

## Taunton Deane Borough Council

**Minutes of the Licensing Sub-Committee Hearing for a review of the Premises Licence for Taunton Food and Wine, 60 Bridge Street, Taunton held on Wednesday, 4 January 2017 at 11.25am in Committee Room 2 at The Deane House, Belvedere Road, Taunton, TA1 1HE.**

**Following an adjournment, the Sub-Committee reconvened at 10.00am on Monday, 16 January 2017 in the John Meikle Room at The Deane House, Belvedere Road, Taunton TA1 1HE.**

### **Attendance at both meetings:-**

**Present:** Councillor James (Chairman)  
Councillors Mrs Hill and Hunt.

**Officers:** Alison Evens (Licensing Officer), Lesley Dolan (SHAPE Legal Services), Andrew Randell (Democratic Services Officer) and Clare Rendell (Democratic Services Officer).

**Premises Licence Holder:** Mrs Yuseinova, Michael Parrott (Licence Holder's Solicitor), Vladimir Trentchev (Interpreter) and Hasaan (Employee).

**Applicant:** Inspector James Carey (Avon and Somerset Constabulary).

**Interested Parties:** Nicola Cooper (Area Licensing Practitioner, Avon and Somerset Constabulary), P C Gary Pethick (Avon and Somerset Constabulary) and Jay Capel (Trading Standards Officer).

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents, he explained the procedure to be followed during this meeting of the Sub-Committee.

The Legal Officer gave a statement on behalf of the Sub-Committee seeking the adjournment of the hearing. The reasons given were the lack of formal translation of the papers, which were not available until the morning of the hearing; and the Premises Licence Holder (PLH) had not had time to appoint a solicitor to represent them. The Sub-Committee raised grave concern that the PLH did not have a good understanding of the English language and decided in the interest of justice and fairness to adjourn the hearing.

Both the Applicant and PLH were asked if the adjournment was acceptable and they both accepted that it would be appropriate to adjourn the hearing.

The Sub-Committee advised the date for re-convening the hearing would be Monday 16 January 2017 at 10.00am.

The meeting was adjourned at 11.40am.

The meeting re-convened at 10.05am in the John Meikle Room at The Deane House.

The Chairman again introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents, he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced her previously circulated report. An application had been received from **Inspector Carey of Avon and Somerset Constabulary** for a review of the Premises Licence of **Taunton Food and Wine, 60 Bridge Street, Taunton**.

The grounds for the review were based on incidents, meetings and intelligence received since April 2016 that demonstrated poor management and a lack of understanding of the Licensing Act 2003.

The Police were seeking full revocation of the Premises Licence on the grounds that the PLH and Designated Premises Supervisor (DPS) were not suitable to be in control of the premises and they had appeared to have a disregard for the law and an inability to interpret it.

There was an incident on 7 May 2016, whereby the PLH had purchased stolen alcohol. This had resulted in the PLH being charged with handling stolen goods.

The Police had received intelligence from Trading Standards that there had been accusations that alcohol had been sold to children between April and July 2016. Trading Standards had carried out test purchases on two separate occasions and neither volunteer had been asked for proof of age in line with the 'Challenge 25' Policy.

The Police reported concerns over the PLH's lack of ability to understand English and in turn their ability to ask customers the appropriate questions for age identification.

The Police also reported that the PLH had been unable to produce staff training records when requested and that a member of staff had informed the Police that they had not received any training.

The PLH had been offered training seminars with Trading Standards and had not made use of this offer.

The Licensing Officer had done her best to translate the paperwork for the PLH and had advised them to seek legal advice for the hearing.

The Applicant did not ask any questions following the Licensing Officer's report.

The PLH did not ask any questions following the Licensing Officer's report.

The Interested Parties did not ask any questions following the Licensing Officer's report.

The following questions and statements were asked by the Sub-Committee of the Licensing Officer (Responses are shown in italics):-

- For clarity please explain what were the legal requirements to be able to sell alcohol?  
*The legal requirements were to hold a Premises Licence, Personal Licence and have a registered DPS.*
- To confirm a statement on Appendix 3, did the DPS have to be present on the premises at all times?  
*No, as long as there was a registered DPS on the licence, alcohol could be sold when they were not present, but if there was an incident when they were not present, it would still be their responsibility.*

The Applicant (Avon and Somerset Constabulary) presented their case to the Sub-Committee. The following comments and points were presented in relation to their report:-

- The main concerns associated with the premises were prevention of crime and disorder and protection of children from harm which subsequently undermined public safety and public nuisance.
- Another concern raised was that the premises remained open later than others in the town. The operating hours were 8am to 1am Sunday to Thursday and 8am to 4am Friday and Saturday.
- The premises had come to the Police's attention when a known shoplifter had entered the premises suspected of selling stolen alcohol to the PLH. During the investigation, the Police had seized 62 bottles of alcohol with notable damage to the foil lid, with a value of approximately £1200. When interviewed, Mr Yuseinova admitted that the alcohol was probably stolen and he had instructed his wife, the PLH, to purchase it. The Police believed that this alcohol was intended for sale or had been sold from the premises, which encouraged criminal activity.
- The PLH and her husband, Mr Yuseinova, appeared in Court on 5 September 2016 and had been charged accordingly. They were found guilty under schedule 22 of the Theft Act 1968 for handling stolen goods. Both parties pleaded guilty and were fined £250 with £250 costs and a victim surcharge of £30. This was a relevant offence as determined under Schedule 4 of the Licensing Act 2003.
- The PLH failed to notify the Magistrates that she was a PLH, which she was legally obliged to do and she could face further prosecution because of this.
- Trading Standards had passed on intelligence to the Police that between April and July 2016 the premises had sold alcohol to children without checking identification (ID). The Premises Licence had a requirement for a 'Challenge 25' Policy to be in place, but mystery shoppers under the age of 25 had evidence this was not the case.
- The Police raised concerns that both the PLH and her husband were unable to converse with customers in English, so they were unable to ask the appropriate questions and ask for ID. They were very concerned therefore that the PLH was unable to fulfil her role and responsibilities with regard to the protection of children.
- The Police had used 'Language Line' (English into Bulgarian) to explain that they were submitting an application to review the Premises Licence. They explained that this was due to the following:-
  - The CCTV system that had been installed had the incorrect date and time and the staff did not know how to operate it.
  - The 'Challenge 25' Policy was not implemented and staff were not aware of the acceptable types of proof of ID.
  - The Refusals Register was not implemented or audited by the DPS.
  - The PLH had not ensured that staff were aware of the social and legal obligations and their responsibilities regarding the sale of alcohol. The Police were unable to locate any evidence of staff training.
- Despite continued efforts to engage with both the PLH and her husband, the language barrier had prevented any constructive dialogue and the Police felt that every effort had been made to assist compliance, but without success.
- In addition to the difficulties communicating with the PLH and her husband, the Police had sensed an attitude of complacency to the extent that further consultation might have only delivered an improvement to a limited degree. They appeared to have a blatant disregard for the law and did not appear to be concerned that their licence was under review.
- This was the first time in several years that the Police had called for a licence review. This outlined the seriousness of the case and sent out a clear message that they would take action against licence holders who breached the conditions of their licence and did not promote the licensing objectives.
- The Police asked for the revocation of the licence as the PLH and DPS were not suitable to be in control of the premises. Neither removal of the DPS nor the imposition of the conditions would allay their concerns.

The Licensing Authority did not ask any questions of the Applicant following the presentation of their case.

The PLH's Solicitor asked for clarity on the following points (Responses are shown in italics):-

- When intelligence was received relating to the alleged underage sale of alcohol, did an enquiry or investigation take place?  
*This was passed to the Trading Standards Officer to answer during their statement.*
- During the Criminal Court case, there was a full admission of the offences and both the PLH and her husband pleaded guilty?  
Yes
- Have the Police seen the refused sales book? The document was presented for the Sub-Committee and Interested Parties to view during the hearing.  
*No but they would view it during the recess.*

The following questions and statements were asked by the Sub-Committee of the Applicant (Responses are shown in italics):-

- Concerns had been raised about the language barrier, but were any language checks carried out by Sedgemoor District Council, who had issued the Premises Licence, before it was issued?  
*There was no legislation that stated the Authority had to carry out language checks prior to issuing any licence.*
- With regard to the prosecution for stolen goods, which seals on the bottles were damaged? Was it the security seals or the contents seals?  
*The security tags had been forcibly removed. The contents had not been damaged.*
- In the report it was mentioned that staff training records had not been kept. Was this a legal requirement or a measure of good practice?  
*It was a condition on their licence and a measure of due diligence.*
- When the case went to Court with regard to the alcohol, was the PLH convicted in respect of the 62 bottles found or were they convicted based on the CCTV footage of the suspected shoplifter visiting the premises?  
*Initial conviction was based on the CCTV footage and then further searches were carried out on the premises which led to the Police seizing the 62 bottles.*
- Were the bottles from the same source?  
*The Police assumed they were based on Mr Yuseinova's response when he was questioned. He had admitted buying the alcohol from the same man caught on the CCTV footage prior to that date.*

The Legal Representative of the Sub-Committee did not ask any questions of the Applicant following the presentation of their case.

The Technical Witness for Trading Standards had submitted their statement to the Sub-Committee.

The following questions and statements were asked by the PLH's Solicitor of the Technical Witness for Trading Standards (Responses are shown in italics):-

- How did Trading Standards hear about the underage sale of alcohol on the premises? Was it based on intelligence received?  
*On the first occasion it was a colleague's daughter that had been sold alcohol and on the second occasion it was a colleague from the Licensing Department.*

- Were any direct enquiries carried out or was the investigation based on the intelligence received?  
*No, the investigation was carried out based on the intelligence received and then followed up with test purchases.*
- Were the test purchasers over the age of 18 years old?  
*Yes. Mystery shoppers were used to test the policies adopted by the PLH to check for ID. The 'Challenge 25' was recommended by Trading Standards and was usually adopted by premises. The test purchase, which was carried out in September 2016, used a volunteer who was 16 years old.*

The Licensing Authority did not ask any questions of the Technical Witness for Trading Standards following the presentation of their case.

The following question was asked by the Sub-Committee before proceeding on to the PLH's statement (Responses are shown in italics):-

- Were there any outstanding issues about the premises?
  - *The Police stated the Court had advised the Licensing Authority that the PLH had been convicted.*
  - *The Police had visited the premises to issue the review papers. Whilst at the premises they had discussed staff training with one of the employees, Saleen, who confirmed she had not received any training. When asked what age should she ask for ID, Saleen said 18. No age policy had been adopted and, as such, the PLH was in breach of her licence, as one of the conditions was to adopt the policy of 'Challenge 25'.*

The following comments and points were presented by the PLH's Solicitor:-

- The Solicitor agreed the process to obtain a licence was too straight forward.
- They were aware that the investigation into selling stolen alcohol had started the review and was followed up with information received by Trading Standards which related to the underage sale of alcohol.
- The PLH was aware that the 'Challenge 25' Policy should have been used but accepted that they were in breach.
- Unfortunately in licensing terms, when advised in detail of the review process and guidance issued, they would take into consideration the degree of warnings that had been issued and the training was offered and not taken heed of. The PLH thought this had only related to the staff who no longer worked for her.
- On a positive note, Hasaan and Saleen, intended going on the training course offered by Trading Standards as they spoke good English and this was in response to the review.
- Matters were now moving in the right direction, except for the conviction, which was a notifiable offence under the Licensing Act 2003. Mr Yuseinova was honest when admitting the offence, so they had learnt their lesson and there was no repeat action in respect of this.
- Training records and refused sales log had been found and were being recorded. The Police had been made aware of this.
- CCTV had been upgraded and was giving good coverage and had been inspected.

The following questions and statements were asked by the Licensing Officer of the PLH following presentation of their case (Responses are shown in italics):-

- Was the PLH aware she was responsible for every sale of alcohol?  
*Yes.*
- When she was on holiday, she should have made staff aware of policies to adhere by?

*Yes that was correct.*

The following questions and statements were asked by the Applicant (Police) of the PLH following presentation of their case (Responses are shown in italics):-

- Concern was raised about the PLH's understanding of the fact she was responsible for the sale of alcohol.
- Free seminars were offered and had been declined. What were the reasons for this?  
*The member of staff who was due to attend had left before the seminar took place, so the PLH would not have understood the seminar. She was planning on her staff to translate for her.*
- Would the PLH go on further training to understand the licensing laws?  
*Yes she would.*
- Did the PLH understand the licensing laws? Could she give a brief outline of what was expected of her?  
*Alcohol should not be sold to underage or intoxicated people.*
- What were her responsibilities when it came to her employees?  
*Employees should follow the same procedures as her.*
- Did the PLH know what the four licensing objectives were?  
*No.*
- What training had been given?  
*Instruction had been given about serving underage and intoxicated people, not to allow customers to drink on the premises and to ask for ID.*
- Did the PLH have written training notes? (These should be kept and audited)  
*No.*
- When the Police visited the premises they asked Saleen, an employee, what training had been given and she had confirmed no training had been received.
- The Police had given the PLH a chance to change the DPS and she had not done so.
- What would happen if staff left?

At this point the Chairman stopped this line of questioning, as they were dealing with the current situation and these questions were looking into the future.

The following questions were asked by the Technical Witness for Trading Standards of the PLH following presentation of their report: (Responses are shown in italics):-

- Free training had been offered, why had they not responded to the offer?  
*At the time the package was offered, the staff translator had left.*
- The training package was an online computer package so could be used at any time.  
*The PLH had not understood the seriousness of the matter and believed this was a misunderstanding.*

The following questions were asked by the Legal Representative for the Sub-Committee of the PLH following presentation of their report: (Responses are shown in italics):

- Before the PLH moved to Taunton, what experience in the licensing industry did they have?  
*None.*
- What else did she sell other than alcohol?  
*Cigarettes and energy drinks.*
- The premises was called Taunton Food and Wine, what food did she sell?  
*None, they had inherited the name from the previous owners.*

The following questions were asked by the Sub-Committee of the PLH following presentation of their report: (Responses are shown in italics):-

- Concern was raised about children in harm and the training given in challenging underage customers. This was thought to be one of the most important conditions on the licence.
- Although staff were due to attend the training, when would the PLH go on the training course?  
*The PLH would be attending the course in February along with their staff.*
- Had they received any training on being able to tell the difference between an intoxicated person and a person who might be suffering with a condition that would make them appear intoxicated?  
*No but she could tell the difference.*
- Had they received any training on dementia or Alzheimer's?  
*No and she would not be able to tell if a customer had one of the conditions, but she knew all of her customers as they were regulars.*
- Would there be an English speaking member of staff on the premises at all times?  
*Yes.*
- Where was Mr Yuseinova today?  
*He was in the shop working.*
- Would there be any occasions when there would not be an English speaking member of staff working?  
*Possibly due to staff sickness.*
- How would the PLH ask for ID? Please could she demonstrate to the Sub-Committee?  
*'Give me ID please'.*
- What type of ID was required?  
*The PLH could not answer.*
- Did both the PLH and her husband take the test for a Personal Licence?  
*Yes they did.*
- What happened to Mr Yuseinova's exam papers?  
*He passed the exam but Sedgemoor did not issue him with the certificate.*

The following questions were asked by the Legal Representative for the Sub-Committee of the PLH following presentation of their report: (Responses are shown in italics):-

- Had you considered taking an English language course?  
*Yes I had planned on doing so.*
- When and where?  
*At the end of January in Taunton.*
- Would it have been beneficial to undertake the course sooner?  
*Yes.*

The following questions were asked by the Applicant of the PLH following presentation of their report: (Responses are shown in italics):-

- How many English speaking staff did you employ?  
*Two.*
- What shifts did they work?  
*Both day and evening.*
- The premises were open from 9am to 1am. Did they work all day? Did they have days off? What coverage was there?  
*Yes they had days off and worked shifts not all day.*
- This would mean there was not someone there during all of the opening hours?  
*They could not hire more staff due to their financial situation.*

- For example, what hours was Saleen due to work today?  
*9am to 1pm.*
- What hours was Hasaan due to work today?  
*1pm to 5pm.*
- So today the premises were due to be open from 9am to 1am and there were 8 hours when there would be no English speaking member of staff working?  
*Yes that was correct.*

The Chairman suspended the hearing for a comfort break at 11.50am and returned at 12.00pm.

### **Closing Statements**

The PLH's Solicitor made a brief closing statement to the Members of the Sub-Committee:-

- Revocation of the licence was the final stage and would have serious repercussions as the licence holder would lose their business and livelihood.
- They had hoped that the Sub-Committee would suspend the licence to allow time for them to change the DPS and undertake the relevant training with the understanding that things were moving in the right direction.
- After a recent visit to the premises, the PLH had adopted the 'Challenge 25' Policy and the volunteer used to carry out a test purchase was asked for ID.

The Licensing Authority made a brief closing statement to the Members of Sub-Committee:-

- Concern was raised that the PLH still had no clear understanding of the licensing objectives.
- After several attempts to assist the PLH, they were still not proactive in gaining knowledge, they queried whether they were going on the training because they had been told to or because it would better their situation.

The Technical Witness for Trading Standards made a brief closing statement to the Members of Sub-Committee:-

- She felt that all the training could have been dealt with prior to this review being requested.
- Concern was raised about their trading hours and that they still did not have an English speaking member of staff on the premises for the majority of their opening hours.

The Applicant made a brief closing statement to the Members of Sub-Committee:-

- They had made several attempts to communicate with the PLH to assist in meeting the conditions of their licence.
- Following on from the prosecution of the notifiable offence, Mr Yuseinova had been declined his personal licence.
- With regard to Sections 11.18 and 11.19 of the licence, it stated the role of the Licensing Authority when determining a review and made it clear it was not their role to determine guilt or innocence of the PLH, but to ensure the promotion of the crime objectives and that all Responsible Parties were using the review process effectively to deter such activities of crime.
- When the crime objectives were being undermined through the premises being used to further crime, it was expected that revocation of the licence should be seriously considered.
- Submission of matters discussed in the review had highlighted their concerns around crime and disorder attributed to the premises.
- Safeguarding aspects had been raised and was a serious concern.



- Free training had been offered on several occasions and still not been undertaken.
- There was continued concern over the lack of understanding of the licensing laws by the PLH and the ability to understand what was expected of her and her staff.
- They had constantly tried to assist the PLH with little cooperation.

The Sub-Committee Members retired at 12.10pm

The Sub-Committee Members returned at 12.50pm

### **The Sub-Committee Decision**

The Legal Representative for the Sub-Committee read out the following decision:-

“The Sub-Committee had listened very carefully to everything that had been said to them today by the Police, Trading Standards and the PLH.

Their main concern was the lack of understanding of the English language and the fact there was no understanding of the licensing objectives or their responsibilities.

The Sub-Committee had taken into account the convictions in respect of receiving stolen goods, which were relevant convictions under the Licensing Act 2003.

They had also taken into account that there was a failure to operate the ‘Challenge 25’ Policy and failure to understand their responsibility for underage sales.

They were concerned about safeguarding aspects which in turn lead into the objective of protecting children from harm.

They were also concerned that when questioned closely about the operation of the premises, staff and staff shifts, there was clearly a different position revealed to that which had been stated to the Sub-Committee.

There was a concern that if there were any changes to the legislation, that there would be no understanding or implementation of them.

And so in regard to all of those matters and taking into account all that had been said, it was the Sub-Committee’s view that the licence should be revoked with immediate effect.

The Sub-Committee said they had considered whether a suspension of the licence would have been appropriate and the view was that the three months available to suspend would not have been sufficient to allow the PLH to undertake all the relevant training.

However, there was nothing to prevent the PLH coming back in suitable time to demonstrate to all the authorities that she had grasped a suitable level of understanding of the English language to operate a licensed premises and trained staff accordingly.

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates’ Court within 21 days following notification of the decision.

The Chairman declared the meeting closed.

(The meeting closed at 12:55pm)

## Taunton Deane Borough Council

**Minutes of the Licensing Sub-Committee Hearing to consider the fitness and propriety of Taxi Driver A to hold a Private Hire/Hackney Carriage Drivers Licence, held on 31 January 2017 at 11.40am in Committee Room Two at The Deane House, Belvedere Road, Taunton, TA1 1HE.**

**Present:** Councillor Miss K Durdan (Chairman)  
Councillors G James and Mrs A Gunner

**Officers:** Mark Banczyk-Gee (Licensing Officer), Robert Mackay (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

**Applicant:** Taxi Driver A and Colleague

**Other:** None

(The meeting commenced at 11.40am)

The Chairman introduced herself and her fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents she explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. The hearing was to consider the fitness and propriety of Taxi Driver A to hold a Private Hire/Hackney Carriage Drivers Licence, authorised by Taunton Deane Borough Council, in light of his behaviour during a road traffic incident on 20 September 2016. This was in respect of his driving but also his attitude and demeanour, which officers believed had brought his fitness and propriety into question.

The Legal Representative for the Sub-Committee informed the Applicant that he had advised the Members not to watch the footage that had been recorded of the incident until the Applicant was present in the room.

The Licensing Officer presented the footage from the dash cam located on the lorry involved in the incident.

A summary of events and interviews were given during the Licensing Officer's report.

The Applicant presented his case to the Sub-Committee.

During the proceedings various questions were asked of Driver A by Members of the Sub-Committee, the Council's Legal Representative and the Licensing Officer. Driver A was also given the opportunity to ask questions.

### **Closing Statements**

The Applicant made a brief closing statement to the Members of the Sub-Committee.

The Sub-Committee Members retired at 12.50pm.

The Sub-Committee Members returned at 1.45pm.

### **The Sub-Committee Decision**

The Chairman of the Sub-Committee read out the following decision:-

“This was a really hard decision to make and, purely based on the Applicant’s behaviour, the Sub-Committee had decided to revoke the licence.

The Council’s Legal Representative read out the following:-

“There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates’ Court within 21 days following notification of the decision.

The decision notice would be issued on the same day or the following day and would give more detail on the explanation for the revocation.”

The Chairman declared the meeting closed.

(The meeting closed at 1.55pm)