not being complied with.

We did not discuss any conditions in relation to Public Nuisance.

The Protection of Children From Harm

2. *Identification in the form of ID cards with 'PASS' hologram must be produced by anyone who appears to be under 21.* This condition can be removed as there is a further condition re Challenge 25.

3. *There shall be no children after 9pm and no under 18's after midnight.* This condition can be removed as further conditions relate to this matter.

Annexe 3, Conditions attached after a Hearing by the Licensing Authority.

The Prevention of Crime and Disorder

2. *On every occasion that the premises sells alcohol after midnight and then closes after 12.30 am, SIA door staff shall be employed from 10.00 pm until closing.* This condition can be removed as a new condition was added to the licence on withdrawal of your appeal.

3. *A CCTV system of an evidential standard shall be installed to the satisfaction of the police, and the system to be in operation at all times the premises are open to the public. All recordings from that system to be kept for a period of 14 days and the police to have access to recording at any reasonable time.* This condition can be removed.

4. *All drinks shall be served in toughened or strengthened glasses and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink.* You indicated that drinks in glass bottles are decanted into glasses, but did not appear confident that toughened/strengthened glasses are being used. I recommend you either check all glasses to determine if they are toughened, purchase new toughened glasses from a reputable supplier or serve drinks in plastic/polycarbonate vessels to ensure you can comply with this requirement.

Again we did not go through any of the public nuisance conditions.

Conditions attached after a review hearing by the Licensing Authority

General

2. *That Mr Hennessey shall not be involved in or influence the operation of these premises.* I informed you that I am aware Mr Hennessey had been requested by the police to provide CCTV in respect of an incident and that it had taken about 20 days for this to be provided. The condition on the licence in relation to CCTV requires footage to be provided "with absolute minimum of delay" and therefore 20 days is unacceptable. I also informed you that I have been advised by the Best Bar None co-ordinator that Mr Hennessey had contacted her concerning joining Best Bar None. I pointed out that Mr Hennessey is prohibited from being involved in the operation of the premises and as the part of the licence containing the conditions is referred to as the operating schedule, he should have no involvement in any matters contained within the

licence. I advised you to discuss this with Mr Hennessey and instruct him to refer any enquiries regarding CCTV or matters in respect of the licence to you.

8. *All persons employed at the premises in the sale and supply of alcohol, shall attend and successfully complete the BIIAB Level 1 Award in Responsible Alcohol Retailing within 2 months of commencing employment.* I have previously given you advice re this and I am satisfied that you are progressing this matter.

9. *All staff shall receive training regarding their responsibilities under the Licensing Act at the commencement of employment, with refresher training being provided at least once a year. Records of all training, including BIIA Certificates, shall be maintained and kept at the premises for a minimum period of 12 months. These records shall be made available to the police or Local Authority Licensing Officers for inspection on demand.* You were unable to provide any training records, although Ms Harley indicated during my visit on 9 January 2021 that training was to take place the following week. When discussing this matter, you indicated that staff were undertaking the BIIAB and I informed you that, as a minimum, we would expect all staff to be trained in relation to Challenge 25, Fire Safety, Health and Safety, and your drugs policy. I would take this opportunity to recommend that you also provide training to your staff in respect of your noise management and monitoring policy, the recording of incidents and accidents, first aid and any other matters falling under your responsibility as Premises Licence Holder.

11. *The premises shall sign up to a licensing support scheme such as Best Bar None and ensure that they meet the standards required by that scheme at all times.* We have previously discussed this matter, and the Best Bar None co-ordinator has advised me that she will meet with you before the end of February 2022 to progress this as a matter of urgency.

12. *The Premises Licence Holder shall ensure that the Regulatory Reform (Fire Safety) Order 2005 is complied with an up to date fire risk assessment shall be kept on the premises for viewing by responsible authorities at all times. The fire risk assessment shall be amended whenever any changes are made to the premises which may affect emergency evacuation.* You were unable to produce a fire risk assessment and stated that you didn't know if one had been completed, despite advice having been given to Ms Harley and Mr Hennessey during a meeting at the premises in September 2021, although I appreciate you were not responsible for the premises at that time. I asked you what fire safety training had been provided to staff, and you indicate no training has been provided. I asked you if staff know where to locate a fire extinguisher and you indicated that you didn't know if there was one at the premises and you and Mr Ralph went to look for one. Sgt Curtis thinks that Mr Ralph might've said that he found one, but I do not recall that. This condition was not being complied with.

At 2000 hrs on the evening of Saturday 15 January 2022 and 0100 hrs on the morning of Sunday 16 January 2021, PC Honeyball visited Jackz Bar and established that alcohol was being sold, with music playing and dancing taking place. Your staff/door stewards indicated that these activities would cease at 0230 hrs.

I would now draw your attention to my email of 12 January 2022 in which I state:

However, I would take this opportunity to remind you that it is the responsibility of the Premises Licence Holder (yourself in this case) to ensure that the requirements of a

premises licence are complied with at all times when licensable activities take place. Therefore, if you are satisfied that you are now able to comply with all the licence conditions, you can open and carry out licensable activities whenever you wish, but if you do not think that you can comply with the licence requirements, you should not carry out any licensable activities until you are satisfied that you can comply.

Myself and Sgt Curtis are therefore extremely disappointed that you were open and carried out licensable activities over the weekend of 14/15/16 January 2022 when it is apparent that various conditions on the licence were not being complied with.

I would again take this opportunity to remind you that failure to comply with the terms and conditions of a premises licence is an offence under Section 136 of the Licensing Act 2003, and a person found guilty of such an offence is liable on summary conviction to an unlimited fine, up to 6 months imprisonment or to both. As you have already been served a S19 Closure Notice, we do not intend to serve you with a further notice on this occasion but I would remind you that we can seek a Closure Order from a Magistrates Court at any time within 6 months of the issue of the notice if alcohol is sold and the licence conditions are not complied with. One of the conditions outlined in the Closure Notice is in respect of training records not being produced, and this breach was again identified on Friday 21 January 2022. I must warn you that should further breaches of the premises licence come to my attention, I shall consider seeking a prosecution for any offences committed, or a review of your premises licence, but I hope that this will not be necessary.

In respect of the approved plan of the premises, as advised in my emails of 7 December 2021, 23 December 2021, and 9 January 2022, this does not reflect the layout of the premises as there are no male toilets next to the bar, and this area is now used for storage. As discussed on Friday 21 January 2022 I recommend that you apply for a variation of your premises licence to remove the conditions identified above and submit an amended plan. Please contact Carrie Carter of Torbay Council ([REDACTED]) if you require any advice or assistance in relation to this.

Kind regards

Julie Smart

Alcohol Licensing Officer - Torbay

Tel: [REDACTED]

Prevention Department

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

-

REVIEW OF PREMISES LICENCE
Case No. SRU268115

Statement Number 1 of 1 – Anthony Peter Ralph
Statement made: 16 March 2022

JACKZ BAR

-v-

TORBAY COUNCIL

STATEMENT OF ANTHONY PETER RALPH

I, Mr Anthony Peter Ralph [“Andy”], Area Manager for Hennessey Sports Bar Limited (incorporating both bars) will say as follows:

Background and history in the licensing industry

1. I am making this statement in relation to the premises licence review of Jackz Bar, due to be heard on 24 March 2022,
2. I am 66 years and have around 20 years experiencing in the licencing industry. I am used to running bars with a history of doing so in a brewery backed environment and a corporate environment.
3. In 2003, my wife and I ran the Tern Inn, in Chipping Sodbury. I was named as DPS for a second pub between around 2004 and 2007, namely the Woodbine in Cirencester. I Acquired BIIAB Level 2 NCL 02/05/2003, this was a 3 day Pub Management course covering all aspects of pub management. A copy of the certificate is attached and marked as exhibit **APR/1**.
4. did the personal licence qualification course and enjoyed around 3 years running two pubs. My wife and I then moved on in or around 2007 after the introduction of the smoking ban had an immediate impact on business.
5. After a short while out of the industry, I returned to a role as a bar manager and duty manager at the Esplanade Hotel in Paignton. Whilst I was not named DPS on this licence I effectively held the role of a DPS. I had responsibility for a large number of staff and guests (45 staff and 144 guests). I received a lot of on job training, to include fire safety, health and safety,

COSHH, ALPS (Award for Licenced Premises Staff, Risk Assessments for Licenced Premises. I believe that this environment was an invaluable part of my education in the licensing trade. We were very often subject to snap inspections from internally employed Environmental Health Officers who held us to extremely high standards. This has taught me to work to an extremely high standard. I enjoyed 10 years working at the Esplanade. The impact of Covid 19 led to the closure of the Esplanade. Given that we lived in the staff accommodation we had to find alternative accommodation and alternative employment.

6. We were introduced to the owner of the Buller's Arms, in Brixham, by a mutual friend. I was appointed as General Manager. I was not initially named as DPS, my wife was. She, however, left the role after around 6 months and the owners neglected to nominate me as the DPS. I effectively took that responsibility until leaving in January 2022.
7. I implemented a number of systems and procedures during my time there. I ensured that I undertook regular refresher training and produce the following certification:
 - a) E-learning course certification in Age Verification (dated 14 April 2021) – marked as exhibit **APR/2**;
 - b) E-learning course certification in Allergen Awareness (dated 10 May 2021) – marked as exhibit **APR/3**;
 - c) E-learning course certification in Drugs Awareness (dated 11 April 2021) – marked as exhibit **APR/4**;
 - d) E-learning course certification in Fire Safety Awareness (dated 28 March 2021) – marked as exhibit **APR/5**;
 - e) E-learning course certification in Health and Safety (dated 28 March 2021) – marked as exhibit **APR/6**;
 - f) E-learning course certification in Manual Handling (dated 11 April 2021) – marked as exhibit **APR/7**; and
 - g) E-learning course certification in Slips, Trips and Falls (dated 29 March 2021) – marked as exhibit **APR/8**.

Involvement with Jackz Bar to date

8. My daughter, Jodie, is friends with Ross' sister. I have known of him for a number of years although I have only recently got to know him. After my shift at the Buller's Arms, my wife and I would often go to Jackz for a night cap. It was there that I met Ross and got to know him.
9. When Ross told me of his first problems back in the summer of 2021, I agreed to help him out. I was happy to move on from the Buller's Arms and saw that Ross needed my help. At first I became involved to try and help out with Hennessy Cocktails. I attended the premises

licence review hearing for that bar as a witness. I stated that I was prepared to leave my job there and then to step in for Ross as DPS should that assist, such is my faith in him. The Sub-Committee did not accept this assertion after hearing from my then employer, Gary King, owner of the Buller's Arms, who stated that "I had to work 28 days notice". This was a false statement as I had no written terms of employment, I was paid weekly. I had only worked for him for a year and a half and no verbal agreement for notice period. I was not made aware that this notice period was given as evidence until after the hearing and feel that this false statement heavily impacted on the decision of refusal of me becoming the DPS for Hennessey's.

10. I feel that Ross has been unfairly treated and was happy to share my expertise. I always found Ross very receptive to the advice I was able to offer given my decades of experience in the industry. I believe him to be a genuine businessman who seeks to do things the right way. I also feel comfortable in the knowledge that he respects my opinion and accepts my judgement in relation to matters that I am more experienced than him with. I am not scared to tell him when I feel he is overstepping. I am aware that he is to have no active part in the management of the licence.
11. A major part of the reason I was eager to help Ross was because, in my view, Jackz has improved since Ross took over. Ross has engaged with the local authority and all relevant authorities to ensure compliance. My vision for Jackz is to push this customer base towards an older demographic. I firmly believe that there is the relevant customer base there to be catered for by Jackz and that moving towards this customer base brings with it less disorder.
12. After leaving the Buller's Arms I started working with Ross on or around 14 January 2022. I have played a big role in overseeing the renovations. I have worked alongside Ross in his capacity as leaseholder and business owner. He has not made any decisions about the licence since I came on board.
13. My role was initially to be involved as an 'Area Manager' of both Hennessey Cocktails and of Jackz Bar. Stephanie Trust was to continue as DPS and licensee of Jackz with me offering my support and experience in a management role. I have worked with Stephanie since 14 January 2022 until she recently made the difficult decision to step away from her role as DPS. Given that the decision was made to keep the bar closed until the refurbishments and corrective actions were resolved, Stephanie has had to find alternative employment. She will remain as a member of staff but will no longer have the capacity to act as DS and licensee.
14. I did not hesitate to agree to being out forward as licensee and DPS in Stephanie's absence. That is not a decision I would take unless I was absolutely confident in the establishment, its

systems and in the ownership. I am confident that I will have full responsibility in relation to how the bar is run and Ross is confident in my ability to do so.

15. I have recently applied to be DPS and Licence holder on a new application for Hennessey Cocktails and as recently as 21 March 2022, I submitted an application for the same responsibilities with Jackz Bar.
16. I believe that these are roles that can co-exist and my capacity will not be stretched. Whilst these are separate establishments, they open at different times and share a lot of staff resources. My overall aim is to be supported by a strong management team beneath me with a view to training them to the extent that they could eventually apply to replace me as DPS.
17. I have discussed the possibility of me being named as DPS for both places with Julie Smart, licensing officer, who was very enthusiastic and suggested there would be no issue with this.
18. I have had a very recent meeting on 7 March 2022 with Inspector Martin Tregaskis. I felt that it was a very productive meeting and we were together at the premises of Jacks Bar for around 1 and half hours and we discussed the history of the issues with the premises. Ross was present with me at the meeting with me. Ross is the business owner of Jackz and of Hennessey Cocktails and felt it was appropriate to provide a history to Martin Tregaskis given he had not been involved up until that point. This was for context only and not an indication of Ross' ongoing involvement with the management of the licence. We discussed the history of licensing issues relating to Hennessey Cocktails and Jackz Bar and overall, I felt that it was a very positive meeting and felt energised and confident that I could enjoy a good working relationship moving forwards.
19. My understanding from Ross' approach as a business owner is that he does not cut corners and that if something needs to be dealt with then it will be. If the licensing officers had informed Ross that restorative and corrective works needed to be done of a closure notice would be issued then the works would have been done. I understand that Ross was reliant on safety inspections relating to the electrics and previous visits failing to raise any serious concerns as reassurance that the building was safe. That said, I also know that it was always part of Ross' business plan to redevelop the building and that would have addressed many of the issues that appear to have been longstanding issues from the time of the previous owner of Jackz Bar.

Renovation work carried out

20. Much has been done to renovate the property to deal with the concerns outlined with respect to health and safety. I engaged a local contractor to oversee the works and I have assisted where necessary. I have a history as a sound engineer and a general builder. An example of the works carried out is outlined below:

- a. We have ripped out over a mile of old cables that have been there since the previous owner. It is apparent that over the years new cables were put in but old ones left unremoved. Although it should be stressed that they were not live wires, it should be said that this issue has been rectified;
- b. The lights in the male and female toilets have been restored, with each cubicle being fitted with safety lights;
- c. Hot running water has been added to the male and female bathrooms;
- d. The sink has been replaced in the female bathroom;
- e. Old ceramic urinals have been removed from the male bathroom and replaced with stainless steel urinals;
- f. A noise pollution system has been installed. There is a default setting to cut off the power in the event that the sound exceeds a certain level;
- g. The emergency exit door has been widened. Push bars have been fitted to allow the doors to open outwards;
- n. An old tuxedox has been removed and minor works carried out to restore the way behind it;
- i. We have re-situated a fuse board and ensured it is concealed;
- j. We have completed secondary glazing to the windows outside. Laminate glass is now in place;
- k. We have dug out and removed a concrete step outside to extend the width of our fire exit;
- l. We have re-concreted external steps in our fire exit; and
- m. We have replaced and renewed the hand dryers in both toilets.

21. Whilst continued improvements are ongoing, I am content that the bar is in a much better condition and is certainly in a safe state to be opened to the public.

Alleged breaches

22. I understand that some of the reasons of the Review application being made relate to alleged breaches of agreed conditions to include the following:
- a. Continued involvement of Ross Hennessey in the control and management of the premises licence. I can categorically say that since I started in place on 14 January 2022, all decisions and management relating to the premises licence have been dealt with by Stephanie and me, until Stephanie very recently stepped away from that role. Ross has been on hand to assist with practical issues relating to restorative works, given his responsibility as a leaseholder and business owner. He has not overruled any of my efforts and has largely afforded me the authority to deal with all matters related to the licence;

- d. All staff that are returning now have BIIA certificates. I understand that Ross had misunderstood the timescales involved with ensuring those were in place. I exhibit a copy of those to this statement marked as APR/9;
- c. We are in the process of obtaining accreditation by Best Bar None. I understand that there is a waiting period pending the relaunch of the organisation at the end of March 2022. That will be followed up as soon as allowable; and
- d. Posters regarding responsible drinking and challenging ages were apparently not properly displayed. I can assure the licensing authority that they will be properly displayed under my tenure.

MY INVOLVEMENT

23. I have reassured Ross that I will be available for Jackz Bar for as much as is needed. I have an appetite and desire to ensure the smooth operation of Jackz Bar and have the capacity to do what is needed. I will likely be on site 1 between 5 and 7 nights a week if needed. I am 5 – 7 minutes away by car. We have cameras to assess what is going on when I am not there. I am very confident that I can exercise proper control of the management of the licence.

I certify that the contents of this statement, consisting of 5 pages, are true and I understand that it will be used as evidence in the case.

SIGNED: 
Anthony Peter Ralph

DATED: 22/03/22