

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 three 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: 1st Septemer 2022

Further to my previous statement made on 23rd June 2022 in respect of the police representation objecting to a Premise Licence for 10-12 George Hudson Street York, I would like to add the following additional information.

Following my visit to Sky Blue 16 Barbican Road on 21st June 2022 and the issue of a Section 19 Closure Notice to Mr Koay (the applicant for 10-12 George Hudson Street), for failing to comply with Premise Licence conditions at Sky Blue, I re-attended the premises on Tuesday 5th July 2022 for a pre-arranged appointment, in company with PC 1520 Bolland and Nigel Parkin Senior CCTV officer Regional Scientific Support West Yorkshire Police.

At this time I discussed with Mr Koay, who was in company with his legal representative Mr Walker and also Mr Leung one of the managers if the Section 19 Notice had been complied with. I refer members to Appendix 3.

Mr Koay advised me that in respect of the CCTV, he had upgraded the system to ensure that there was sufficient capacity to comply with the Premise Licence conditions regarding storage for 28 days. Nigel Parkin examined the CCTV but as it had only been installed on 1st July 2022, whilst the hard drive appeared to have storage capacity to retain storage for 28 days, he advised that I checked the system was recording once 28 days had lapsed. The system was recording at the time of my visit and I did however check footage from the previous weekend Saturday 2nd July 2022.

Whilst checking the CCTV recordings for this date I noted the following breaches in respect of Premise Licence conditions at Annex 2-

"7.At all other times the need for SIA registered door staff shall be determined in accordance with a risk assessment, to be carried out by the Designated Premises Supervisor and or the Premises Licence Holder. When employed, door staff will wear high visibility arm bands".

At 22:27hrs on 2nd July 20022 a male identified as working as SIA staff at the premises was noted to not be wearing any high visibility arm band in line with the above condition. There was nothing from the footage to identify him as SIA and he looked like a customer at the premises from the way he was dressed with nothing highlighting him as SIA.

A further breach was identified as follows in respect of condition 24:-

"24.The members of staff situated on the first and second floor shall be in direct radio link with the door staff and will ensure that all alcohol consumed in the karaoke rooms is served by way of waiter/ waitress service. All users of the karaoke rooms will have evidence of their room hire on their food bill as suitable evidence of food purchase and use of the karaoke rooms will be limited to customers who have consumed a meal in the restaurant, excluding snacks. No dancing is to take place on the ground floor of the building at any time." From viewing CCTV footage between 22:30 hrs and 22:32 hrs on 2nd July 2022 two separate customers were observed purchasing drinks from the bar and not being served by way of waiter/waitress service in line with the

above condition. At this time I identified Mr Leung, one of the managers working behind the bar who served one of the customers.

I advised Mr Koay that given we were present to check compliance with a Section 19 Notice issued for previous breaches of Premise Licence conditions that to identify further breaches were taking place was extremely concerning and that as Section 136 offences of unauthorised licensable activities had taken place, I would arrange a formal police interview at the police station to investigate the criminal matter.

I continued to then check compliance with the Section 19 Notice in respect of the six conditions which had previously not been complied with. Mr Koay was advised as per the information on the notice that he had seven days to comply but due to operational demands, by the time of the police follow up visit he had had fourteen days to rectify the breaches and again the appointment was pre-arranged. However despite the additional time he had to comply of the six conditions not being complied with only one had been rectified, condition three:-

“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.”

I advised Mr Koay that he would be formally interviewed for the Section 136 offence of unauthorised Licensable activities for failing to comply with Premise Licence conditions pertaining to the Section 19 Notice of 21st June 2022 and the two further offences I had identified from 2nd July 2022.

At 1032hrs on 20th July 2022 I was on duty at Fulford Road Police Station in company with PC1720 Furlong when I commenced an interview under Caution with Mr Koay in respect of the following offence:-

Section 136 – Unauthorised (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, meaning a premises licence

Mr Koay had legal representation during the interview and fully admitted the offence of breach of Premises Licence conditions on 18th February 2022 (date of first Section 19 Notice issued by PC Hollis) , 21st June 2022 and 2nd July 2022.

The interview concluded at 1137hrs and Mr Koay was advised he would be reported for the offence in question.

On 21st July 2022 I conducted enquiries with North Yorkshire Fire and Rescue Service and emailed Mr Kevin Caulfield Watch Manager at York. Appendix four refers to the email correspondence.

Mr Caulfield advised that the Fire Service had prosecuted Mr Koay for breach of Fire Regulations in respect of a Premises Mr Happy 53 Blossom Street York for which he was the Premise Licence Holder, this resulted in Mr Koay being convicted on 31st July 2018, see attached Appendix 5 (Fire Service prosecution document and Appendix 6 Fire Service press release following the conviction).

Following a Police disposal decision in line with the Director of Public Prosecution Guidelines, on Thursday 4th August 2022 at 1200hrs I was on duty at Fulford Road Police Station when I issued Mr Koay a Simple Police Caution in relation to the Section 136 offences for which he had been interviewed on the 20th of July 2022.

Mr Koay was advised that I would arrange to visit his premises Sky Blue on Monday 8th August 2022 to check compliance with the Section 19 Notice still outstanding from 21st June 2022.

On Monday 8th August 2022 at 1100hrs I attended the premise in company with PC 1520 Bolland. Mr Koay, Mr Leung, and Mr Walker legal representative were all present.

Checks with the outstanding Section 19 Notice revealed that Premise Licence Conditions were still not being adhered to as listed in the Premise Licence authorisation. The following had still not been complied with from the Section 19 notice:-

"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."

Working on information provided to me by Peninsula the HR company contracted to provide support in respect of staff training and management I identified that seven members of staff had no training records.

Furthermore in respect of condition 18 (below) no HR records could be provided for a member of staff that Mr Koay claimed had left the premises or any staff rotas in respect of what staff members had worked on what dates.

"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."

I examined the CCTV system from Saturday 6th August 2022 covering the Karaoke rooms and established Condition 23 was not being complied with:-

"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."

Footage was viewed from 21:10hrs until 22:18hrs to ascertain in line with time sheet checks if a member of staff entered the room to check on customers present. Despite time sheets showing the room was checked at 21:20hrs and 21:30hrs no member or staff was seen on the CCTV as per the above to enter the room.

The Section 19 Notice had still not been complied with from 21st June 2022, and despite being issued a Simple Caution on 4th August 2022 for Section 136 offences at Sky Blue, Mr Koay continued to allow further breaches of the Premise Licence conditions on 6th August 2022, a further 136 offence of unauthorised licensable activity.

I followed this visit up with an email to Mr Koay on 9th August 2022 which I produce as Appendix 7.

Mr Koay has been prosecuted by North Yorkshire Fire and Rescue for a premise for which he is the Premise Licence Holder Mr Happy 53 Blossom Street York in 2018. He has received a Police Caution on 4th August 2022 for Section 136 unauthorised licensable activity offences for a Premise Sky Blue for which he is the Premise Licence Holder and Designated Premises Supervisor.

Following the issue of a Police Caution on 4th August 2022 he has failed to take responsibility for ensuring compliance with Premises Licence conditions at Sky Blue, resulting in another breach of a condition on the Premise Licence on 6th August 2022.

Mr Koay is not deemed by North Yorkshire Police to be a responsible person to uphold the Licensing objectives and adhere to any conditions which may be offered as part of this application. He continues to demonstrate a disregard for ensuring compliance with Premise Licence Conditions at Sky Blue which has resulted in enforcement action by North Yorkshire Police who are seeking a review of that Premise Licence. For the reasons highlighted above the police would respectfully ask members of the sub-committee to consider if this applicant is suitable to be issued another Premise Licence. Mr Koay has repeatedly failed to demonstrate that he understands the requirement to adhere to Premise Licence Conditions, on six separate occasions, 21st January 2022, 18th February 2022, 21st June 2022, 2nd July 2022, 5th July 2022, and 6th August 2022 (three of those breaches occurring after the Police had sought a review of Sky Blue Premise Licence) and for those reasons would request this application be refused.

Signature: J Booth

Signature witnessed by: