

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Bungay Room,
Riverside, on **Wednesday, 03 May 2023 at 2:00 PM**

Members of the Sub-Committee present:

Councillor Alison Cackett, Councillor Andree Gee, Councillor Keith Robinson

Officers present: Martin Clarke (Licensing Manager and Housing Lead Lawyer), Leonie Houlton (Licensing Officer) Jemima Shaw (Trainee Solicitor), Alli Stone (Democratic Services Officer)

Others present: Mr J Corkett (Suffolk Constabulary), Sergeant D Peck (Suffolk Constabulary), the Designated Premises Supervisor and a representative

1 Election of a Chairman

The Democratic Services Officer opened the meeting and confirmed it would be adjourned to 2.20pm.

On the proposition of Councillor Cackett, seconded by Councillor Gee, it was

RESOLVED

That Councillor Keith Robinson be elected as Chairman of the Licensing Sub-Committee for the meeting.

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

There were no Declarations of Interest.

4 Declarations of Lobbying and Responses to Lobbying

There were no Declarations of Lobbying.

5 Exempt/Confidential Items

Mr Corkett requested that the public be excluded from the meeting as information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime would be revealed.

It was by a unanimous vote

RESOLVED

That, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the Unconfirmed public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in those Regulations.

6 Summary Review - Harbour Inn, Royal Thoroughfare, Lowestoft NR33 0AG

The Sub-Committee considered report **ES/1537** which related to an expedited review of the premises licence relating to the Harbour Inn, Royal Thoroughfare, Lowestoft NR33 0AG. Suffolk Constabulary, as Responsible Authority, had called for the review under section 53A of the Licensing Act 2003 stating that the premises had been associated with serious crime.

The Licensing Officer introduced the report. An application for a Summary Review under Section 53A of the licensing Act 2003 was made by Suffolk Constabulary on Tuesday 11th April 2023 for a Summary Review relating the Harbour Inn, Lowestoft. Accompanying the application, was a Certificate issued under section 53A (1)(b) of the Act and signed by Chief Superintendent Janine Wratten, outlining the reasons why the Constabulary requested that until such time as a full hearing could be heard that the following interim steps be implemented:

1. That no member of door staff employed at the venue on 8 April 2023 will be allowed to carry out security duties at the premises.
2. That the venue will only open between 1100 to 2300 each day - this will prevent the premises being used as a "late-night venue" and as such there should not be any issues with door staff.
3. That David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell should not be on the premises at any time that it is open for licensable activity.

With this type of application, the Licensing Authority had to consider whether it was necessary to take interim steps within 48 hours of receipt of the application. The Sub-Committee met on Wednesday 12th April to make a determination and the decision of the Committee was to impose all of the requested interim steps until a full hearing could take place.

Suffolk Constabulary has provided further information to be considered at this review and these documents were provided to the sub-committee members and the Premises Licence Holder prior to this hearing. They have also provided video footage which will

be made available for viewing by both the Sub-Committee and the Premises Licence Holder during the hearing.

Two representations were received within the consultation period from members of the public in support of the application for review. These representations have been provided to all parties. It should be noted that although the representations received mentioned concerns with noise, the Councils Environmental Protection Team has only received 2 complaints, one was in October 2014 and one in November 2021. The Licensing Team only has one noise complaint which was in August 2014. For clarification the current Premises Licence Holder did not take over the premises until September 2021.

The Licensing Officer also requested that the Sub-Committee consider if an amendment can be made to the wording of certain conditions within Annex 2 which mentions 'Faith only' as this nightclub is now known as 'Mossy's'. The Licensing Officer asked if this could be amended to 'Nightclub only' to be clear to anyone that certain conditions apply to the nightclub.

The Licensing Officer advised that the Sub-Committee was being asked to determine the application by:

- Modifying the conditions of the licence.
- Excluding a licensable activity from the scope of the licence.
- Removing the Designated Premises Supervisor (DPS).
- Suspending the licence for a period not exceeding three months.
- Revoking the licence

An appeal could be made to the Magistrates' Court within 21 days of the licence holder being notified of the Licensing Authority's determination on the review. An appeal could be made by the premises licence holder, the Chief Officer of Police and/or any other person who had made relevant representations. The decision of the Licensing Authority, following the review hearing, would not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

When announcing its decision, the Sub-Committee was asked to state its reasons.

Mr Corkett, Licensing Officer for the Police, advised that a summary review was quite unusual and something that needed immediate attention to ensure the public were protected. Mr Corkett summarised the events at the Harbour Inn that had led to the Summary Review. DK, door supervisor at the venue, had ejected the victim from the premises. The man's partner was DK's sister, and she had stayed behind to speak with DK. The victim had returned and DK became violent towards him and had knocked him unconscious. DK then left the victim and did nothing to assist, nor did any other door supervisors. The duty manager, TR, did call an ambulance, but no further help was forthcoming from the venue.

After the incident occurred, DK and two members of staff from a partner venue, DR, a door supervisor employed by DK, and KH, a member of staff from the Jolly Sailor, entered the Harbour Inn CCTV room accompanied by TR. CCTV footage captures the four going upstairs to the CCTV room and cuts off immediately afterwards. They are

not seen leaving the area and it is inferred that they have removed the hard drive from the CCTV system.

When the Police arrived at the scene they were not immediately greeted by anyone from the venue, and none of the venue staff offered any information. Officers were taken upstairs to the CCTV room, passing DK and DR who were leaving the area, and discovered there was no hard drive in the CCTV system and so no recording of the incident. DK was subsequently arrested and interviewed where he claimed he had acted in self defence and administered first aid.

An hour after the Police left the venue, the CCTV hard drive was found and plugged in as the venue could not operate without a working CCTV system, however the Police were not told that it had been found. When the Police returned to the venue the next evening they were told the system was fully functional and a different duty manager shows them the CCTV footage which Officers record onto their body worn cameras. When this footage was later submitted to the Police by TR, the key moments were missing. Mr Corkett explained that had this footage not been recorded by Police they would not have been able to prove that there had been an assault and a crime would have successfully been covered up.

Mr Corkett explained that when he had contacted DM, the Designated Premises Supervisor and director of the company that runs the Harbour Inn, DM complained about the behaviour of the Police despite no issues being shown on their body camera footage, and was dismissive of the behaviour of his staff. Members of staff involved in the incident were also still in employment, despite DM telling the Police they would be suspended. Mr Corkett stated that it appeared that door staff were running this venue.

Mr Corkett summarised some proposed conditions which aimed to ensure the integrity of the CCTV system and ensure it could not be interfered with in case of an incident.

1. The CCTV storage system of whatever type must be secured. If a physical hard drive is in use, it must be kept in a locked and secure cabinet and access restricted to a duty manager who must enter their details in a log book each time the venue is open for licensable activity.
2. The logbook will record the date and time of each entry and will show the name of the nominated person. That person will be the nominated CCTV officer for that day and must be trained and competent to access and download the CCTV when requested by a member of Suffolk constabulary or an officer of the local Council on demand.
3. Each entry in the logbook for the CCTV system must be retained for a minimum of 12 months and must be available to a member of Suffolk constabulary or an officer of the local Council on demand.
4. The room in which the CCTV storage unit is housed must be covered by working CCTV cameras that must record entry and exit from the room. The cameras must record footage to the venues CCTV system.
5. Any staircase, either internal or fire escape that leads to any area where the CCTV hard drive is stored must be covered by cameras that record to the CCTV hard drive.

6. In the event of a 'cloud based' system being used, the same procedures regarding logging access to the system must be followed.
7. No member of door staff employed by the venue will be allowed access to the CCTV system at any time.
8. Neither David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell may be employed at the venue in any capacity whatsoever either paid or unpaid. This will include employment using any alias names that either may use now or in the future.
9. That David Moss be removed as DPS.

Mr Corkett accepted that condition eight was controversial as the individuals may be acquitted, however he stated that this could be remedied in future. Regarding point nine, DM was Designated Premises Supervisor for a number of venues, and although there had not been problems elsewhere it was felt that a more hands on approach was needed for this venue in particular.

The Sub-Committee viewed CCTV footage showing the victim being ejected from the premises and being knocked unconscious outside the venue and of the actions of staff following the incident. The Sub-Committee also viewed body camera footage from Police Officers who attended the scene that evening which showed the victim being treated by the ambulance crew and initial contact with the venue staff named in the report.

The Chairman invited questions.

The Legal Advisor referred to comments in the Police's report that DM had not removed a member of staff despite stating he would. The Legal Advisor felt this was concerning and asked how the Sub-Committee could trust that any conditions would be followed. Mr Corkett agreed that this was a concern and that condition nine aimed to help resolve this. It was noted that there had never been an issue with any other premises owned by DM.

The Chairman invited DM and AV to speak.

DM stated he employed one hundred and fifty five people across seven venues in the area. He had been disgusted by the incident and would be taking steps to ensure nothing like it happened again. DM stated he had suspended KH for their involvement in the incident but had been contacted by an employment solicitor on her behalf stating that she could not be fired and so had felt the need to reinstate her at another premises. DM added that the duty manager, TR, had tried to speak with the Police several times but had not been successful. DM stated he was doing everything he could to obey the law but was not being assisted in the process by the Police. The venue had taken all possible actions to correct the issues around the incident but due to the ongoing investigation could not do anything further and had to accept the staff's version of events.

AV agreed that all possible step had been taken up to this point. It was made clear to staff that they needed to report incidents to managers, and if they did not report issues they would be fired. AV stated that there was no reason to not believe staff until they

are charged by the Police. There had been issues with the handling of the incident but management had learnt from this and were working on correcting this.

AV summarised steps that had already been taken at the venue to protect the integrity of the CCTV system. Lockable cabinets for the CCTV system had been installed and a record log of when the system was accessed was in place. The room in which the unit was installed was now also covered by CCTV, and the external and internal fire escape and staircases were all covered by the venue systems. AV stated he could also view the CCTV on his mobile phone and that he was the only member of staff who could do so. Equipment for the security team had also been moved from the CCTV office and there was no reason why door staff would need to access this area. A new contract had also been sought with a different company who were well respected in the area to provide door staff. AV stated that he did have a designated premises supervisor licence should the Sub-Committee decide to remove DM from this role.

The Chairman invited questions.

Councillor Cackett stated that this meeting was not to look at the criminal investigation but the issues with the licence. It was an issue that the designated premises supervisor had not been on the premises to quickly control the issues. Councillor Cackett asked to confirm whether the office containing CCTV equipment was locked, AV and DM confirmed the door was locked and only the manager could access it. All other items stored in that room had been moved elsewhere. Councillor Cackett commented that if this had been put in place initially there may not have been a review in the first place.

Following questions from the Sub-Committee on the practicality of having a female member of door staff present, AV confirmed they did have a female welfare officer who checked on any customers who were more vulnerable and identified them to staff. AV also confirmed if he was in place as designated premises supervisor he would be present the majority of the time.

The Licensing Officer confirmed that the designated premises supervisor did not have to be present at all times, but did need to be easily contactable in case of an incident.

Councillor Gee commented that after the initial review the Sub-Committee had been confident that all staff involved would be removed from employment and asked if they were still employed. DM confirmed all door staff had been removed, and the other members of staff were not employed or allowed on these premises.

Following comments from DM on the use of CCTV from other venues which may have covered the incident, Mr Corkett referred to the full crime report which demonstrated that the Police had visited other venues to ask their CCTV. Regarding the CCTV being found, Mr Corkett confirmed that the police should have been contacted as soon as this was found.

The Legal Advisor asked why DM or AV had not discussed issues about employment with the Police. DM confirmed he had discussed this with Mr Corkett who had stated that he believed KH could be fired but this would need to be confirmed with a solicitor.

The Legal Advisor stated that going forward management needed to be clear on their actions and communications with the Police.

The Legal Advisor stated that two members of staff had come to this venue from another venue and believed it was acceptable to go into the CCTV office despite not being directly employed there. The Legal Advisor commented that the Sub-Committee did not like to see staff moving between venues like this. DM and AV confirmed that one of the staff members, KH, had not been visiting the venue for work reasons but for personal reasons as she was in a relationship with a doorman. She had clocked off from her work at the Jolly Sailors at this point. DM accepted that she had got involved when she had arrived and this would be resolved pending the police investigation.

Councillor Cackett commented that this incident highlighted issues with staff behaviour, and the point needed to be made that staff should report all issues as they need to understand the risks involved to the premises licence and their livelihoods.

There being no further questions the Chairman invited parties to sum up.

In summing up Mr Corkett stated that this was not a good situation but steps had already taken to address concerns through work to secure the CCTV system. It was concerning that security had attempted to cover up a crime, and Mr Corkett confirmed that the licences of the door staff would be suspended following the police investigation. Replacing DM was not a reflection on him, but a way to ensure more regular contact between the venue and Police.

DM commented that being closed was costing him money, and he had definitely learnt from the process on what systems needed to be put into place for all venues.

The Sub-Committee, Legal Advisor and Democratic Services Officer retired to enable the Sub-Committee to make its decision.

On the Sub-Committee's return, the Chairman read out the following decision notice:

DECISION NOTICE – Section 53C

Harbour Inn, Lowestoft

An application for a Summary Review under section 53A of the Licensing Act 2003 (“the Act”) was made by the Suffolk Constabulary on 11 April 2023. The application related to the premises at Harbour Inn, Royal Thoroughfare, Lowestoft NR33 0AG.

As required by law, a meeting of the Sub-Committee was held on 12 April 2023 at which the Sub-Committee imposed the following interim steps, pending determination of the Summary Review:

1. That no member of door staff employed at the venue on 8 April 2023 will be allowed to carry out security duties at the premises.
2. That the venue will only open between 1100 to 2300 each day - this will prevent the premises being used as a “late-night venue” and as such there should not be any issues

with door staff.

3. That David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell should not be on the premises at any time that it is open for licensable activity.

The premises licence holder did not make representations against the interim steps.

The Summary Review hearing has been held today under section 53C of the Act.

The Sub-Committee was provided with and has considered the documentation which formed the Police's original application for a Summary Review.

At the hearing today, the Sub-Committee heard from Mr John Corkett, Police Licensing Officer and also David Moss (premises licence holder) and Adam Vass (operations manager). In addition to the facts presented at the hearing on 20 October 2021, the Sub-Committee heard the following representations:

Firstly, the Licensing Officer presented the report. The Licensing Officer confirmed two representations were received within the consultation period from members of the public in support of the application for review concerning noise from the premises.

Secondly, the representative of the Police, Mr Corkett who summarised the events that had led to the summary review hearing and shared CCTV footage of the incident. Mr Corkett stated that had this CCTV footage not been found, the police would not have been able to prove there had been an assault and that staff would have been able to cover up the assault. Mr Corkett was concerned that there had been an attempt to pervert the course of justice and that following police investigation at least one person was likely to be charged with that offence and the other three with obstructing police officers. Mr Corkett was concerned that Mr Moss had indicated that he was going to suspend two members of staff but when Mr Corkett had visited another premises one of the staff members involved was employed there.

Mr Corkett produced a set of proposed conditions and asked for an additional condition that Mr Moss be removed as designated premises supervisor because although he was capable of running multiple pubs without incident, a nightclub required a more hands on approach and Mr Corkett felt that Mr Moss was no able to devote enough time to this. Mr Corkett accepted that it was impractical for the venue to have a female door supervisor present at all times.

Thirdly, the Sub-Committee heard from David Moss (designated premises supervisor) and Adam Vass (operations manager). Mr Moss stated that he employed 155 people across seven premises and had never had any issues in the past. He stated that he had done everything he could since the incident to remove staff and prevent similar incidents. Mr Moss accepted that he should have told the police that he had been unable to suspend a member of staff when he had said he would. Mr Vass highlighted steps that had been taken since the incident to secure the CCTV system and office. Mr Vass and Mr Moss also appeared to question the police version of events and had to accept staff record of events. In relation to a female door supervisor, Mr Vass confirmed they had taken steps to try and find someone for this role, and that they did have a female welfare officer to help bridge this gap.

DECISION

The Sub-Committee has decided that the following modifications will be made to the licence:

1. The CCTV storage system of whatever type must be secured. If a physical hard drive is in use, it must be kept in a locked and secure cabinet and access restricted to a duty manager who must enter their details in a log book each time the venue is open for licensable activity.
2. The logbook will record the date and time of each entry and will show the name of the nominated person. That person will be the nominated CCTV officer for that day and must be trained and competent to access and download the CCTV when requested by a member of Suffolk constabulary or an officer of the local Council on demand.
3. Each entry in the logbook for the CCTV system must be retained for a minimum of 12 months and must be available to a member of Suffolk constabulary or an officer of the local Council on demand.
4. The room in which the CCTV storage unit is housed must be covered by working CCTV cameras that must record entry and exit from the room. The cameras must record footage to the venues CCTV system.
5. Any staircase, either internal or fire escape that leads to any area where the CCTV hard drive is stored must be covered by cameras that record to the CCTV hard drive.
6. In the event of a 'cloud based' system being used, the same procedures regarding logging access to the system must be followed.
7. No member of door staff employed by the venue will be allowed access to the CCTV system at any time.
8. Neither David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell may be employed at the venue in any capacity whatsoever either paid or unpaid. This will include employment using any alias names that either may use now or in the future.
9. That David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell should not be on the premises at any time that it is open for licensable activity.
10. That David Moss be removed as Designated Premises Supervisor.
11. All references to 'Faith only' in the premises licence be renamed 'nightclub only'.
12. That condition 3 of annexe C be amended to read as follows: Nightclub only – the Licence holder/DPS shall ensure that on all nights when door supervisors are required there is either a) a female door supervisor or b) a female member of staff who is designated as a welfare officer.

Reasons for decision

In reaching its decision, the Sub-Committee considered the documents provided and the representations made by Mr Corkett, the license holder, operations manager and the Licensing Officers at the hearing.

The Sub-Committee also considered the need to promote the four licensing objectives under the Licensing Act 2003, in particular section 53c, the Central Government guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998.

The Sub-Committee considered the behaviour to be unacceptable, in particular a door supervisor should not assault a member of the public even if there is provocation. Following an assault, it is also unacceptable for other door supervisors and employees to fail to offer medical assistance or report the incident. The Sub-Committee were further concerned that there was evidence of a conspiracy to pervert the course of justice, involving the manager of the premises and three other people directly or indirectly connected with the premises and licence holder.

The Sub-Committee is satisfied that the proposed conditions regarding CCTV are sufficient to promote the licence objectives. However the sub-committee is not satisfied that merely prohibiting David King, Thomas Reynolds, Daniel Roberts and Kirsty Hovell from being employed on the premises is sufficient. At least two of these people were not employed at the venue when the incident took place and the sub-committee considers that it is therefore necessary for them to be excluded from the premises altogether in order to promote the licencing objectives.

In relation to Mr Moss, the sub-committee felt it was necessary to remove him as designated premises supervisor as the sub-committee does not believe Mr Moss has the time to commit to adequately supervise the premises whilst acting as supervisor for multiple other premises. In addition the sub-committee was concerned that Mr Moss had informed the police that he was going to suspend a member of staff, but that he had not updated the police when the member of staff had returned to employment following the threat of legal action. Whilst the sub-committee accepts Mr Moss's explanation for this, it is concerning that the relevant authorities had not been informed.

Any party aggrieved by this Decision has the right to appeal to the Magistrates' Court within 21 days of the date they are notified of this Decision.

Dated: 3 May 2023

The meeting concluded at 16.50pm

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