

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 two 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: 14th November 2022

Further to my previous statement made on 1st September 2022 in respect of the police representation for a review of a Premise Licence for Sky Blue 16 Barbican Road York, I would like to add the following additional information.

At 1345hrs on Tuesday 8th November 2022 I was on duty in company with PC1520 Bolland, when we attended Sky Blue 16 Barbican Road York. Upon arrival at the Premises which was open to the public and which had some customers seated in the restaurant areas, I spoke to a male I know to be Mr Man Wei Leung (known as Kevin). I have encountered Mr Leung many times previously at the premises and he asked if I had arranged to meet Mr Koay, who is the Designated Premises Supervisor for the venue, as he was not present and he wasn't expecting him at the Premises. I explained that I had not scheduled a pre-arranged appointment with Mr Koay, but was present to conduct an Inspection under Section 179 of the Licensing Act. I explained that a Previous Section 19 notice issued on 21st June 2022 was still in place as the conditions that had been highlighted on the notice had not been satisfied to the Police.

I explained to Mr Leung that I would check compliance with the outstanding Notice (Appendix 18). Mr Leung stated he was the person in charge at that time and would assist me. Whilst speaking to him I noted he was on his mobile phone and appeared to be texting. I asked him when was the last time that Mr Koay had been present at the premises and he stated a few days ago. I pushed him on the matter and he said he couldn't be specific.

I commenced a check of the CCTV system to ensure compliance with Annex 2 Condition 1 on the Premises Licence. I can confirm that the CCTV was working and recording. A check of the correct date and time revealed that the system was three minutes incorrect. This was immediately corrected by Mr Leung who checked his mobile phone and confirmed the timings were not accurate and set to the time from his mobile. He explained that the CCTV was checked daily and upon checking the incident book I noted that on the morning of the 8th November 2022 at 11:52 the incident book was signed and CCTV checked by a member of staff called "Gaga" whose full name is XuanZhen GUO.

GUO was present at the premises and I spoke with her regarding what checks she had completed and if she had received staff training. She confirmed she had received staff training and this was completed on 21/06/22 (SB/07 refers). The staff training does include Conditions attached to the Premises Licence. If staff are being asked to check CCTV on a daily basis they need to be aware of the condition " Copies of the recordings will display the correct date and time of the recording". I explained to Mr Leung that It is imperative that the date stamp is correct on the CCTV so that recordings are stored accurately. He stated that this had been an oversight on this occasion and he would ensure going forward that this would be checked daily.

I carried out two dip samples of CCTV recordings from the Karaoke Rooms for 22nd and 28th October 2022 to ensure compliance with Annex 2 Condition 23 and 24 (namely that persons using the Karaoke rooms had been customers in the restaurant, and that checks are conducted by staff every 30minutes). I reviewed the logs for Room 205 (Exhibit SB/26) camera 4 on 22nd October 2022 and whilst the timings on the sheet vary to the recordings with some searching Mr Leung was able to locate footage of the staff entering the rooms to check customers. This could be attributed to the timing being inaccurate and we went back a few minutes and were

able to locate the staff member entering the room. During this time Mr Koay arrived at the Premises and I explained to him the reasons for my visit as referred to above.

The recording from the 28th October 2022 for room 206 Camera 5 showed the room was empty all evening, yet a time sheet (exhibit SB/25) had been completed for this room showing staff conducting checks. I queried this with Mr Leung and Mr Koay who checked the booking diary but could not see any bookings for this date. I asked to see footage from the other Karaoke rooms for that date and time and with some further interrogation of the CCTV discovered that in fact room 206 was not used on the 28th October it was room 205 but no log entries had been made for this room.

Mr Leung explained that he could recall that there had been a last minute change of the room as the group did not want to pay more money for a larger room however this had not been recorded under room 205. I discussed with Mr Koay and Mr Leung that given the previous failings of the Premises they should be keeping accurate records to demonstrate compliance with the Premise Licence conditions.

I requested to see the SIA sign in register as per Annex 2 Condition 8. I was provided some pages that were held in a folder (exhibit SB/27). Mr Koay stated that he had requested a sign in book from the Security provider when the old book was completed but had not been provided one. I advised that the pages could easily be lost as they are loose and that the SIA should have a formal sign in book which could be the dated incident book or the sequential booking diary which had been previously discussed with Mr Koay.

I completed a check with Mr Koay in relation to the HR Management System Condition 17 and 18 at Annex 2 on the Premise Licence. He accessed an electronic HR system and allowed me to view the records. I was able to verify that either a passport or driving licence was held as an ID document for each member of staff on the system. I was shown current staff entries and staff whose contract had been terminated. I was able to view the employment start date of staff on the system. On receipt of this information I then checked the on-site staff training records. All staff training had been carried out by Mr Leung and Mr Koay confirmed that this was correct and that he did not deliver training to the staff. The training record for YU QI Yang showed her commence employment on 18/06/22, yet her staff training records are dated 9th August 2022 (exhibits SB/28 & SB/29).

I discussed with Mr Koay the previous Section 19 Notices from 18th February and 21st June 2022 both which referred to staff training not being complied with and his police interview on 20th July 2022 in relation to section 136 offences of unauthorised Licensable activities (namely failing to comply with Premise Licence Conditions) one of which was the staff training. I explained to Mr Koay that it was his responsibility to ensure compliance with the premise licence conditions and not Mr Leung's.

I explained that it was disappointing to see that YANG's staff training was not completed until 9th August 2022. Mr Koay stated he gave the training responsibility to Mr Leung.

I advised Mr Koay that it was his responsibility to check that every member of staff who worked at the Premises had undertaken staff training as per the Premise Licence condition. He did explain that since September 2022 Mr Leung was completing training with staff prior to commencement of their employment.

Mr Koay produced the incident book for the Premises Condition 3 Annex 2 and upon reviewing the incident book I noted that it was signed daily, namely by Mr Leung or the staff member GAGA (Xuanzen GUO). I discussed with Mr Koay as DPS did he sign or check the incident book and he confirmed the last entry he signed was 17th October 2022, (exhibit SB/32). I discussed with Mr Koay how often he would attend the Premises and what checks he did to ensure compliance with Premise Licence Conditions. Mr Koay informed me that most of his time is taken up at his other business and advised that the last time he was present at the premises was 28th October 2022. He stated Mr Leung is the main manager on site and will undertake the responsibility to ensure compliance with Premise Licence Conditions.

I advised Mr Koay that I would email him a cancellation notice in respect of the Section 19 issued on the 21st June 2022. I pointed out that it had taken almost five months for the notice to be complied with and that as DPS it is his responsibility to continue to ensure that the Premise licence conditions are being adhered to and whilst Mr Leung has been in charge of the venue Section 136 offences have taken place.

On 10th November 2022, I emailed Mr Koay and his legal representative a copy of the Section 19 cancellation Notice. Exhibit JB/06

Signature: J Booth

Signature witnessed by: