

WITNESS STATEMENT**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

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Statement of: Jacqueline BOOTH

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: POLICE OFFICER

This statement (consisting of four page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: J Booth (witness)

Date: 23rd June 2022

I am the Force Licensing Manager for North Yorkshire Police and have responsibility for managing a team of Police staff who deliver front-line operational services to over 6,500 premises across eight Licensing Authority areas within North Yorkshire and the City of York.

I am authorised to act on behalf of the Chief Constable of North Yorkshire Police in matters relating to the Licensing Act 2003, Gambling Act 2005, Scrap Metal Dealers Act 2014 and Local Government (Miscellaneous Provisions) Act 1982.

I have completed the Institute of Licensing Professional Licensing Practitioner's Qualification and the British Institute of Inn keeping Awarding Body's Award for Licensing Practitioner's (Alcohol).

My role involves working with statutory partners and key stakeholders to ensure the promotion of the four Licensing objectives, The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety, and the Protection of Children from harm, alongside compliance with the Licensing Act 2003.

On Monday 8th June 2020, I was on duty when I participated and represented North Yorkshire Police at a remote Licensing Hearing arranged by City of York Council in relation to the review of Premises Licences for the following premise:-
Regency Restaurant 16 Barbican Road York.

Members of the Licensing sub-committee heard representations from the Licensing Authority, and North Yorkshire Police and the determination from the hearing was that the Premises Licence at 16 Barbican Road should be revoked.

On 10th March 2021 North Yorkshire Police received notification from City of York Licensing Authority in respect of an application for a new Premises Licence for a restaurant, takeaway and karaoke bar at 16 Barbican Road York, Sky Blue. The applicant being Mr Kheng Koay. Mr Koay provided information that there would be "wholly new management team in place" and following negotiations robust and enforceable conditions to mitigate risks were agreed with the applicant.

On 14th February 2022, I had sight of an email regarding an Operation Night investigation (operation night is North Yorkshire Police's response to investigations relating to reports of drink or needle spiking). The investigation advised that an allegation had been made from a female victim aged 16 years of age who believed she had been spiked whilst attending Karaoke at 16 Barbican Road York Sky Blue.

The investigating officer PC1665 Souster advised that she was having difficulties obtaining the CCTV, to progress the investigation from the Premises.

I emailed her to advise of the Premises Licence Conditions and their obligations to comply with requests for CCTV and arranged for a member of my team PC Hollis to contact the Premises Licence Holder and Designated Premises Supervisor to advise that we required the CCTV. Exhibit JB/01.

On 15th February 2022 I checked the police incident and noted that the investigating officer had re-attended the Premises but still had been unable to obtain the CCTV, police incident log 12220012237 refers.

Following this update and to secure and preserve evidence I advised PC Souster to seize the CCTV hard drive as it was within the 28-day time frame that the Premise Licence Condition requires them to retain footage. JB/02.

I requested PC Bolland and PC Hollis to attend 16 Barbican Road on 18th February 2022 to ensure the Premises were complying with the Premise Licence Conditions. Mr Koay the DPS was not present, but Mr Man Wai Lueng (known as Kevin) was present. Lueng was part of the previous management team when the Premises operated under the Regency.

The below breaches of the Premises Licence were found at the time and as a result a Section 19 Closure Notice under the Criminal Justice and Police Act 2001 was issued :-

1.A digital colour CCTV system will be installed to cover the premises and recorded coverage will include all areas (including outside areas) to where public have access to consume alcohol.

- It will be maintained, working, and recording at all times when the premises are open.
- The recordings should be of good evidential quality to be produced in Court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.
 - Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.
 - Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.

2. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-

- Retail sale of alcohol
- Age verification policy
- Conditions attached to the Premises Licence
- Permitted Licensable activities
- The Licensing objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

17. The premises licence holder will operate a full HR management system where all relevant documents are stored for each individual member of staff.

18. All copies of relevant documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers on request.

29.A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

On 15th June 2022 following an update from PC Souster that the CCTV from Sky Blue had been forensically examined and contained no footage from 21st January 2022, I contacted Mr Koay first by telephone to discuss the concerns around the criminal investigation being frustrated by failings from the Premise Licence Conditions not being adhered to. I followed this up with a written email which I produce as exhibit JB/03.

On 16th June 2022 I contacted Mr Koay by text and phone to arrange a meeting at the Premises on Tuesday 21st June 2022 at 1200hrs.

On 21st June 2022 I attended Sky Blue 16 Barbican Road York, in company with PC Kim Hollis the Licensing Officer for York. I met with Mr Koay and present was his legal representative Mr Walker and a male I know to be Mr Man Wei Lueng (known as Kevin). I have met Lueng previously at the premises when it was operating under the business name of "The Regency".

My encounters with Mr Lueng previously have included issuing him a Section 19 Notice under the Criminal Justice and Police Act 2001 on 2nd December 2020 when he was the person in charge of the Premises operating under "The Regency" for breach of Premise Licence Conditions. Mr Lueng had previously applied for a Premises Licence for 10-12 George Hudson Street York, to which I made a formal representation on behalf of North Yorkshire Police. This resulted in a Licensing Hearing on 25th January 2021, where the licence was refused by the Sub-committee.

I informed Mr Koay that the reason I was in attendance was due to the concerns that had been highlighted to me from the criminal investigation going back to the incident on 21st January 2022, which had highlighted the failings of the Premise to adhere to Premise Licence Conditions. This had resulted in a visit from Police Licensing on 18th February 2022 and a Section 19 Notice that had been issued by PC Hollis.

I explained that due to breaches of the Premises Licence, the concerns highlighted as part of the criminal investigation in that a 16-year-old had been served alcohol at the premise I had concerns that the Licensing Objectives were being seriously undermined, and my intention was to seek a review of the Premises Licence, and for a Licensing committee to determine if the Premises was fit to operate under a Premise Licence.

Mr Walker legal representative advised that it was his understanding that the breaches relating to the previous Section 19 notice issued in February had been rectified and I explained that whilst present I would conduct a Section 179 inspection to ascertain if there was compliance but that the previous Section 19 was still open as all aspects had not been complied with.

I began by asking Mr Koay if he could show me the Premise Licence summary which is required to be on display in a visible place on the Premises. He was unsure as to where this was located and he sought advice from Mr Lueng who advised it was on display on a shelf at the Bar and Mr Koay then went to retrieve it.

I then commenced going through the conditions at Annex 2 on the Premises Licence. The first condition related to CCTV. I asked Mr Koay if he could show me footage from the 25th May 2022 (this is per the condition to retain recordings for 28 days). He again asked Mr Lueng to do this stating he was the person who deals with the CCTV. The CCTV is not stored on one hard drive it is retained over several and Mr Lueng had to take hard- drives out and change them over. It became apparent though that there was no footage for the Karaoke Rooms from the 25th May 2022, placing them in breach of the Premise Licence Condition.

I requested Mr Koay produce staff training records as per condition 2 on the Premise Licence. He produced names of staff who he stated were current employees but had no training records. The training records also did not include the requirements from the Licence.

Mr Koay was asked by PC Hollis to explain how he delivered the training and he said that he leaves that responsibility to Mr Lueng but on occasions when he has done it, he hands the member of staff a page to read regarding age verification and they sign the document. There were no documents in relation to the Premises Operating Challenge 25, the conditions attached to the Licence , the permitted Licensable Activities, the licensing objectives, or the opening times of the venue.

I requested Mr Koay produce to me the refusals and incident register. He again did not appear to know where this was located and spoke in Chinese to Mr Lueng about this and then produced some pieces of paper from a folder. There were no details of PC Hollis's visit in February and no details of any incidents recorded.

I went on further to identify other breaches and subsequently issued a further Section 19 Closure Notice to Mr Koay for failing to comply with the following conditions on the Premises Licence:-

1.A digital colour CCTV system will be installed to cover the premises and recorded coverage will include all areas (including outside areas) to where public have access to consume alcohol.

- It will be maintained, working, and recording at all times when the premises are open.
- The recordings should be of good evidential quality to be produced in Court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.
 - Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.
 - Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.

2. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-
- Retail sale of alcohol
 - Age verification policy
 - Conditions attached to the Premises Licence
 - Permitted Licensable activities
 - The Licensing objectives and
 - The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

3. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.

Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]: They will be made available immediately upon a reasonable request from any responsible authority

8. When SIA Door Supervisors are on duty, they shall sign in and out of the premises in a register and shall provide their full name and SIA number.

18. All copies of relevant documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers on request.

23. Where the karaoke rooms are being used there shall be at least one member of staff permanently situated on each floor of the venue on which the room is being used and the member of staff will monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.

North Yorkshire Police have a duty of care to consider information in line with the Prevention of Crime and Disorder objective for Licensing Applications. Koay is the Premise Licence Holder and Designated Premises supervisor for 16 Barbican Road York which has had two Section 19 notices issued in a period of 5 months, 18th February 2022, and 21st June 2022, meaning the premises has been operating unauthorised licensable activities an offence under Section 136 of the Licensing Act 2003. He appears to have delegated responsibility for the management of the Premises to Mr Lueng who previously was part of the issues which resulted in the Regency Licence being revoked.

Mr Koay has failed to take responsibility to manage another licensed premises in line with Premise Licence Conditions and despite knowing he was having a pre-arranged meeting with Licensing on 21st June 2022 at the premises failed to demonstrate his ability to manage those premises effectively. The Police deem him unsuitable to be a Premise Licence Holder and Designated Premises Supervisor for the circumstances highlighted above.

Signature: J Booth

Signature witnessed by:

Witness contact details		URN				
Name of witness:						
Home Address:		Postcode:				
E-mail address:		Mobile:				
Home Telephone Number:		Work Telephone Number:				
Preferred means of contact <i>(specify details for vulnerable/intimidated victims and witnesses only)</i> :						
Gender:		Date and place of birth:				
Former name:		Ethnicity Code (16 + 1):				
DATES OF WITNESS NON-AVAILABILITY:						
Witness care						
a)	Is the witness willing to attend court?		If 'No', include reason(s) on form MG6 .			
b)	What can be done to ensure attendance?					
c)	Victims Only – does the victim fall into one of the 3 priority categories who are eligible for enhanced care under the Code of Practice for Victims of Crime? 1) Victims of most serious crimes <input type="checkbox"/> 2) Persistently targeted victims <input type="checkbox"/> 3) Vulnerable and intimidated <input type="checkbox"/> . If any of the boxes are checked then Inform CPS at pre-charge stage on MG3, and on MG11 at all other stages and/or where necessary MG2					
d)	Witness Only - Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <input type="checkbox"/> <i>(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)</i> If they do submit MG2 with file in anticipated not guilty, contested or indictable only cases.					
e)	Does the witness have any particular needs? If 'Yes' what are they? <i>(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)</i> .					
Witness Consent (for witness completion)						
a)	The Victim Personal Statement scheme (victims only) has been explained to me			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
b)	I have been given the Victim Personal Statement leaflet			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
c)	I have been given the leaflet "Giving a witness statement to the police..."			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
d)	I consent to police having access to my medical record(s) in relation to this matter <i>(obtained in accordance with local practice)</i>			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
e)	I consent to my medical record in relation to this matter being disclosed to the defence			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
g)	Child witness cases only. I have had the provision regarding reporting restrictions explained to me. I would like CPS to apply for reporting restrictions on my behalf.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>						
Signature of witness:			PRINT NAME:			
Signature of parent/guardian/appropriate adult:			PRINT NAME:			
Address and telephone number (of parent etc.), if different from above:						
Statement taken by:			Time and place statement taken:			

