

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 23 March 2015

**PRESENT:** Councillors Geoff Smith (Chair), Jack Clarkson and Denise Reaney

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#### **1. APOLOGIES FOR ABSENCE**

1.1 An apology for absence was received from Councillor Josie Paszek.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

#### **3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

#### **4. LICENSING ACT 2003 - BREEZE, 110 JOHN STREET, SHEFFIELD, S2 4QU**

4.1 The Chief Licensing Officer submitted a report to consider an application, made by the Sheffield Safeguarding Children Board, under Section 51 of the Licensing Act 2003, for a review of the Premises Licence in respect of the premises known as Breeze, 110 John Street, Sheffield, S2 4QU.

4.2 Present at the meeting were Julie Hague (Sheffield Safeguarding Children Board, Applicant), Steve Evans (South Yorkshire Police), Sajib Hussain (Premises Owner), Sajid Shah (Premises Manager), Altaf Hussain (Owner's father), Saira Parveen (Owner's wife), Georgina Hollis (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

4.4 Georgina Hollis presented the report to the Sub-Committee and it was noted that representations had been received from South Yorkshire Police and were attached at Appendix 'B' to the report.

4.5 Julie Hague stated that the Sheffield Safeguarding Children Board had invested a significant amount of time and resource towards improving the safeguarding systems at the premises, and had tried very hard to work with the premises management since 2010, to resolve recurring safeguarding issues which, to date, remained unaddressed. The two main issues the Board had concerns about

included children accessing the venue and socialising with adults and children smoking shisha at the venue. Ms Hague reported that the premises operated as an adult venue, and this was acknowledged openly by its management and, indeed, the venue was advertised as such on the internet, therefore, with an over 18's policy in place, there should not, in theory, be any issues with regard to children and young people. However, since 2010, the Board had persistently received information from a range of sources, including professionals working in children's services, parents/carers and schools, that children had disclosed that they were allowed access to the venue. The Board had concerns with this, as the style and character of the premises was not appropriate for children, it was not a family-friendly venue and the main activity involved customers smoking shisha, consuming light refreshments and socialising with adults. The Board was also concerned that unaccompanied children, if allowed access to this type of premises, may be exposed to risk of serious harm when socialising with adults. In addition to this concern, there was also a further risk that children accessing this type of environment may be encouraged, or allowed to, smoke. This included a risk of passive smoking at the premises, and Ms Hague made reference to the documents at Annexe 'E', circulated prior to the hearing, which provided expert opinion about the health risks to children who smoke. The risks included lung disease, cancer and heart disease, and the document also set out the risks to children exposed to passive smoking, which included bronchitis, pneumonia and asthma. The expert opinion stated that one puff of shisha was equivalent to inhaling the same amount of smoke you would get from smoking a whole cigarette and, as an average shisha smoking session lasted approximately one hour, the amount of smoke that could be inhaled during this time would be the equivalent of over 100 cigarettes. The advice of the Council's Public Health Team therefore, was that the risk to children's health could be higher when exposed to shisha as opposed to where children were exposed to cigarette smoke. In fact, the Council took this matter so seriously that a City-wide education programme had been commissioned for children and young people to discourage children from using all tobacco products, including shisha. The Board was aware that the premises did not operate responsibly in relation to the management of smoking and compliance with the law and, therefore, if children were allowed on the premises, they were being exposed to health risks. Ms Hague pointed out that there were currently no restrictions on the Premises Licence preventing children from accessing the venue.

- 4.6 On 4<sup>th</sup> December 2014, a joint agency unannounced visit was made to the premises, at which Ms Hague witnessed six adult customers in the premises, with all being seated indoors and three of which were smoking shisha pipes. She also witnessed that a group of three young adult males were being allowed on to the premises by the Duty Manager, Saqib Hamid, to openly misuse nitrous oxide, which they were inhaling from balloons. When questioned why this dangerous

activity was being permitted, Mr Hamid stated that they did not sell the products and the customers were allowed to consume them on the premises. Mr Hamid was warned of the risks associated with such products and advised by Sean Gibbons, Health Protection Service, on the law in relation to smoking. Ms Hague stated that, in response to the risks identified to children, the Board had tried for some time to work in partnership with the premises management, offering advice, support and free training to the owner, Mr Hussain, during the time Mr Janjua was the Licence Holder and Mr Hussain was the General Manager, as well as during the time Mr Hussain subsequently became the Licence Holder. It was confirmed that, whilst Mr Hussain has only been the Licence Holder since April 2013, he has been actively involved in the management of the premises throughout the period from 2010 to date. In terms of the response from the premises management, Ms Hague stated that offers of advice and training had been, in the main, disregarded, and this had been evidenced during visits where Refusals Logs and signage had been missing, and staff training had not been attended. Whilst Mr Hussain did eventually attend the Safeguarding training, as well as sustaining a level of management competence, by ensuring his staff, particularly his duty managers, were trained, the extent of their training, when questioned, appeared to be somewhat limited. Training staff how to identify young people and how to use the Challenge 21 Scheme was crucial at this type of adult venue and the lack of training had resulted in the premises management being unable to demonstrate due diligence in relation to the core objective for the protection of children from harm. Ms Hague considered it disappointing that a level of management competence was not sustained because the effectiveness of the training and age verification scheme did show some positive results at one point. After Mr Hussain had attended the training on 18<sup>th</sup> April 2012, an improvement was evidenced to the extent that on 6<sup>th</sup> August 2012, at a meeting between Ms Hague, Mr Ruston of the Licensing Service and Mr Hussain, it was noted that Refusals Logs, staff training records and signage were in place, and that no further complaints had been received. It was believed that this was a turning point in the way that the premises were being managed. Unfortunately, this was not sustained, and by November 2012, the Board was again receiving complaints that children were accessing the premises, were not being subjected to age checks and that they were being allowed to smoke shisha. As a result of this, the Board had been forced to submit the application under consideration today.

- 4.7 Ms Hague then made reference to the confidential information circulated to Members of the Sub-Committee and Mr Hussain, prior to the meeting.
- 4.8 **RESOLVED:** That the public and press and attendees involved in the review, except Mr Saqib Hussain, be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were

present, there would be a disclosure to them of exempt information as described in paragraph 2 of Schedule 12A to the Local Government Act 1972, as amended.

- 4.9 Julie Hague referred to Annexe 'D', which contained confidential information in relation to children accessing the premises. In terms of visits to the premises, Ms Hague stated that the majority of her attendance had been at pre-arranged daytime visits, when only the premises management were present. She also referred to two unannounced joint agency night-time visits and again, during such visits, no children were found on the premises. On two visits, as part of a multi-agency group, Ms Hague stated that she had been kept waiting at the door for up to six minutes before they were able to gain access and this delay had caused concern and raised suspicion, particularly as access was controlled by a CCTV monitor over the door and an electronic device. Ms Hague then went on to make reference to the confidential information and was supported by Steve Evans, who also reported information of a confidential nature.
- 4.10 Julie Hague, Steve Evans and Saqib Hussain then responded to questions relating to the confidential information circulated prior to the hearing, from Members of the Sub-Committee and Marie-Claire Frankie.
- 4.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees involved in the review.
- 4.12 In response to questions from Members of the Sub-Committee, Julie Hague stated that the measures she would recommend in terms of improving the operation of the premises would include the installation of control measures over the door, the introduction of a suitable membership scheme, stopping under 18's accessing the premises, and requesting all members of staff to undertake Safeguarding Children training, and to include regular refresher training. Georgina Hollis circulated a plan showing the layout of the premises and Mr Hussain provided an explanation as to what activities took place on the different floors. He stated that the shisha smoking took place on the rooftop terrace, which had a canopy and heaters. He stated that there were adequate fire safety exits, and indicated that customers or visitors were often kept waiting at the front door as staff members were dealing with customers or undertaking various tasks, which created a slight delay in terms of when they were able to answer the door. When people were calling, a member of staff would see who it was by using a monitor positioned behind the serving counter on the first floor, then by pressing a buzzer to release the door. Every effort was made to minimise the amount of time people were kept waiting outside. Steve Evans confirmed that he had been in the Police Child Sexual Exploitation Team since September 2014, but had worked in the Police's Public Protection Unit for 14 years prior to this.

- 4.13 Sajid Shah put the case on behalf of Saqib Hussain, indicating that he was responsible for the day to day management of the premises, and had recently attended the Safeguarding Children training course, which he had found very useful and productive. As a result of his attendance on the course, there were now a series of posters in the venue relating to the Challenge 21 policy, he and other staff members regularly checked customers' ID and a Refusals Log had been set up, which was circulated at the meeting and, where possible, every effort was made to ensure that a member of staff was monitoring the CCTV cameras. Mr Shah stated that these improvements had resulted in a number of former regular customers returning back to the venue. Mr Hussain confirmed that he would be willing to operate an over 18's policy at the venue, and that in the light of plans for staff members to be more 'hands on', there would be a dramatic reduction in the number of issues linked to the premises. He stated that all staff members were either family or friends, all worked on a part-time basis and were mainly paid cash in hand. Mr Shah confirmed that he had attended the Safeguarding Children training course in February 2015. He had a different day job, but would attend the premises up to 7 days a week and his role was to walk round the venue, checking that everything was fine. With regard to the non-admission of a number of under 18's last week, Mr Hussain stated that details of these refusals were set out in a different Refusals Log, which he kept separately. Mr Hussain confirmed that there were six members of staff in total, with two being on duty during the week and three at weekends. Additional staff would be called to attend the premises if and when required. Saira Parveen stated that she had been involved in the operation of the premises since August 2014, but had become more involved with effect from November 2014. She confirmed that her main role was to train other members of staff. Mr Hussain stated that he had failed to send any of the duty managers on the Safeguarding Children training course as he believed that he would be able to pass on the information himself. He now, however, accepted that he had not undertaken this task as well as he should have done. Mr Hussain stated that he could not really explain why young people were attracted to the venue other than the fact that there were other shisha bars in this area of the City, and young people were attracted to the area for that reason. Whilst he accepted the fact that children and young people had accessed the venue in the past, he pointed out that people reporting this could be getting mixed up with the other shisha bars in the surrounding area. The venue sold milk shakes and cakes as people smoking shisha usually wanted to consume something sweet afterwards. In conclusion, Mr Hussain confirmed that CCTV footage was maintained for a period of 30 days, and stored on a hard drive.
- 4.14 Julie Hague, Steve Evans and Saqib Hussain provided a brief summary of their representations.
- 4.15 Georgina Hollis outlined the options open to the Sub-Committee.

- 4.16 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.17 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.18 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.19 RESOLVED: That, in the light of the information contained in the report now submitted, the additional information circulated prior to the hearing and the representations now made, the Sub-Committee agrees to modify the conditions of the Premises Licence in respect of the premises known as Breeze, 110 John Street, Sheffield, S2 4QU, as follows:-

*New Conditions to be Added to the Existing Premises Licence*

- (a) No person under 18 years of age to be admitted to the premises at any time;
- (b) All members of staff be required to undertake the relevant Safeguarding Children training, at the earliest possible opportunity, with refresher training being undertaken every six months and appropriate records of such training being maintained for a period of two years;
- (c) At all times the premises are open to the public, a member of staff who has completed the Safeguarding Children training course to be on duty and responsible for managing access to the premises;
- (d) A single Refusals Log be maintained and be made available upon request for inspection by the responsible authorities;
- (e) A colour CCTV system, to the specification of South Yorkshire Police, would be fitted, maintained and in use at all times the premises are open. CCTV images will be stored for 28 days. Police will be given access to, and copies of, images for purposes in connection with the prevention of crime and disorder;
- (f) A membership scheme will be in operation at the premises and photographic membership cards will be issued. Access to the premises will only be to people holding a membership card.

The joining requirements, at a minimum, will require a name, address, date of birth and two forms of identification, one photographic and one bill showing the address; and

- (g) Records of all staff members involved in the operation of the premises be maintained and a rota be maintained, containing details of staff shift patterns, and be kept for a period of two years and be made available for inspection by the responsible authorities.

*Conditions to be Removed from the Existing Premises Licence*

- (a) No. 3 – A satisfactory electrical certificate shall be provided for the premises;
- (b) No. 4 – A building regulation completion certificate shall be submitted to the authority responsible for public safety;
- (c) No. 5 – No licensable activities will take place under the authority of the licence until the authority has been notified that the premises are suitable. Any responsible requirements of the public safety authority will be complied with in order to ensure that the premises are suitable for their intended use;
- (d) No. 10 – To comply with the reasonable requirements of the Fire Officer from time to time;
- (e) No. 11 – The premises must have adequate safety and fire-fighting equipment, and such equipment will be maintained in good operational order;
- (f) No. 13 – Fire exits and means of escape must be kept clear and in good operating condition;
- (g) No. 19 – Noise and vibration shall not emanate from the premises so as to cause a nuisance to nearby property;
- (h) No. 20 – Odours from cooking operations shall not emanate from the premises so as to cause nuisance to nearby property; and
- (i) No. 21 – There must be adequate controls in place, including staff training, to safeguard against the sale of tobacco to persons under 18 years.

(The full reasons for the Sub-Committee's decision, and the operating conditions, will be included in the written Notice of Determination.)