

Appendix A - Breach of Conditions Letter sent – 14.11.2019.



Safer Communities – Licensing Team
Bartholomew House
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Brighton
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Malarmathy Tharmaseelan
REDACTED

Date: 14 November 2019
Our Ref: 2019/22819/LICCON/EH
Phone: 01273 292494
Email: donna.lynsdale@brighton-hove.gov.uk

Dear Sirs

Licensing Act 2003 – BREACH OF CONDITIONS
Happy Shopper, 6-8 Upper Bevendean Avenue, Brighton BN2 4FF
Premises Licence Number: 1445/3/2016/01244/LAPREN

I am writing to you in your capacity as the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises concerning breaches of your premises licence conditions.

On 10 October 2019 an underage test purchasing operation was carried out where your premises sold alcohol to a minor. At the time I also carried out a full Licensing Inspection. Below are my findings and details of breaches of your premises licence:

Part A of your premises licence was not available, and only one page of Part B was on display.

Section 57- Duty to keep and produce licence of the Licensing Act 2003 states:

- (2) The holder of the premises licence must secure that the licence or a certified copy of it and a list of any relevant mandatory conditions applicable to the licence are kept at the premises in the custody or under the control of—
- (a) the holder of the licence, or
 - (b) a person who works at the premises and whom the holder of the licence has nominated in writing for the purposes of this subsection

Annex 2 – Conditions consistent with the Operating Schedule

The Prevention of Crime and Disorder:

1. 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



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premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

2. The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
3. CCTV footage will be stored for a minimum of 31 days.
4. 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. A member of staff must be present at all times who can operate the system and supply copies of these images on request to either Police, Council or other authorised Officer.

You did not know how to operate the system. You informed us that you would need to get in touch with the company who installed to show you how to operate.

5. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

CCTV time was 6 minutes behind.

6. Subject to Data Protection 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 for the police without difficulty or delay and without charge to Sussex Police.

You did not know how to operate the system. You informed us that you would need to get in touch with the company who installed to show you how to operate.

7. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises and any refusals of alcohol. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made at any of the bars/point of alcohol service e.g. for intoxication, will also be recorded in writing.

There was no Incident Log.

9. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.
10. No beers, lagers or cider with an ABV content exceeding 6% will be sold other than premium speciality bottled beer, lager, or cider.

You had on sale Lambrini Perry 6.8% 75cl and 1.5L bottles. You were advised to remove. You advised that you would take them to your other premises:

11. The storage room shown on the plans will not be used for the display of alcohol to the public and the public will not be admitted to the storage room.

The door of the storage room was wedged open with boxes of alcohol were on display.

12. This licence will not come into effect until the licence No. 1445/3/2010/00287/LAPREN for 8 Upper Bevendean Avenue is surrendered.

For the Protection of Children from Harm:

13. 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.
14. Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.
15. 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 Brighton & Hove Weights & Measures Officers upon request.
No training records were documented or available. The member of staff who sold the alcohol had received no training, and you informed us that he had only been working at the premises for approximately half an hour. You were also unable to tell us his name, and advised that we could call him 'Dennis'.
16. 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, driving licences with a photograph or proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.
17. Signage advertising the "Challenge 25" policy will be displayed in prominent locations inside the premises.
Premises only had a couple of self-edged Challenge 25 signage.
18. The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book shall be available upon request to police staff, local authority staff and Weights and Measures officers.
No Refusals Register was used. You had an electronic system on the till, but you did not know how to use or show any refusals.

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 legislations states that:-

- (1) A Person commits an offence if –
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
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 which includes, issuing of formal warnings, followed by potential prosecution. 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.

Please contact me if you wish to discuss the contents of this letter.

Yours faithfully

REDACTED

Donna Lynsdale
Licensing Officer
Licensing Team

c.c. Manager, Happy Shopper, 6 - 8 Upper Bevendean Avenue, Brighton BN2 4FF
c.c. Brighton Police Licensing Office (via email)