



Devon & Cornwall Police

Licensing Team
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C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

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

Telephone: 01803 304900

30 June 2020

Dear Sir/Madam

Hennessey, 2 King Street, Brixham

I refer to an application for the Variation of the Premises Licence in respect of the above-named premises, which has the benefit of Premises Licence Number PL1116.

HISTORY OF PREMISES:

The Premises Licence for this premises was granted on 27 April 2017 and at that time the premises were known as Coco's. Between April 2017 and October 2018 I had little or no dealings with the premises.

In November 2018 the licence was transferred to Hennessey Cocktails Ltd, the sole director of which is Mr Ross Hennessey. Mr Hennessey was also nominated as DPS. At that time the premises' name was changed to Hennessey.

DEALINGS WITH HENNESSEY COCKTAILS LTD:

Please note that I have not attached any of the emails I received from complainants as they contain information which would identify the complainant. At the hearing I will have them available should the Licensing Authority wish to see them.



- 22 October 2018 Late Temporary Event Notice (TEN) submitted to extend the sale of alcohol and provision of entertainment from midnight to 0300 hrs on the morning of Sunday 28 October 2018 for a Halloween launch party. The notice indicated that a noise limiter was in place and that extra security staff would be put on.
- 23 October 2018 I spoke to Mr Hennessey, the premises user/DPS, and discussed the TEN with him. At that time, he asked about the likelihood of him obtaining a later licence for the premises and I recommended that he trade for a suitable

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period in order that he could demonstrate that he could manage the premises in an appropriate manner.

As a result of our discussions, no representation was made in respect of the TEN as I was satisfied Mr Hennessey had taken steps to prevent crime and disorder.

27 October 2018 Myself and Mr Karl Martin, Public Protection Officer of Torbay Council visited Hennessey with Sgt Langley, WPC Seaman and PC Moore.

I do not have a time recorded for this visit, but I estimate it would have been sometime after 11.00 pm. Approximately 12-15 people were stood around the front door and noise from these persons could be heard some distance away. I could not tell whether these persons were waiting to gain entry or using the area for smoking. No stewards were visible.

We then entered and met with Mr Hennessey and advised him of our observations. Mr Hennessey introduced me to two males who he stated were his stewards. Neither of these were wearing a yellow high visibility jacket, as required by the premises licence, and I advised Mr Hennessey of the breach of this condition.

Mr Martin informed Mr Hennessey that the volume of music was too high, and he recommended that Mr Hennessey ask the DJ to turn the volume down.

31 October 2018 A letter was sent to Mr Hennessey regarding the visit, a copy of which is attached.

5 November 2018 I had a telephone conversation with a resident (Complainant 1) who advised me that they live in the vicinity of Hennessey and had been disturbed by noise from music and customers of the premises until the early hours of Sunday morning and household members could not sleep. Details of this complaint were passed to Mr Martin.

7 November 2018 Myself and Mr Martin attended Hennessey and met with Mr Hennessey and his DJ. Mr Hennessey and Mr Martin had lengthy discussions concerning noise and public nuisance matters. I advised Mr Hennessey to comply with the terms of his premises licence. We also discussed Mr Hennessey's proposal to apply for a later licence at the premises.

10 November 2018 I received an email complaint from a resident who lives in the vicinity of Hennessey (Complainant 2), who reported that there had been a drastic change in noise levels since Mr Hennessey took over at the premises. This resident said that they were angry and frustrated that the premises had been granted a licence until 3.00 am without any consultation and I explained the TEN legislation to them.

11 November 2018 I received an email from PC Veitch who was dealing with a complaint in respect of Hennessey, which referred to noise coming from the bar until 3.00 am on the launch weekend and the following weekend. It also referred to cocktail glasses being lined up against the wall outside the bar and cocaine wraps being left on the floor.

12 November 2018 I received another email from PC Veitch who stated that she had received a further 2 complaints from members of the public concerning noise from Hennessey. One of these complaints indicated that the premises had been open until 3.00 am on the previous two weekends. This complaint also referred to cocktail glasses left outside and cocaine wraps in the street after the premises closed on 2nd or 3rd November 2018.

As a result of the emails from PC Veitch, I sent her a copy of the premises licence and requested that officers attend the premises to view CCTV to establish if after hours drinking or entertainment had been provided at the premises as alleged. Unfortunately, on 28 November 2018 officers had been unable to visit the premises, and as the CCTV hard drive would have been overwritten at the end of 14 days, no further action was taken.

14 December 2018 I, Mrs Mandy Guy, PC Haworth and PC Moore attended Hennessey at 2345 hrs. One door steward was present. He was wearing a blue and white jacket with small reflective strips. I discussed this matter with Mr Hennessey and expressed my disappointment that the premises were still not complying with the condition on the licence. Mrs Guy identified that there was noise outbreak from the premises. She suggested to Mr Hennessey that a lobby may assist and advised him to speak to Mr Martin concerning the issue.

Whilst I appreciate that the colour of the high visibility jacket may not seem of particular importance, I would advise you that at that time, there had been issues with some door steward companies supplying their stewards with navy blue jackets with very small reflective strips in an attempt to circumvent the yellow high visibility jacket condition. The door steward company supplying this premises was providing stewards with blue and white jackets with small reflective strips and the director of that company had already been given advice on this matter. In addition, the Torbay Council Licensing Statement of Principles (Pg 15) states that stewards should wear clearly identifiable yellow reflective over-garments.

18 December 2018 A letter concerning the visit on 14 December 2018 was sent to Mr Hennessey, copy attached.

11 February 2019 I received a further email from Complainant 1 concerning loud music, troublesome guests leaving making noise and other issues in relation to Hennessey. The complainant said that the problems were occurring on a weekly basis, every Friday and Saturday evening, with loud music until

12.30 am, people leaving making a noise, fighting and people being sick in the street. I forwarded this email to Mr Martin.

16 February 2019

At 2350 hrs myself and Mr Martin were on duty when we parked outside The Quayside Hotel on King Street, Brixham which affords a good view of Hennessey. We observed the premises from this location for just over 20 minutes. We witnessed numerous customers stood outside Hennessey smoking, chatting, laughing and shouting which could clearly be heard at our location. We could also hear loud music from the premises, and this was worse when the door opened, which was often due to people coming and going. A door steward was present but he made no attempt to tell people to be quiet. We also witnessed two males come out and go around the corner out of view of the steward. They had a very brief exchange and then returned to the premises. I formed the opinion this may have been a drugs deal taking place. At 0010 hrs loud music was still being played, despite the premises licence requiring recorded music to cease at midnight.

We then drove down to the premises and entered without being challenged by the door steward. On entering a drunk male stumbled/fell down some internal steps. We stood amongst customers for a couple of minutes during which time we saw a glass bottle and another drink being placed on the bar. We saw the barmaid go to the till and return to the male, passing something to him. I formed the opinion that the sale of alcohol had taken place. This occurred at approximately 0015 hrs, when the last permitted sale of alcohol is at midnight. Many males were drinking from glass bottles, and we witnessed a drink being served in a glass bottle, despite a condition on the licence prohibiting the sale of alcohol in glass bottles after 2300 hrs.

Mr Martin and I spoke to Mr Hennessey. Mr Martin told Mr Hennessey that the music being played was too loud to be classed as background music and advised him that we had been monitoring his premises from King Street. I advised Mr Hennessey that we had witnessed what we believed to be the sale of alcohol after midnight. I asked Mr Hennessey to show me the CCTV footage, but he said he didn't know how to work the system. He went to look for a mouse but couldn't find one. He then offered to show me the footage on his phone. However, he didn't show me the footage I asked to see, and I was concerned that he was deliberately trying to avoid showing me the relevant footage. Mr Martin and Mr Hennessey discussed the issues with noise and customers outside and Mr Hennessey asked if he could put smokers at the rear entrance of the premises. He showed us where he meant, which was directly opposite the New Quay Inn (location now sought within this application). Mr Martin told him that he would not agree to that as it would cause more noise issues at the rear of the premises.

18 February 2019

I sent an email to Mr Hennessey asking him to download some CCTV footage for me in order that I could establish the time that the last sale of alcohol took place on the morning of Saturday 16 February 2019.

- 18 February 2019 I received a telephone call from a Brixham officer advising me of Log 20 of 16/02/19, a complaint from a resident (Complainant 3) of loud music being played for 3 hours on the night of Friday 15 February 2019 and stating that this is an on-going issue.
- 21 February 2019 Myself and Mr Martin attended an address in Brixham to discuss general licensing issues in Brixham with a resident (Complainant 5) who was concerned about noise, drugs and anti-social behaviour within the town. This male also raised concerns in relation to noise from music and customers of Hennessey.
- 25 February 2019 I received two text messages in which a resident (Complainant 3) complained of noise disturbance by music and people at the premises. The complainant stated they had contacted the premises but there was no reply, however eventually the manager rang and spoke to the complainant, as a result of which the music was turned down.
- 28 February 2019 I received an email from a resident (Complainant 4) who complained about noise, anti-social behaviour, underage drinking, drug taking and dealing, and general public nuisance issues associated with the premises.
- 2 March 2019 I again received a text message from Complainant 3 saying that they had a problem the night before, but they spoke to the owner and manager who said they would talk to the DJ about the noise.
- 4 March 2019 Complainant 5 emailed me and complained that Hennessey's had turned into a full-blown nightclub the Saturday before, with DJ's playing loud music. This person said that they could hear the noise from the premises through their double-glazed windows. This person said they walked down to the harbour at around 11.30 pm and the loud music was appalling. They looked into the premises and noticed that a lot of the furniture had been removed and large numbers were dancing. They said they encountered a small group around the corner who appeared to be taking illegal substances and the smell of urine was very high.
- This person ended their email "As we will soon be approaching the summer months, I, and most of our neighbours, are dreading the weekends even more and ENOUGH is ENOUGH!! Please can you revoke the licence and give us all some peace and quiet". I subsequently responded to this email advising the complainant of the steps myself and Mr Martin were taking in relation to securing evidence to apply for a Review of the licence, and the Review process in general.
- 5 March 2019 A letter was sent to Mr Hennessey outlining all complaints received by the police since 11 February 2019 and details of the visit by myself and Mr Martin on 16 February 2019, copy attached.

- 8 - 11 March 2019 I received 4 emails from Mr Hennessey in response to the letter sent to him on 5 March 2019. Some of these emails contained photographs from his CCTV system, and I also received 2 x USB sticks containing CCTV footage.
- 19 March 2019 Myself and Mr Martin met with Mr Hennessey in the Meadfoot Room of Torbay Town Hall to discuss all issues raised within the letter dated 5 March 2019.
- During this meeting Mr Hennessey told me that the premises had not been strict on ceasing music and the sale of alcohol. However, he assured me that they only ran over for between 5-10 minutes but since my visit on 17 February 2019 he had made sure that they finished on time. I tried to watch the CCTV but it would not play on two laptops. I subsequently decided not to progress this matter further as Mr Hennessey had admitted that licensable activities had not ceased on time and there would be little evidential gain in requesting our Video Processing Unit to convert the footage to a viewable format.
- 4 June 2019 I received a text message from a resident complaining about the number of cigarette butts on the road outside the premises. I advised Mr Hennessey of this matter and he said he would address it immediately.
- 22 July 2019 I was advised of potential fire safety issues at the premises, in that a non-fire door opens inwards into the public area, and that it does not have any internal handles so the only means of opening the door from the public side would be to use your finger nails along the edge of the door. A fire escape route within the premises was also partially obstructed by some bins and continues into a neighbour premises which was similarly blocked by equipment. I was advised that this information had been passed to the Fire Service.
- 18 November 2019 I received an email from Complainant 1 concerning noise and public nuisance issues in respect of the premises on 16 November 2019. On the night in question, Mr Hennessey had submitted a Late TEN to extend the hours of the premises, but the TEN was not submitted in accordance with the statutory requirement and Mr Hennessey was advised that the event could not go ahead.
- 28 November 2019 Myself and Mr Martin met with Mr Hennessey at the premises. I asked to view some CCTV, but Mr Hennessey did not have a mouse on the premises so was unable to show us. I asked him to ensure that at least one member of staff can always access CCTV and that they have the equipment available to do so. He agreed to this.
- 3 December 2019 Myself and Mr Martin again attended Hennessey. Mr Hennessey had downloaded the CCTV footage onto a USB, but it would not play on his

laptop or on mine. We again discussed the complaint and he said that the staff party did not go ahead. He was adamant that the only people in the premises at the time of the complaint were staff who had been cleaning and having a drink, with music playing whilst they did so. Advice was given to him to keep the music low at background level or turn it off and not allow to staff to drink after hours but to take tips as money instead.

THE APPLICATION:

This application seeks to include an outside area within the approved plan of the premises, for the provision of licensable activities and the consumption of alcohol. It also seeks to extend the sale of alcohol until 3.00 am on Friday and Saturday nights and to allow the premises to provide off sales.

The applicant has applied for a temporary Pavement Café Permit for the outside area, in which he requests the use of this area between 1000 and 0000 hrs. I note that there is no mention within the application as to how the applicant will manage customers in this area, which is a concern, particularly as it cannot be seen from within the premises and, at the time of my last visit, there was no CCTV monitor behind the bar.

In relation to the request to add off sales to the licence, the premises are situated within a Torbay Council Public Space Protection Order (PSPO) which prohibits the consumption of alcohol at any time. The recent Coronavirus pandemic has highlighted issues around customers purchasing off sales from licensed premises within such areas and advice was provided to these premises. Mr Hennessey is aware of this advice but has failed to include any measures within his application to ensure there is no negative impact of customers consuming alcohol purchased from his premises within the PSPO area. Furthermore, if you are mindful to allow the provision of off sales from this premises, they could be supplied at 0300 hrs on Friday and Saturday nights which could have a detrimental impact on crime and disorder if they were to be consumed within the town centre, particularly at that time of night.

In respect of the part of this application seeking to extend the sale of alcohol until 3.00 am on Friday and Saturday nights, with the premises closing at 0330 hrs, the police have examined the application and consider that the applicant has not given sufficient consideration to the Torbay Council Licensing Statement of Principles 2016-2021.

On page 16 of the application, the applicant seeks to remove a condition in respect of SIA stewarding levels from the premises licence. This condition requires the premises to employ stewards at a ratio of 1 steward per 100 customers whenever the premises sells alcohol after midnight and closes after 0030 hrs on Fridays, Saturdays and other stipulated days.

Within box b) on page 19 of the application, the applicant outlines an alternative stewarding condition, but this condition is confusing, and the intention of the applicant is not clear. The proposed condition states "On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 0330 hrs SIA stewards shall be employed on the premises from 2200 hrs until close at a ratio of 1 supervisor per 100 customers". My interpretation of this

condition is that when the premises close after 0330 hrs stewards will be employed based on the ratio of 1:100.

The next part of this proposed condition states "A secondary SIA door supervisor shall be employed on the premises from 2300 hrs until the last patron has left the premises". From this section of the condition it appears that the applicant is intending to employ two SIA stewards, although this is not clear and it appears to contradict the first part of the proposed condition. Furthermore, it appears that the ratio of 1:100 will apply only when the premises closes after 0330 hrs. This means that up until 0330 hrs no stewards will be required. The timing of 0330 hrs may have been a mistake by the applicant so perhaps Mr Hennessey can confirm this?

For your information, your policy (pg 38) recommends that a risk assessment is carried out to establish the appropriate number of stewards, but it also recommends that 2 SIA stewards are employed for up to the first 100 customers, and thereafter an additional steward is employed for each additional 100 customers.

As the applicant is seeking to include an outside area within this application, and that area is not visible from inside the premises or the front entrance, it is the opinion of the police that at least 3 SIA stewards will be required – 1 at the proposed outside area, 1 within the premises and 1 on the front door. The applicant indicates that the stewards will be employed until the last person has left the premises, however it is often the case that customers loiter outside licensed premises for some time after premises have closed, and therefore the police further recommend that stewards remain on duty until the last customer has left the vicinity of the premises to ensure that they do so in an appropriate manner.

I shall now refer to your policy and in particular Section 3.1 The Prevention of Crime and Disorder, in which you highlight specific considerations for inclusion within the operating schedule.

Whilst the applicant proposes to have a zero tolerance to drugs, there is no information on how this will be achieved, such as by having a written drugs policy which all staff will adhere to, or by having any entry or search procedures.

The premises licence already contains a condition concerning the provision of CCTV, however, as outlined earlier, there have been occasions when no one on the premises has been able to use the system, 2 occasions when there was no mouse available, and Mr Hennessey has been unable to provide viewable footage to the police. If this application is granted, what assurances can Mr Hennessey give that CCTV provision will not be a problem in the future? Is he intending to install an additional camera to cover the outside area, and is he going to install a monitor behind the bar so that staff will be able to supervise this area throughout the time the premises are open? The police recommend that due to previous concerns regarding the provision of CCTV, the condition on the licence is amended so that all footage has to be retained for a minimum of 28 days, and that footage is provided to the police within 7 days of any request.

Your policy recommends that premises maintain an incident book, but it does not appear that the applicant has considered this.

Your policy requires that all staff in the premises responsible for selling alcohol after midnight will be trained and hold the BIIAB Level 1 Award in Responsible Alcohol Retailing within 3 months of the commencement of their employment. The existing premises licence does not contain any reference to staff training, and nor does this application. As the applicant is seeking to extend the sale of alcohol by 3 hrs on a Friday and Saturday night, and this is likely to increase the likelihood of crime, disorder, public nuisance and drunkenness the police consider it imperative that staff receive appropriate training in relation to their responsibilities under the Licensing Act.

Your policy also recommends the use of breathboxes for premises selling alcohol after midnight to assist in the identification of intoxicated persons, but this does not appear to have been considered, despite the applicant seeking to sell alcohol for an additional 3 hours on Friday and Saturday nights. What measures are the premises proposing to take in relation to the management of drunk and vulnerable individuals?

The Torbay Council Licensing Statement of Principles is currently being reviewed as it needs to be republished in 2021. The police will recommend that the licensing authority include initiatives within the policy that assist in ensuring that our night-time economy premises operate in a safe manner. We recommend that premises that sell alcohol after midnight join and maintain membership of the Best Bar None Scheme and promote the 'Ask Angela' initiative. Will Hennessey support these schemes?

In relation to Mr Hennessey's role as DPS, since he was appointed as DPS it has come to the attention of myself and Mr Martin that Mr Hennessey has another business at a holiday park in Cornwall. During the summer season he is predominantly at that site, leaving Hennessey to be run by a manager. The Section 182 Guidance to the Licensing Act recommends that the DPS is the person who is responsible for the day to day management of the premises, which is clearly not the case. The police are concerned that, should this application be granted, there may not be any person at the premises at the critical times with any recognised licensing qualification or detailed knowledge of the law and the premises responsibilities. The lack of a DPS in day to day management and control of this premises may also cause issues should there be an increase in crime, disorder or public nuisance issues at this premises as it will be difficult to arrange meetings with Mr Hennessey in the summer season.

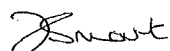
CONCLUSION:

It is the opinion of the police from our vast experience of dealing with licensed premises that those premises where alcohol sales cease at or around midnight occasionally come to the attention of police but generally do not impact on the Licensing Objections. Premises authorised to sell alcohol until 0200 hrs may impact on the licensing objectives, particularly the Prevention of Crime and Disorder and the Prevention of Public Nuisance, but with suitable management and policies in place most of these concerns can be addressed. However, in respect of premises which are authorised to sell alcohol after 0200 hrs the risks significantly increase and, irrespective of any conditions imposed on the licence and good management of the premises by the Premises Licence Holder and DPS, the likelihood of crime, disorder, anti-social behaviour and public nuisance issues is high.

As outlined at the beginning of this representation, numerous complaints have been received by the police in relation to public nuisance issues experienced by a number of local residents and it is apparent that the premises have had a negative impact on the prevention of public nuisance objective. Whilst I am pleased to advise you that no incidents of crime or disorder at the premises have been reported to the police to date, this is not unusual bearing the premises current hours in mind. However, the applicant is seeking to extend the hours for licensable activities until 0300 hrs on Friday and Saturday nights, and this carries a significant risk of impacting on the Licensing Objectives the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

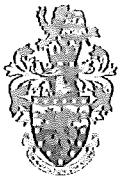
In conclusion, the police object to this application on the grounds that the applicant has not identified sufficient additional measures to support the licensing objectives in accordance with your policy and the granting of this application will impact on the existing levels of crime and disorder and public nuisance both at the premises and in the area. We therefore respectfully request that the Licensing Authority refuse this application.

Yours faithfully



Julie Smart
Police Licensing Officer – Torbay

Julie.smart@devonandcornwall.pnn.police.uk



Devon & Cornwall Police

Mr Ross Hennessey
Premises Licence Holder/DPS
Hennessey Cocktails
2 King Street
BRIXHAM
TQ5 9TF

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

Telephone: 01803 218900

31 October 2018

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.


During the late evening of Saturday 27 October 2018 my Police Licensing Officer, Mrs Julie Smart, attended your premises in the company of Mr Karl Martin (Public Protection Officer of Torbay Council), Sgt Lee Langley, WPC Abigail Seaman and PC Anthony Moore.

On approaching your premises they noticed a large number of persons congregated around the front door of your premises and noise from these persons could be heard some distance away. Mrs Smart is unable to say whether these individuals were waiting to gain entry or using the area for smoking. At this time Mrs Smart could not see any door stewards.



The officers then entered your premises and met with you. Mrs Smart advised you that she had not seen any door stewards at the front of your premises and you then took her to them and introduced her to two stewards. Mrs Smart noted that neither of these stewards was wearing a yellow high visibility jacket.

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I would take this opportunity to remind you of condition 3, under the heading The Prevention of Crime and Disorder, on your Premises Licence, which states:

On every operational day when door supervision is required, SIA door supervisors will be employed in front of house duties. They will wear yellow high visibility reflective clothing for the entirety of their duty.

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

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

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

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully



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



Devon & Cornwall Police

Mr Ross Hennessey
Premises Licence Holder/DPS
Hennessey Cocktails
2 King Street
BRIXHAM
TQ5 9TF

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

Telephone: 01803 218900

18 December 2018

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.

At approximately 2245 hours on the evening of Friday 14 December 2018 my Police Licensing Officer, Mrs Julie Smart, together with Mrs Mandy Guy (Senior Licensing Officer of Torbay Council), PC Haworth and PC Moore attended your premises and met with you.

Mrs Guy identified that there was noise outbreak from your premises whenever the front door was opened. She suggested to you that a lobby may assist and advised you to speak to Mr Karl Martin concerning this issue. Mrs Smart noted that you had a steward on duty however he was not wearing a yellow high visibility jacket as required by condition 3 under the heading The Prevention of Crime and Disorder on your Premises Licence, which states:


On every operational day when door supervision is required, SIA door supervisors will be employed in front of house duties, they will wear yellow high visibility reflective clothing for the entirety of their duty.

Contact the police


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

I would also remind you that this is the second occasion that you have received a written warning about this matter, and this is very disappointing bearing in mind that you only took over as Premises Licence Holder and DPS on or around 6 November 2018.

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

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

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
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Mr Ross Hennessey
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2 King Street
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Licensing Department
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TORQUAY TQ2 5AH

Telephone: 01803 218900

5 March 2019

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.

On 11 February 2019 my Police Licensing Officer, Mrs Julie Smart, received an email complaint concerning the management of your premises. Within that email the complainant indicates that they frequently experience noise disturbance from recorded music which continues within your premises at a high volume until at least 0030 hrs and usually much later. In relation to your customers, the complainant indicates that customers outside smoking or congregating cause a disturbance by shouting and screaming, and there have been fights and people being sick in the road and on doorsteps.

As a result of this complaint, at approximately 2350 hrs on the night of Saturday 17 February 2019, Mrs Smart and Mr Karl Martin (Environmental Protection Officer of Torbay Council) were on duty and stood on the pavement outside the Quayside Hotel in order that they could monitor your premises. At that time they noted that there were several people stood outside your premises, some were smoking, and the rest were milling around. The noise from these individuals could clearly be heard at Mrs Smart and Mr Martin's location. Mr Martin and Mrs Smart noted that a door steward was on

duty and wearing a yellow high visibility jacket. Mr Martin and Mrs Smart also noted that they could hear loud music escaping from your premises, and this was exacerbated whenever the front door of your premises was open, which was a frequent occurrence due to customers entering and exiting. Mrs Smart informs me that, whilst she is not a noise expert, she considered that if she lived in a property along that road and had a window open to allow air to circulate, she is certain that she would be disturbed by the noise from your premises.

Whilst stood at this location, Mrs Smart and Mr Martin also saw two males come out of your premises and go around the corner to an alley which leads to the Hole in the Wall Pub. At this location, these males paused for a few seconds, before they returned to your premises. Mrs Smart and Mr Martin were not able to see what took place between these males but they felt that these males were acting suspiciously and Mrs Smart believes that this may have been a drug deal.

Mrs Smart and Mr Martin remained outside the Quayside Hotel until approximately 0010-0015 hrs and noted that during that time the volume of music was not turned down, they could see customers dancing within the premises and they could hear them singing along to the music.

They then decided to attend your premises in order to discuss the email complaint and their findings with you.

On approaching Hennessey's Cocktail Bar, they noted that there were approximately 10 people outside, including your door steward. They then entered your premises unchallenged. Immediately upon entering a male fell down the internal steps and landed in a heap next to Mrs Smart. Mrs Smart noted that this male's eyes were very glazed and he had to be helped to his feet by other males. Mrs Smart formed the opinion that this male was drunk.

When within your premises Mrs Smart and Mr Martin stood within the premises for a few minutes watching your customers. They noticed that a large number of males had almost full bottles of beer in their hands. Two males to the left of Mrs Smart then commenced shouting and she mentioned to Mr Martin that she felt the atmosphere was volatile. She also told Mr Martin that as there was only one door steward on duty, it would be extremely difficult for him to manage customers outside the premises and, at the same time, keep an eye on the behaviour of customers within.

During this time Mr Martin and Mrs Smart saw a female barmaid hand a glass bottle of beer and a drink in a glass to a male a short distance from them. The barmaid then went to the till and returned to the male, passing him something. Although they could not see if she handed him money, they formed the opinion that a sale of alcohol had taken place.

Mrs Smart and Mr Martin then spoke to you and the three of you went into the kitchen area in order that they could advise you of their concerns. Mrs Smart informs me that within the main public area of your premises it was difficult to hold a conversation due to the level of music being played. Mr Martin spoke to a female member of staff and told her to tell the DJ to stop playing music immediately.

Mr Martin asked you why music was still being played and you told him that you are allowed to play background music after midnight. Mr Martin told you that the level of music he could hear whilst stood in King Street outside the Quayside Hotel, and whilst within your premises, was not at a volume low enough to be considered background music. He also advised you that your Premises Licence requires all recorded music to cease at midnight.

In relation to the noise from your customers whilst outside, Mr Martin told you that you need to speak to your door steward and get him to tell customers to keep the noise down and ensure that there are only 8 outside after 10.00 pm. You told Mr Martin that your customers don't like being told what they can and cannot do outside as it is a public road. Mr Martin suggested that if your customers do not comply with your requests you should ban them due to their lack of co-operation.

Mrs Smart advised you that both herself and Mr Martin believed they had witnessed a sale of alcohol after your last permitted time, ie midnight, and you responded that you had a lot of family members within the premises who do not pay for drinks so it was probably one of them who had been served. You were advised that Mr Martin and Mrs Smart saw the female barmaid go to the till, then return to a male and hand him something, believed to be money.

Mrs Smart then asked you to show her the CCTV footage from 0010 hours that day. You indicated that you did not know how to operate the CCTV system but would try to do so if you could find a mouse. You then disappeared for a short period of time but returned explaining that you could view the CCTV footage on your phone. You then showed Mrs Smart some footage but when she asked to see the time of that footage, she saw that you were showing her from 0017 hrs that morning and not the footage she had requested.

At that time discussions were taking place concerning the fact that Mrs Smart considered that two door stewards were required at your premises due to the number of people present, and that one steward would not be able to monitor both the inside and outside of your premises. You then started showing Mrs Smart footage for other nights when you said that the premises had been very quiet. You told Mrs Smart and Mr Martin that you didn't think the premises would be that busy that night and you thought that one door steward would be adequate. Mrs Smart and Mr Martin told you that you should have a system in place to request a further door steward if your premises gets busy.

Mrs Smart then asked you what the Premises Licence states in respect of glass bottles and you advised her that glass bottles should not be served after 2300 hrs. Mrs Smart asked you why a large number of your customers had almost full bottles of beer but you did not answer this question. Mrs Smart advised you that at 2300 hrs you should ensure that no more glass bottles are served and bottles within the customer area should be cleared away as soon as they are finished to prevent them being used as weapons.

Mrs Smart informs me that at one point during her and Mr Martin's discussions with you, you suggested that if they allowed your premises to stay open for an additional hour this would allow customers to leave gradually thereby alleviating some of the concerns raised. In response to this, Mrs Smart told you that there is no way that either herself or Mr Martin will agree to allow your premises to trade for an additional hour, when you cannot manage the premises in a satisfactory manner during the current permitted hours.

Mr Martin discussed various conditions on the Premises Licence in relation to the prevention of public nuisance with you. You suggested to Mr Martin and Mrs Smart that you could get your smokers to congregate outside the rear exit of your premises and you then showed them a door positioned directly opposite the Hole in the Wall Pub. Mr Martin and Mrs Smart indicated that they would not want your customers smoking outside of another licensed premises as this would cause concern to the management of the Hole in the Wall. Mr Martin and Mrs Smart then concluded their discussions with you.

Mrs Smart has advised me that during the afternoon of Monday 18 February 2019 she was contacted by a police officer from Brixham, who drew her attention to Log 0020 of 16 February 2019 in respect of your premises. This log indicates that a telephone call was received by the police at 0025 hrs on the morning of Saturday 16 February 2019 from a member of the public. This person advised the member of police staff that at the time of their call your premises were playing extremely loud music and this had been going on for the last 3 hours.

Mrs Smart subsequently spoke to this complainant at length concerning the management of your premises. The complainant told Mrs Smart that since you took over at the premises they have been disturbed by extremely loud music until the early hours of the mornings on both Friday and Saturday nights. They have also experienced noise from persons congregating outside your premises throughout the evenings until your premises eventually close in the early hours of the morning.

As a result of Mrs Smart's visit to your premises, and her discussions with the above complainant, on Monday 18 February 2019 she requested that you provide her with 3 pieces of CCTV footage. Mrs Smart advises me that to date this CCTV footage has not

been forthcoming, although you did advise her that she would receive it during the week commencing Monday 25 February 2019.

Mrs Smart informs me that since her visit on 17 February 2019, she was contacted by text message on 23 February 2019 and 2 March 2019 by the complainant she spoke to on Monday 18 February 2019, concerning loud music being played at your premises causing a nuisance.

On Thursday 21 February 2019 Mrs Smart and Mr Martin attended a property some distance away from your premises where the occupant raised various concerns in relation to anti-social behaviour and noise coming from your premises.

On Thursday 28 February 2019 Mrs Smart received an email from another individual concerning your premises, and this relates to loud music, after hours drinking, alleged underage drinking and alleged drug taking/dealing by your customers which is taking place in the vicinity of your premises.

In addition, on Monday 4 March 2019, she received a copy of a document which appears to have been circulated to residents in the vicinity of your premises referring to late night music disturbing residents and guests who are woken up at the weekends by your premises, fights on the pavement and road outside Hennessey's with one person being thrown into the harbour, alleged drug dealing and money passing both outside and inside your premises, smokers shouting in the early hours of the morning, drunken people leaving the premises and disturbing the peace, alleged underage drinking, noise from bottles being emptied into bins in the middle of the night and the alley next to the premises being used as a toilet.

In addition, Mrs Smart has also received an anonymous call from an individual who left a voicemail message for her, indicating that he would not leave his name and address as he was worried that his windows would be put in. However this male indicates that he agrees with everything outlined in the document that he has received and he has witnessed noise and anti-social behaviour linked to your premises on numerous occasions. Mrs Smart believes that this male is referring to the document outlined in the above paragraph and she thinks that this message was left on her phone on Monday 4 March 2019.

I would take this opportunity to remind you that on 31 October 2018 I wrote to you concerning noise, issues with people outside your premises and a breach of a condition contained within your Premises Licence.

I also wrote to you on 18 December 2018 in relation to noise outbreak and Mrs Guy's suggestion that a lobby may prevent this from occurring, and again in relation to a breach of a condition contained within your Premises Licence.

It is therefore extremely disappointing that we have received further complaints regarding noise from your premises and further breaches of conditions contained in your Premises Licence, in relation to glass bottles and your failure to provide the CCTV footage requested by Mrs Smart.

I would take this opportunity to remind you of condition 1, under the heading The Prevention of Crime and Disorder, on your Premises Licence, which states:

All drinks will be served in shatterproof glasses and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink after 2300 hrs.

Condition 2 under the heading The Prevention of Crime and Disorder on your Premises Licence, states:

CCTV must be installed on the premises to include a recording monitor behind the servery. Such CCTV system must be maintained and used throughout the licensing hours. Recordings will be kept for a minimum of 14 days during which they will be available to the police at any reasonable time.

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

I am not prepared to tolerate poorly managed premises, particularly those that impact on the lives of individuals who live within the vicinity of troublesome premises. I must therefore advise you that should further concerns come to my attention I will seek a Review of your Premises Licence, but I hope that this will not be necessary.

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

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

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J Hawley', with a stylized flourish at the end.

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

