

Ms Hardcastle
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 21 November 2022
Our Ref: 2022/03166/LICREP/EH
Phone: 01273 292494

e-mail: donna.lynsdale@brighton-hove.gov.uk

CH CON ENDS 21.11.2022 VALID PCH, PCD, PPN and PS (A)

Dear Ms Hardcastle

Licensing Act 2003

Representation in support of an application by Sussex Police seeking a review of the Premises Licence: 2022/03670/LAREV for Yelken, 109 St James's Street, Brighton BN2 1TH

I write to make a representation on behalf of the Council's Licensing Team, in their capacity as a responsible authority, in relation to the above application made by Sussex Police seeking to review the Premises Licence for the Yelken, 109 St James's Street, Brighton BN2 1TH.

This representation is made as the Licensing Team have concerns that the licensing objective of the Prevention of Crime and Disorder, Prevention on Public Nuisance, Public Safety and the Protection of Children from Harm are not being upheld.

Following a visit carried out by Police Licensing during the citywide Pride event held between 5-7 August 2022. As part of their visit, they found that the premises were breaching their licence conditions by selling alcohol for consumption 'off' the premises, allowing vertical drinking and for alcohol to be consumed without customers having a meal. On 17 August 2022, I wrote to the premises. A copy of this email is attached as Appendix A.

On 9 September 2022, a further visit was made to the premises, where a full licensing inspection was carried out. On 18 October 2022, I again wrote to the premises. A copy of this email is attached as Appendix B.

To date neither of the emails have been acknowledged or responded to by the Premises Licence Holder.

It is my opinion that the premises are poorly run, there are breaches of the premises licence and the licensing objectives are not being upheld. I have no confidence in the Mr

Algun or any others involved in running of the premises to operate responsibly. I believe if the premises licence remains in place, there will be further problems occurring at the venue.

In the circumstances, I fully support the application of Sussex Police seeking the revocation of the premises licence and consider that this is necessary to ensure that the licensing objectives of the Prevention of Crime and Disorder, Prevention on Public Nuisance, Public Safety and the Protection of Children from Harm are met.

Yours sincerely

REDACTED

Donna Lynsdale
Licensing Officer
Licensing Team

Appendix A – Copy of email sent to premises dated 17 August 2022

Appendix B - Copy of email sent to premises dated 18 October 2022.

Appendix A – Copy of email sent to premises dated 17 August 2022

From: Donna Lynsdale

Sent: 17 August 2022 16:35

To: REDACTED

Cc: Brighton.Licensing@sussex.police.uk

Subject: Yelken, 109 St James's Street, Brighton BN2 1TH - 2022/02298/LICPRM/EH

Importance: High

Dear Ali Algun

Licensing Act 2003 – Unauthorised Licensable Activities

Yelken, 109 St James's Street, Brighton BN2 1TH

Premises Licence Number: 1445/3/2021/01152/LAPREN

I am writing you as the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises.

I write following a visit carried out by Police Licensing during the citywide Pride event held between 5-7 August 2022.

As part of their visit they found that you were selling alcohol for consumption 'off' the premises, allowing vertical drinking and for alcohol to be consumed not ancillary to a main meal which your premises licence **DOES NOT** permit. There was no Temporary Event Notice in place and there was no statement (known as a Section 172F statement) to show that you

had notified Brighton & Hove City Council Licensing that you were taking advantage of temporary permissions under the Business and Planning Act 2020.

However, as your premises licence was only granted in May 2021, you do not qualify under the Business and Planning Act 2020 to carry out any **'off-sales'**.

Below are their findings and details of breaches of your premises licence conditions:

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premises.

- Part A of the licence was not fully available on the day of the visit.
- Part B was not correctly on display.

The holder of the licence must ensure that Part B of the licence, or a certified copy of it, is prominently displayed at the premises. Part A of the licence (with conditions) must be available on request by licensing officers from the council or Sussex Police.

Annex 2 – Conditions consistent with the Operating Schedule

General:

1. Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only. There will be no vertical drinking at any time.

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

- (1) A Person commits an offence if –
 - (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - (b) he knowingly allows a licensable activity to be carried on.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Irrespective of the permission's and restrictions attached to any premises licence, all licensed premises are required to operate with regard to the 4 licensing objectives, which are;

- o The Prevention of Crime and Disorder
- o Public Safety
- o Prevention of Public Nuisance
- o Protection of Children from Harm

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Warning** in accordance with our Licensing Enforcement Policy.

A copy of this email has also been sent to Police Licensing.

If you have any questions regarding the above, please do not hesitate to contact me.

Regards

Donna Lynsdale | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing), Safer Communities
Brighton & Hove City Council, 2nd Floor, Bartholomew House, Bartholomew Square,
Brighton BN1 1JP
T 01273 292494 | donna.lynsdale@brighton-hove.gov.uk

Appendix B - Copy of email sent to premises dated 18 October 2022

From: Donna Lynsdale

Sent: 18 October 2022 17:24

To: REDACTED

Cc: Brighton.Licensing@sussex.police.uk

Subject: Yelken, 109 St James's Street, Brighton BN2 1TH - 2022/02298/LICPRM/EH

Dear Ali Algun

Licensing Act 2003

Yelken, 109 St James's Street, Brighton BN2 1TH

Premises Licence Number: 1445/3/2021/01152/LAPREN

I am writing you as the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises.

I write following a visit carried out by Police Licensing on 9 September 2022.

Below are their findings and details of breaches of your premises licence conditions:

Annex 2 – Conditions consistent with the Operating Schedule

For the Prevention of Crime and Disorder:

3. (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System

(PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. The system shall be on and recording at all times the premises licence is in operation.

- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days
- (d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police e.g. USB) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable. [They advised that the CCTV was approximately 20 minutes slow, the CCTV didn't cover the internal seating area in its entirety, and you were unable to show 31 days' worth of CCTV or any previous days.](#)

For the Prevention of Public Nuisance:

5. Notices will be displayed asking all to leave the premises quietly and to have respect for local residents and other premises.

[The notice was in an inappropriate position. Please ensure you comply with the condition above.](#)

For the Protection of Children from Harm:

6. (a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- * The lawful selling of age restricted products
- * Refusing the sale of alcohol to a person who is drunk

(b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.

(c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

[There was no documented initial or refresher training.](#)

7. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official

Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

8. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.

There was only 1 CH25 poster on display which was not clearly visible. Please ensure you comply with the above condition 'will be displayed in prominent locations in the premises'.

The above breaches are very disappointing. Especially as I had previously provided you with all the documents etc. to comply with your conditions. However, you clearly had not utilised them.

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

(1) A Person commits an offence if –

(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or

(b) he knowingly allows a licensable activity to be carried on.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Irrespective of the permission's and restrictions attached to any premises licence, all licensed premises are required to operate with regard to the 4 licensing objectives, which are;

- o The Prevention of Crime and Disorder
- o Public Safety
- o Prevention of Public Nuisance
- o Protection of Children from Harm

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Final Warning** in accordance with our Licensing Enforcement Policy.

A copy of this email has also been sent to Police Licensing.

If you have any questions regarding the above, please do not hesitate to contact me.

Regards

Donna Lynsdale | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing), Safer Communities
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