

## Appendix C - Breach of Conditions email sent – 29.01.2021

**From:** Donna Lynsdale

**Sent:** 29 January 2021 16:02

**To:** REDACTED; Mathy Thar <REDACTED >

**Cc:** Brighton.Licensing@sussex.pnn.police.uk

**Subject:** FINAL WARNING - Happy Shopper, 6-8 Upper Bevendean Avenue, Brighton BN2 4FF - 2021/22587/LICCON/EH

**Importance:** High

Dear Malarmathy Tharmaseelan

**Licensing Act 2003 - BREACH OF CONDITIONS – FINAL WARNING**  
**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 following a Licensing visit carried out by Sussex Police on 26 January 2021.

They have advised on the below breach of conditions of your Premises Licence, which states:

### **Annex 2 – Conditions consistent with the Operating Schedule**

#### **The Prevention of Crime and Disorder:**

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.  
*No incident book could be located or produced. On my previous visit the incident book at no entries, nor had it been signed off by the DPS (which should be done at least once a week). A breach of conditions letter was sent following this visit.*
9. No beers, lagers or cider with an ABV content exceeding 6% will be sold other than premium speciality bottled beer, lager, or cider.  
*Premises had Lambrini on sale which is a Perry (Pear Cider) and above 6% ABV. This has also been brought to your attention on previous visits.*
10. 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 to the store room was open with customers able to access, and alcohol could be seen inside. Again, this has been raised with you on previous visits, and warnings issued.*

#### **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.

At the time of the visit, training records for 3 members of staff were located. The most recent training record showed that it occurred in 2019 and related to the staff member seen working in the store at the time of the visit. The other two records were older and no record of any refresher training could be found.

Below are my findings on my previous visit, following this visit a warning letter was sent.

Training records were available for two members of staff. You have addition staff working at the premises where no records were available, one of which was working at the time of our inspection. There was also no records of reinforcement/refresher training documented as per your condition above – which should be carried out every eight weeks.

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.

The refusals log was located. It had four entries since the last visit over 12 months ago and none of the entries had any details other than date. There were entries from DPS, but not enough to evidence that the refusals book checked every 4 weeks.

Below are my findings on my previous visit, following this visit a warning letter was sent.

The Refusals Register had one entry, which was 23/01/2020. The previous entry 03/01/2020 was PC Hancox during her inspection.

Above condition, states 'shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant'. This had not been done.

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 –**

**(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 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.

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

Please note that myself and Police Licensing will be monitoring your premises, and can advise you that further enforcement action is being considered.

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

Should you wish to discuss this further, please contact me on the below telephone number.

Yours sincerely

**Donna Lynsdale** | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing), Safer Communities  
Brighton & Hove City Council, 2<sup>nd</sup> Floor, Bartholomew House, Bartholomew Square, Brighton BN1 1JP  
T REDACTED | M REDACTED | [donna.lynsdale@brighton-hove.gov.uk](mailto:donna.lynsdale@brighton-hove.gov.uk)

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**Use soap and water or a hand sanitiser when you:**

- Get home or into work
- Blow your nose, sneeze or cough
- Eat or handle food



#### **Protect yourself & others**

For more information go to [nhs.uk/coronavirus](https://nhs.uk/coronavirus)

