



Devon & Cornwall Police

Licensing Department
Torbay Council
C/O Torquay Town Hall
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TORQUAY
TQ1 3DR

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

18 January 2019

Dear Sir/Madam

Application to Vary the Designated Premises Supervisor in respect of Zakopane, 16 Market Street, Torquay

I refer to an application to Vary the DPS of the above named premises into the name of Mr Abdullah Omar Abdullah. This application was received by the police on Friday 11 January 2019 and it was marked for immediate effect.

This premises is situated within your Cumulative Impact Area and therefore there is a greater expectation that Premises Licence Holders and the DPS will ensure that their premises are managed in a responsible manner, whilst promoting the licensing objectives.

At approximately 11.00 am on Monday 14 January 2019 Mrs Smart attended Zakopane in the company of Sgt Dave Curtis, Police Licensing Sergeant for Devon. Mrs Smart advised the male member of staff present, Mr ██████████, that she was going to carry out a licensing inspection and he indicated that he was happy to help.

Mrs Smart then checked each of the conditions contained with the Premises Licence. At the conclusion of this Mrs Smart explained to Mr ██████████ that as some of the conditions on the Premises Licence were not being complied with, every time that alcohol is sold from the premises offences under Section 136 of the Licensing Act 2003 are being committed.

As Sgt Curtis was not satisfied that all of the conditions were being complied with he issued Mr ██████████ with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001. A copy of that notice is attached for your information.

Contact the police

Emergency 999

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

101@dc.police.uk 101

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When the Section 19 Closure Notice was completed, Mrs Smart was aware that the Incident Book and Barred Customer Book produced by Mr Shukir had been provided to Zakopane by the Licensing Agent who applied for the original grant of the Premises Licence in October 2017. She was therefore expecting these books to contain entries but she now acknowledges that as Mr Abdullah only took over responsibility for the premises on 11 January 2019 it is unlikely that any incidents have occurred or customers been barred since that date.

In relation to the condition on the Premises Licence which states "The premises are secured with roller shutters at the front and rear and alarmed when closed", at the time of the visit the rear door did not have a roller shutter. However, Mrs Smart was concerned about a fire door being fitted with roller shutters and therefore this matter was not written on the Section 19 notice. Mrs Smart and Sgt Curtis have now discussed this matter and as a result of those discussions, Sgt Curtis is not satisfied that the condition is being complied with. However, as the door in question is a fire exit, the police recommend that the Premises Licence Holder seeks the advice of the Fire Service in relation to this matter.

As Mr Abdullah was described at the Review hearing as being an experienced licence holder, having managed licensed at least one licensed premises in the Leicester area, it is of great concern that the conditions of the licence were not being complied with on this occasion.

Furthermore, Sgt Curtis and Mrs Smart first met Mr Abdullah at the Licensing Sub-Committee Hearing in relation to the Review of the Premises Licence of Zakopane, Market Street, Torquay on Thursday 17 January 2019.

At that hearing it was obvious that there was a language barrier. Mr Abdullah had difficulty understanding and clarifying questions asked of him, to the extent that the hearing has been adjourned to allow a suitable interpreter to attend.

As the role of the DPS is to be responsible for the day to day management and control of the licensed premises, and to be the first point of contact for all Responsible Authorities, I do not believe that Mr Abdullah possesses sufficient English language skills to be able to understand issues brought to his attention by police officers, Mrs Smart or representatives of any other Responsible Authority.

It is the opinion of the police that Mr Abdullah should not be appointed as DPS due to the above concerns.

Should you require any further information or assistance, please do not hesitate to contact my Licensing Officer, Mrs Julie Smart, on telephone number 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance

Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.