



Clerk: Lisa Antrobus  
Telephone: 01803 207013  
E-mail address: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)  
Date: Tuesday, 07 November 2017

Governance Support  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

Dear Member

**LICENSING SUB-COMMITTEE - THURSDAY, 9 NOVEMBER 2017**

I am now able to enclose, for consideration at the Thursday, 9 November 2017 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

| <b>Agenda No</b> | <b>Item</b>   | <b>Page</b>       |
|------------------|---|-------------------|
| 9.               | <b>Torbay Court Hotel, Steartfield Road, Paignton</b> | (Pages 106 - 139) |

Yours sincerely

Lisa Antrobus  
Clerk

In the Matter of the Licensing Act 2013

In the Matter of the Review of the Licence of the Torbay Court Hotel By  
Complaint

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WITNESS STATEMENT

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I, Kayley Taffinder, of Torbay Court Hotel, Steartfield Road, Paignton, TQ3 2BJ,  
WILL SAY:

1. I make this statement from facts within my own knowledge except where otherwise stated. Where information has been passed to me by any other person, then I identify the source of my information and verily believe it to be true.
2. I am the General Manager of the Torbay Court Hotel and I have been in post for five and a half years. The hotel was purchased by the present owners who run it as TC Hotels Ltd. The hotel had previously gone into receivership and before it was purchased by the present owners, the overflow carpark was sold off for residential development. The hotel was purchased with reduced parking. The car park was developed as residential housing adjacent to the hotel and the first properties were occupied probably some 3 or 4 years ago. I contend that the current allegations about noise, which the hotel disputes, are rooted in problems with parking difficulties exacerbated by the increased urban development. We had some problems with complaints from neighbours and in July 2016 I called a meeting at the hotel. There is now produced and shown to me marked "KT1" an indexed and paginated bundle of relevant documents. My letter to the neighbours is found at page 1. Following the meeting I prepared a report that I also circulated, and is found at pages 2 & 3. I recall that [REDACTED] did not attend although [REDACTED]

██████ did so. There were about 20 people out of which only 2 or 3 raised concerns.

3. The parking issue was a problem and it continues to be one today. The car park that we have is sufficient for the coaches that use the hotel to park in; but the access to the car park is occasionally blocked by cars and vans making it difficult for coaches to manoeuvre. I believed that double yellow lines in the area would prevent the problems arising out of obstruction and I took the matter up with Torbay Council. I would refer to pages 4-6 of the exhibit. Regrettably the solution to the problem was not pursued by the highways department.
4. The standard terms applying to our licence are usually sufficient and we only need to apply for a temporary events notice extending the hours for the music some 5 or 6 times a years. During high season we get families and younger people staying at the hotel; but out of high season particularly in the Autumn and winter our age group is 60+ and there is rarely a young person in sight. Invariably, we have a temporary events notice for functions such as folk dance or line dancing when we have guests who attend the specific function. The extensions are normally to either 12 or 1am. We do have smokers who go outside but we do not have an outside seating area. We discourage drinkers taking their drinks outside and there are signs drawing our customers attention to this. When the police licensing officer, Mr Crosby, looked at copies of our CCTV footage he could see the occasional smoker and no one else.
5. I have downloaded the Noise App and I understand that it only records for a period of some 30 seconds, then the person who called is invited to enter an intensity ranging. There is no control, or as far as I can see any check over where the recording took place and I am informed by my staff that they have seen ████████ apparently recording outside his house. The council have posted blue signs showing that the licence is under review but, apart from the two complaints, no other neighbours have complained. I have checked the dates that appear in the complaints and we did have live music on those occasions.
6. I would refer to pages 7-14 of my exhibit where I have compiled a neighbourhood complaint log. This has been prepared from information

# Exhibit TAF1 to statement of Kayley Taffinder.

## Schedule of Documents

|  | Pages |
|--|-------|
| 1. Letter to Neighbours June 2016              | 1     |
| 2. Report on Meeting 2 <sup>nd</sup> July 2016 | 2-3   |
| 3. Email & letter re: Torbay Highways          | 4-6   |
| 4. Neighbours Complaint Log                    | 7-14  |

received by myself, and my staff, but in particular the Assistant Manager ~~XXXXXXXXXXXXXXXXXXXX~~ attended the meeting in July 2016 and forcefully put her complaints. I understand that she has three children and I believe they are aged in the range of 4 – 9 years old. It is interesting to note that none of the complaints by ~~XXXXXXXXXX~~ refer to the children being troubled by any alleged noise pollution. I would also add that whenever we have received complaints we always check to see if there was any "unnecessary escape of noise" and where necessary we would ensure that the volume was turned down. I would reiterate, that apart from high season when we get the younger range of guests, most of our guests in the off season period are 60 or over and are hardly likely to be noisy out of doors or receptive to excessive noise.

THIS STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF

Signed \_\_\_\_\_



**Ms Kayley Taffinder**

Dated this            day of October 2017

**Dear Neighbours**

**I am writing as it has been brought to my attention that several of our neighbours have a few concerns regarding the hotel.**

**I would like to invite you to the hotel on Saturday 2<sup>nd</sup> July 2016 at 1.30pm to enable you the opportunity to raise and discuss any concerns you may have so that we can work together to resolve any problems that you may have experienced.**

**Should you not be able to make the meeting on Saturday. Please do pop in anytime and speak to me this week should you have any concerns you would like to discuss or to be raised at the meeting with the other neighbours.**

**I look forward to see you on Saturday**

**Kind Regards**

**Kayley Taffinder**

**General Manager**



Dear Neighbour

Thank you to everyone who came to the meeting on Saturday at the hotel or raised concerns with me either personally or in writing should you not have been able to make the meeting.

I feel that the meeting was very beneficial for both the hotel and yourselves, and do hope that you all feel the same.

There was a lot discussed at the meeting both relevant to the hotel and not. I have made some notes of those relevant as below for those of you which may not have been able to join us.

1. **Parking** – On arrival it is explained to all our guests where our car park is and where they can park and a record of car registration numbers are taken at check in. We do have some people who come into the hotel to have a meal/drink in the evenings and where possible we do direct them to the car park. We would never tell anyone to park in front of your garages and if anyone is to say they are parked there we always tell them to move. It was discussed about double yellow lines which the council have refused despite the hotel offering to pay to have them put down. As a neighbourhood we will work together to let coaches/ residents in and out.
2. **Criminal Damage** – It was mentioned that cars have had tyres slashed and key marks put down the side in the last few months. As I did explain myself or my staff are not responsible for these actions and would urge you to contact the police should you have any criminal damage to your property. CCTV is to be put up on the Steartfield Road side of the hotel in the coming weeks so this will hopefully catch the culprit. Should we have a problem with a car being parked so that the coach cannot get to the hotel we will contact the owner should we know the owner or contact the police to locate the owner. I have personally left polite notices on car window screens previously explaining coaches need access to the hotel and politely asking them not to park here but haven't and would never put any threatening notices on anyone's car.
3. **Coach loading and unloading** – we cater for a lot of elderly guests, many of which are disabled so loading and unloading at the front door of the hotel is a necessity as this is the only entrance with no steps. Should you need to get out whilst the road is blocked by one of our coaches please ask the driver or myself or one of my staff and we will get the coach to move to let you by. Where possible we will ask all coach drivers to load on the carpark.
4. **Coaches starting engines and beeping** – From Monday I will issue all coach drivers a welcome letter with a few instructions on such as; not starting engines until just before they leave, not blocking the road unless necessary, not going onto the property of the new private road and not beeping outside etc to try to eliminate these problems.
5. **Any problems** – If you do have any problems please do ring the hotel or come in and speak to a member of staff. There has been several occasions that my staff have been upset over how someone has come into the hotel swearing and being very angry and aggressive



towards them. We do get blamed for a lot and I would like to assure you that we will act immediately should any problems occur to rectify them as quickly as possible but we do ask that if you do have any problems to speak to us with respect.

6. **Hotel Guests & Noise** – Whilst we do our best to ensure our guests do follow instructions such as keeping noise levels down whilst outside, we also have signs on the door asking them to please respect the neighbours we can't be responsible for people actions should they go against what we ask them to do. Again we are not responsible for the coaches themselves or the drivers but will do whatever we can to ensure no problems occur. Our bar staff will do a regular walk around to ensure windows and doors are closed during the entertainment, however we do get some people who take it upon themselves to reopen them and have had incidents in the past which have resulted in me closing the bar due to guests ignoring us and constantly reopening windows so this is something we are actively doing to keep the noise outside the hotel to a minimum. We have signs at the front door asking people to respect the neighbours and keep noise levels down and not to take glasses outside. They have been occasions where some hotel guests have been drinking their own drinks outside and we have asked them not to but we can't do anything to stop them if they refuse. This is a very rare instance but please be assured we do everything in our power to stop this from happening. I will also this week be talking to all of our entertainers to keep the noise down when loading and unloading in the evenings and not to slam van doors.
7. **Extended License** – The hotel does extend the music license on some occasions for dance groups, skittles groups where required. This is usually about 5 times a year. After 11pm we always ask the music to be turned down as standard practise anyway when we have an extended license and regular checks are made to ensure our neighbours are not affected by the late night music. It was discussed that I send a letter out to the neighbours when these licenses are extended which I will do to inform you of any late night music past the usual licensed hours. However please do contact the hotel should you have any problems with any noise and we will immediately act on it.
8. **Coach Drivers** – The coach drivers are not representatives of the hotel and work for different companies, however should you experience any problems with one of the coach drivers at the hotel please do come and speak to me and I will be more than happy to speak to them to try to resolve any issues. We can put complaints in to the coach companies about the drivers which we do actively do should we have a driver which is aggressive or rude to any of my staff or neighbours that I am aware of. There have been some occasions where accidents have taken place regarding coaches which I was unaware of until Saturday so do ask if you have any problem at all please let me know so I can assist you. But please do not think they represent the hotel or are employed by the hotel.
9. **Bins** – It was discussed about our bins overflowing and seagulls ripping bags around. We have been having problems with Viridor who our waste contract is with. They have had a lot of problems with truck break downs resulting in our bins not being emptied as contracted





and bin lifts being missed. Unfortunately we are tied into a contract which does not end until October 2017, however after weeks of fighting they have agreed to a 3 month notice period for us to cancel the contract which means that as from 22<sup>nd</sup> August 2016 our contract will end and we have instructed another waste company to deliver new bins and make our bin collections so this should eliminate any problems. My staff do daily clean up around the bins but as soon as the rubbish has been tidied up the seagulls are back so please do bear with me for the next couple of months until our contract ends.

**10. Seagulls-** It was discussed about the nuisance seagulls nesting on the hotel. We are currently working with an architect to improve the outside of the building and this is something we are looking at trying to control with the new designs. At this stage it is too early for me to say what is happening with the frontage as we have not had the plans and ideas back from the architect as yet but will keep you informed and inform you when the plans are decided and submitted to the council planning department.

**11. Christmas Lights** – This year I will make a request not to have the large flashing light at the top of the Christmas Trees which get put up on the front of the building.

I shall be creating a 10% discount card to be printed for all food and drink purchased at the hotel and distribute them as soon as I can to all of our neighbours. Please do take advantage of these and join us for an afternoon tea, Sunday Lunch or evening meal. We have a fantastic chef who hand makes cakes, cookies, fudge and all of our meals are homemade using fresh local ingredients from local butchers, fish mongers and greengrocers.

## Torbay Court

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**From:** Highways <Highways@torbay.gov.uk>  
**Sent:** 25 July 2017 11:55  
**To:** 'info@torbaycourthotel.com'  
**Subject:** EMail from Highways AH - Torbay court Hotel, Paignton  
**Attachments:** 12285621\_HW - Letter Out.rtf

Please find letter attached - please reply to [highways@torbay.gov.uk](mailto:highways@torbay.gov.uk)

~~Stafford~~

**Admin/Clerical Asslstant**  
**(01803) 207690**  
**[highways@torbay.gov.uk](mailto:highways@torbay.gov.uk)**

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Mrs K Taffinder  
Torbay Court Hotel  
Stearfield Road  
Paignton  
Devon  
TQ3 2BJ

Please reply to: Andy Hooper  
Community & Customer Services  
Lower Ground Floor  
Town Hall  
Torquay, TQ1 3DR  
My ref: AH/LF  
Your ref:  
Telephone: 01803 207753  
Fax: 01803 207981  
E-mail: [Highways@torbay.gov.uk](mailto:Highways@torbay.gov.uk)  
Website: [www.torbay.gov.uk](http://www.torbay.gov.uk)  
Date: 25th July 2017

Dear Mrs Taffinder

### **Parking restriction changes - Warefield Road, Paignton**

Thank you for your e-mail of the 21st July 2017 on this matter.

Further to my letter to you on this issue on the 16th July 2014 regarding changes to the existing seasonal restrictions, whilst the Council currently still have a moratorium on any changes to parking restrictions that are not part of a Capital or externally funded scheme we could look at possible changes to the current arrangement provided that you are able to give your confirmation regarding funding of the changes as both myself and my Manager discussed with you on site in July 2014.


The proposed changes to the restrictions in place would be to lengthen the no waiting restrictions on the junction of Stearfield Road and Warefield Road and to change the current seasonal restrictions in this area to no waiting at any time.

Such changes would require permission from the Executive Lead to progress to advertisement and I will advise him once I have received your confirmation. However I would say, as stated at the meeting, that the Council cannot guarantee the outcome of this and should objections occur then the restriction changes may not be implemented. Again determination of objections is at the discretion of the Executive Lead member.

In the first instance we would ask for payment for the advertisements which would be approximately £1000. Should this then be successful then we would ask for further payment to cover the physical works of altering the lining and signing. Obviously I cannot give an accurate cost on this until the advert has been undertaken, but it is likely to be in the region of a further £800-1000.

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*forward thinking, people orientated, adaptable - always with integrity.*

If you require this in a different format or language, please contact me.

However, in the first instance I would suggest that you contact your local Councillors to determine their level of support for these changes as this will be important for the Executive Lead to determine prior to any agreement to advertise.

Once we know whether permission to advertise has been given, then we can determine the cost of the advert more accurately prior to requesting payment for this to be undertaken.

Yours sincerely

**Andy Hooper**  
**Traffic Technician**

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If you require this in a different format or language, please contact me.

# Neighbour Complaint Log

| DATE     | TIME  | COMPLAINT  | MADE BY |
|----------|-------|--|---------|
| 22/10/16 | 08.56 | <p>Good morning.</p> <p>Just to let you know that we were woken up last night with the noise from your guests roaring outside of your hotel and drinking on the street.<br/>This was at about 11.15pm.</p> <p>As a street we have noticed that the music you play is getting louder and that more and more of your guests are taking their alcohol outside with them whilst smoking and being so loud at night.<br/>Obviously they have no care for the residents who live close to your hotel but as a hotel we know you do care.</p> <p>Please could you address this issue as the signs that you have got up are obviously getting ignored.</p> <p>And please could you make sure that all windows and the front door is closed when the music is being played as some of us have to be up for work at 5.30am daily and including weekends.</p> <p>The council states that all windows and doors should be shut when music is being played.<br/>Now that it is colder at night this should no longer be an issue for you inforce.</p> <p>Thank you.</p> <p>Yours,<br/> <br/>                     (text copied from email received)</p> | E-mail  |


# Neighbour Complaint Log

|          |       |   |        |
|----------|-------|---|--------|
| 30/10/16 | 22.05 | <p>Dear Kayley,</p> <p>The music and noise coming from the hotel at night is getting so loud that we are finding it hard to sleep.</p> <p>People are on the street smoking and drinking and talking so loud it's beginning to feel like we live next to a night club!</p> <p>I know you said you were aware of the increase in the noise from your music in the hotel and that you were monitoring it but please, please could you lower the noise and close the front door at night.</p> <p>We are up daily at 5.30am for work.</p> <p>The noise from the hotel hasn't been an issue in the past so please can you lower the volume.</p> <p>The council website states that you must, as a venue close all windows and doors when the music is playing and that is a law. Please do this.</p> <p>Yours.</p> <p></p> <p>(text copied from email received)</p> | E-mail |
|----------|-------|---|--------|

# Neighbour Complaint Log

|          |       |  |        |
|----------|-------|--|--------|
| 02/11/16 | 09.31 | <p>Good morning.</p> <p>The Christmas tree lights are better but unfortunately they light up our bedroom like car head lights shinning in.</p> <p>Please could you put the outside tree lights on a timer to automatically switch off at 10pm? We don't want another sleepless Christmas because of the tree lights like last year.</p> <p>Thank you.</p> <p>[REDACTED] (text copied from email received)</p>  | E-mail |
| 08/11/16 | 08.55 | <p>Good Morning.</p> <p>Just to say that you are not turning the Christmas lights off outside of your hotel at 10pm.</p> <p>Please could you put the Christmas lights on a timer to automatically switch off at 10pm? This is a simple solution to this problem.</p> <p>The outside lights shine very brightly into our bedroom every night keeping us awake.</p> <p>If you put the lights on a timer we would then know that at 10pm the lights will automatically switch off allowing us to then sleep.</p> <p>My husband has to be up at 5.30am daily and needs his rest. Please could you sort this today.</p> <p>We don't want another battle like last year over these lights.</p> <p>Please, please take action. Yours.</p> <p>[REDACTED] (text copied from email received)</p> | E-Mail |

# Neighbour Complaint Log

|          | Telephone  |
|----------|--|
| 22/11/16 | <p>Guest sat in car with engine running at front of hotel Number 1 new houses complained.</p>  |
| 29/11/16 | <p>To The Manager</p> <p>It's 10.30pm and the christmas tree lights are still on outside of your hotel lightning up our bedroom and keeping us awake at night. They were on till late last night too.</p> <p>I have addressed this issue with you time and time again. And your caretaker assured me that he has put the lights on a timer to automatically switch off at 9.30pm every night. So why are they not switching off?</p> <p>Please can you sort this out so we can go to bed and not worry if we are going to be able to sleep at night.</p> <p>You kept us awake a lot this time last year. Please don't do it to us again this year. Switch the lights off at night or take them down! I</p> <p>Thank You.</p> <p></p> <p>(text copied from email received)</p> |



# Neighbour Complaint Log

|            |         |   | Telephone |
|------------|---------|---|-----------|
| 24/03/2017 | 10.45pm | <p>Abusive phone call from neighbours at opposite swearing down the phone to turn the music down. Slammed phone down.</p> <p>I went outside and couldn't hear hardly anything. Checked all windows and doors were closed. Lindsay.</p>  |           |
| 25/03/2017 | 07.35   | <p>To The Manager</p> <p>The music at your hotel was very very loud last night, we had to wait untill gone 12.30pm until the noise reduced to be able to even think about getting some sleep.</p> <p>Please, please can you consider your neighbours when banging out very loud music untill past 12.30pm as we all do live very close to your premises and have children to deal with and work to get up early for?</p> <p>Also last summer we had a meeting with you and you agreed to let us know when you extend your license at night. You have done this once. Please in future can you keep to this agreement and inform us as promised.</p> <p>Also please can you keep all windows and doors closed when playing your loud music to reduce noise pollution.</p> <p>Thank you.<br/>           [REDACTED] (neighbour)<br/>           (text copied from email received)</p> <p>Refer to outside noise log from bar for full details. E-mail complaint received following abusive phone call from her partner to the hotel at approx. 10.45pm. Full noise checks carried out. Late license until 12.30pm granted and all conditions of license carried out. No noise emanating from premises. Lindsay checked in disabled toilet and when door was closed no noise could be heard from inside so no way they could hear it in their houses across the street KT.</p> | E-mail    |

# Neighbour Complaint Log

|           |        |  |  |
|-----------|--------|--|--|
| 27/5/2017 | 5.30pm | <p>Neighbour rang the hotel to ask for cars to be moved from the front of the hotel as she couldn't turn her car around in the turning circle. (Funny as she usually uses our carpark to turn her car around in) I explained that the police have said in the past when the neighbours cars have been parked there and we was told that it was not illegally parked) She shouted well I will ring them and slammed the phone down on me KT</p>   | Phone  |
| 09/6/2017 | 9.30pm | <p>Neighbour rang the hotel to complain about the noise and our windows and doors were open. Ian checked all windows and doors were closed at 9pm. He checked again after this call and found 2 windows and the patio doors have been opened on the latch so was just slightly open. He closed them and asked the group organiser to announce to keep windows and doors closed. KT</p>   | Phone  |
| 19/6/2017 | 4.15pm | <p>Dunwood driver arrived and could not get round the corner due to [redacted]'s father being parked on the double yellow lines. The driver asked him to move his car so he could get around and both parties became abusive towards each other. [redacted] shouted at [redacted] that she was ringing the police.<br/>         On 22/6/17 4.30pm Mike from Torquay police station rang to discuss this incident. I explained what had happened and said that the driver asked him to move his car which the man refused no so nicely and the driver retaliated by also not being verbally nice. Mike is to monitor the situation and would like to be kept informed of any problems we have with them. He has left me his email address to contact him on. We discussed several ways the situation could be changed but agreed that without road restrictions being more permanent and around the junction things would not change KT</p> | No complaint made to hotel just to the police. |
| 17/6/2017 | 9.45pm | <p>Upon doing sound checks outside the neighbour from number [redacted] was stood in the middle of the road holding his phone in the air and walked towards the front entrance of the hotel. It was obvious he was recording on his phone. I found there to be very little noise coming from the hotel entertainment certainly not anything to cause a disturbance or that would be heard inside a neighbour's house. LP</p>   | No complaint made to the hotel.                |

# Neighbour Complaint Log

|         |         |  |       |
|---------|---------|--|-------|
| 20/7/17 | 9.15am  | <p>The coach driver couldn't get out the carpark but couldn't get out as there was a big van parked on the side of road in front of number 2 pier sands and a white car in front of 3 piers sands. I asked the man at number 2 if he could move the van so the coach could get out to which he replied "I will move my van when I need to go to work no sooner." I said when do you go to work and he replied "when I leave and went back inside.</p> <p>The white car belonged to a lady who shouted from the balcony of [REDACTED] "im just dropping my kids off I won't be long but there is no rush and I don't actually have to move it do I" in a very sarcastic tone. This made the coach driver extremely mad and resulted in him ranting and raving outside the hotel and our guests unable to go out on their day trip. LP</p> | N/A   |
| 21/7/17 | 9.15am  | <p>Van parked on double yellows by side of the hotel. The coach was unable to leave on time and due to the way cars were parked all around the corner/junction of Steartfield/Warefield road. The police was contacted by the Just Go driver and I also contacted highways at the council. The police managed to locate the owner and the van was moved enabling the coach to get out. Whilst on the phone to the police another van pulled up in front of the hotel carpark blocking the coach getting out. The Just go driver approached the neighbour and asked if he would be long as he needed to leave and the neighbour replied he will be gone in 2 hours. When the Just go driver explained he was on the phone to the police the neighbour then said he would move the van whenever he needed to get out. KT</p>               | N/A   |
| 27/7/17 | 11.05pm | <p>Neighbour from number [REDACTED] opposite rang to complain about the noise two guests were talking loudly at the front of the hotel having a cigarette. Ian asked the guests to keep the noise down and apologised to the lady on the phone but she slammed the phone down on him. KT</p>   | Phone |

# Neighbour Complaint Log

|          |         |   |                      |
|----------|---------|---|----------------------|
| 30/7/17  | 3.30am  | Neighbour from no. came storming into the hotel wanting a car moving which was blocking his access to his drive. Adrian checked our registration numbers and it is not someone staying at the hotel. The neighbour was being aggressive and very angry so stormed out and said he was leaving his car in the middle of the road and he was going to bed. He left his car in the middle of the road from 3.30am until just after 8am when he was told the police were coming. Police called at 8am by Kayley and 8.25am an officer came out and went across to have a word with him. She has told him she has the power to seize the vehicle should he do it again. She is also going to go back and report this to the neighbourhood team to help push forward the mediation meeting. | Came into the hotel. |
| 20/8/17  | 1.45am  | Neighbour rang the hotel to complain about one of our guests being outside in the street with their phone on speaker phone making lots of noise. He was very angry shouting at Adrian to sort her out and shut her up. Adrian went out asked her to keep the noise down and respect our neighbours.   | Phone                |
| 28/08/17 | 9.10pm  | Man from number opposite rang and shouted that the music was too loud. Again very aggressive and angry on the phone. Bar doors and windows had just been closed at 9pm. Ian asked entertainer to turn music down slightly.  | Phone                |
| 02/10/17 | 11.27pm | Neighbour called hotel asking to get the guests to quieten down outside as they were talking excessively loud. Sean went out and asked the guests to keep the noise down and they stopped talking and came back inside.   | Phone                |
| 6/10/17  | 10.30pm | As I was doing the regular sound checks at 10.30pm was stood outside the windows by the dance floor with his phone out. LP  |                      |
| 15/10/17 | 10.45am | On 15 <sup>th</sup> October 2017 whilst off duty I was walking through Paignton town centre when I was approached by with her young daughter. She approached me quite aggressively and said "I can see you have another dance group in I thought we had stopped all this" I explained that our licence was under review and we could continue with our live music up to 1.1pm. She then went on to say "Well we will see about that not for much longer" I explained that I was sick of being approached when I am off duty outside of work and shouted at in the street.   | In town              |

# Neighbour Complaint Log

|          |        |  |  |
|----------|--------|--|--|
|          |        | She then stormed off muttering under her breath "its fucking ridiculous" LP  |  |
| 17/10/17 | 4.30pm | Coach driver hit a neighbours car (no. 3 pier sands) Insurance details were exchanged and the person who owned the car was very nice about it and said they shouldn't have parked there anyway. [redacted] came out shouting at the Coach driver that he saw him hit the car so you cant get away with this you cant deny it. The coach driver told him that he was just going to pass his details over but [redacted] had stormed over to him before he had chance to get off his coach. [redacted] was very aggressive towards the driver when the driver asked him if it was his car and when he said it wasn't the driver told him it was none of his business then. |  |

## Age Training Manual

### Sections:

1. Introduction
2. Test Purchasing
3. Age Restricted Products
4. What the Law Says
5. How to Check Proof of Age
6. Advice and Guidance
7. How to Refuse a Sale
8. Test of Learning

### 1. Introduction

This policy sets out the statutory requirements of staff relating to the sale of age restricted products. The Torbay Court Hotel sells two categories of age restricted products: matches and alcohol. Trading Standards understand it can be very difficult to judge the age of a young person, but if you sell age restricted products to someone underage you may commit a criminal offence, an action for which you could be personally liable so it is important to read the following guidance carefully.

To protect children from harm and comply with the law, it is important to take under age sales very seriously. There can be serious consequences for businesses, licensees AND individual members of staff. Penalties for breaking the law include substantial fines, loss of licences, a criminal record and even imprisonment. Individual members of staff can be taken to court and prosecuted. They could also lose their job. It is important that all staff dealing with the sale of age restricted products carry out their own age checks as all individuals can be held responsible should under age sales take place.

Trading Standards are consulted on licence applications under the Licensing Act 2003; the Act requires anyone selling age restricted products to take steps to check a customer's age. If a licensee and the staff are not following the guidelines outlined in this policy then these matters may be raised during the licensing process. Any evidence of underage sales can also trigger a review, which could lead to the business losing its licence.

### 2. Test Purchasing

Trading Standards' staff, employed by the local council, check that local businesses are following the law and can carry out test purchases of all age restricted products as part of their enforcement duties. Police officers may also carry out such exercises with regard to alcohol sales.

Test purchases will be made fairly, with volunteer young people who look their age. These test purchases follow procedures supported by the government. They are allowed as evidence of underage sales and are not a trap. Following these guidelines and asking for proof of age should ensure that you don't make an illegal sale. Examples of 'proof of age' evidence are shown later in this document.

### 3. Age Restricted Products

We sell two categories of age restricted products: cigarettes and alcohol. The table below shows the age your customer must be in order to buy or get access to the products.

| Age restricted product  | Age restriction |
|---|-----------------|
| Alcohol   | 18 years        |
| Cigarettes and tobacco products, including cigarette papers and those from vending machines | 18 years        |

If you are selling age restricted products, you must be able to show that you are doing all that you possibly can to make checks against a customer's age. This is what the courts would look at should an illegal sale take place. If you follow the guidelines in these notes, it will help to show you are taking 'all reasonable precautions and exercising all due diligence'. This is legal-speak to say that you have behaved in a way that can provide a defence in law if an illegal sale takes place. What is 'reasonable' will be different for smaller premises than for a large national chain.

### 4. What the Law Says

#### Alcohol:

The age at which product alcohol can be legally served and bought is 18 years of age; you must also not sell to customers over 18 years of age who you think may be purchasing for under 18s. The only exception is where the law does allow people over 18 years of age to buy beer, wine or cider for 16 and 17 year olds for consumption at a table meal on licensed premises, if accompanied by someone over 18. Liqueur chocolates can be purchased by customers from the age of 16.

The owner of the business, the designated premises supervisor and the seller may commit a criminal offence if alcohol is sold to an under 18 year old:

- Under 18s cannot legally purchase alcohol.
- Always ask for proof of age before you serve a customer and check details on the proof of age.
- If you are found guilty of selling alcohol to a person under 18 years of age the premises' licence to sell alcohol is at risk and could be revoked.
- You can face prosecution and a criminal record or alternatively the Police can issue on the spot fines if you make an underage sale.

- Where staff are under 18 years of age, sales must be supervised by staff over the age of 18 years. If a person aged under 18 years makes an unsupervised sale of alcohol, the supervisor can be prosecuted and fined.

### **Cigarettes and Tobacco Products:**

- The age at which cigarettes and tobacco products can be legally bought is 18 years.
- Tobacco products include cigarette papers and herbal cigarettes or smoking mixtures.
- Under 18s who say they are buying for an adult must be refused.
- It is illegal to split packets of cigarettes or to sell them singly.
- Do not sell to adults who you think may be purchasing on behalf of under 18 year olds.
- A notice must be displayed about sales being prohibited to under 18 year olds – contact your local Trading Standards department for examples.
- A person under the age of 18 can sell tobacco products to customers over the age of 18 as long as they have been properly trained and remain supervised.
- Matches and disposable lighters do not have an age restriction associated with them, however Trading Standards recommends imposing a voluntary age limit of 16 years.
- Always ask for proof of age before you sell to a customer and check the details carefully.

### **Cigarette Vending Machines:**

- The age at which cigarettes and tobacco products can be legally bought is 18 years.
- Vending machines should be sited so that they can be supervised at all times.
- Do not position machines in corridors or hallways that cannot be seen by staff.
- A notice must be displayed about sales being prohibited to under 18 year olds.
- Challenge users and ask for proof of age.

## **5. How to Check Proof of Age**

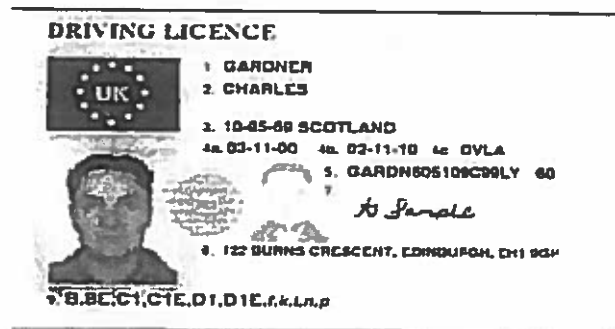
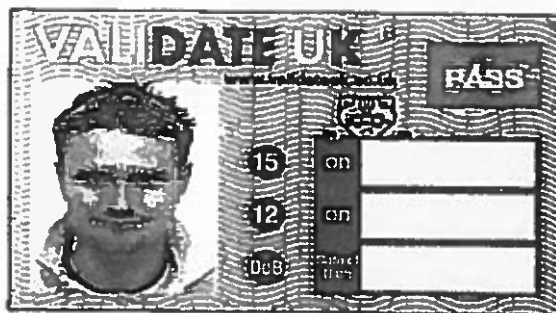
If a customer looks under 25 years of age and asks to buy an age restricted product, ask them for some form of proof of age and check it carefully. Trading Standards recommend that you only accept proof of age with the customer's date of birth and photo on it, for example a driving licence, passport or proof of age card. Remember to check that the photo matches the customer and that you can see their face clearly – you can ask a customer to remove a hood, cap or sunglasses if your view is obscured.

Proof of age cards need to carry a PASS hologram to show that they are part of an approved scheme and have been correctly issued. If you can see the PASS hologram you can be confident that it is valid proof of age. Please see the examples below for reference.

If proof of age evidence cannot be produced you must refuse the sale and make an entry in the company's refusals register.



**Examples of Proof of Age:**



**Always Follow These Checks:**

- 1 Check that the PASS hologram is genuine and flush with the body of the card.
- 2 Check that the photo matches the person using it and that it is printed on the card, not just stuck on top of it. Ask them to remove helmets, hoods and sunglasses if you are not sure.
- 3 Check that the date of birth is properly printed on the card and that you have calculated the age of the person correctly.
- 4 Check that the card has not been tampered with in any way.
- 5 If you are unsure about any of the above you must, and have the right to, refuse the sale.

**Acceptable Proof of Age Includes:**

- 10 year passport
- Photo driving licence
- CitizenCard
- Validate card

There are fake proof of age cards about so if you are unhappy with a card for any reason, refuse the sale. Items such as birth certificates and national insurance cards are not recommended as they carry no photographic evidence.

Legally you have the right to refuse to sell to anyone, whether over or under age, if you are unhappy with the sale in any way.

**Remember:**

***Better safe than sorry – if YOU sell an age restricted product YOU are responsible.***

## 6. Advice and Guidance

- Make sure statutory notices (e.g. 'It is an offence to sell cigarettes to a person under 18 years of age' posters) are on display and clearly state your policy not to sell to under age people.
- Follow a 'Challenge 25' rule and ask for proof of age from anyone who does not look 25 years or over. Remember, if you guess wrong you could end up in court.
- Only accept approved proof of age cards with photos, date of birth and the PASS hologram, where applicable.
- Support colleagues when they refuse sales. It can be difficult to say 'no'.
- Fill in the Hotel's 'refusals register' each time a refusal takes place. Your manager should check entries regularly to make sure all staff are using the register.
- Be aware of where vending machines for age restricted products are sited. Supervision of their use should be possible at all times during opening hours.
- Do not sell to anyone you suspect of buying age restricted products for under age young people, even if these customers are old enough to be served. It is an offence for a member of the public to buy alcohol on behalf of someone under 18 years of age, and should be reported to Trading Standards or the Police. If you feel uncomfortable at all, please contact a supervisor or your Head of Department.
- If you believe you, or a colleague, require further training please notify your manager.
- All windows and doors must be closed during all entertainment, regular sound checks around the outside of the building must be made to ensure no unacceptable noise breakout and recorded should any action need be taken.

- During any events using a Temporary Event Notice sound checks must be carried out every hour and logged on the events log.

## 7. How to Refuse a Sale

Sometimes refusing a sale can make the customer angry. Here are some tips to help you handle difficult refusals:

1. **Ask for proof of age** – this can help the situation as it is not a direct refusal. It says that you will make the sale if they can produce valid proof of age. Only accept proof of age with a photo and date of birth, and only then if you are happy it is correct.
2. **Refuse politely** – if necessary, repeat your refusal clearly.
3. **Keep calm** – don't get into an argument.
4. **Explain briefly why you cannot make the sale** – try saying:
  - 'I'm sorry, if I serve you I might be breaking the law'
  - 'We have a policy of 'no proof of age, no sale' at this establishment'
  - 'Our company policy is not to sell these products to young people'.
5. **Show customers notices, posters and stickers** – that indicate you will not serve alcohol to under 18s or sell other age restricted products.
6. **Offer an application form** – for an approved proof of age card scheme.
7. **Be positive in your refusal** – have a firm tone of voice, be confident and use direct eye contact. The law is on your side and you are doing the right thing.
8. **Call your supervisor or manager** – for support if necessary.
9. **Record details** – in your premises' refusal register.
10. **Report incidents** – where you have felt threatened and/or intimidated to your manager.
11. **Events log** – mark down any inappropriate behaviour in the events log.

## 8. Test of Learning

To check that you have remembered what you have read, please complete the following set of questions. If you have any questions on your learning, please discuss them with your manager.

### Section 1: General Underage Sales Prevention Test

|  |  |
|--|--|
| <p><b>1. From the list below, which two pieces of evidence could be used to establish a buyer's age?</b></p> <p>A. Passport &amp; National Insurance card<br/>B. PASS accredited proof of age card &amp; photo driving licence<br/>C. National Insurance card &amp; paper driving licence</p> <p><b>2. Which document from the list below is not sufficient to establish a buyer's age:</b></p> <p>A. Birth certificate<br/>B. Photo driving licence<br/>C. Passport</p> <p><b>3. If a buyer cannot prove their age, what should you do when selling age restricted products?</b></p> <p>A. Refuse the sale and enter it in the refusals log<br/>B. Sell the goods, but only this once<br/>C. Ask the customer's friend to vouch for their age</p> <p><b>4. If a young person attempts to buy age restricted products, what should you do?</b></p> <p>A. Tell them you can only sell the goods when your boss isn't around<br/>B. Ask for suitable proof of age<br/>C. Make the sale if no other customers are around</p> <p><b>5. A young person attempts to buy an age restricted product but has no proof of age. The</b></p> | <p><b>6. How can you judge a person's age if the person has no proof of age?</b></p> <p>A. Ask the purchaser for his/her age<br/>B. Hazard a guess and hope for the best<br/>C. You can't. Ask for an acceptable proof of age</p> <p><b>7. Generally, how can you tell if a proof of age card is genuine and valid?</b></p> <p>A. Look for the PASS logo hologram<br/>B. Check for a date of birth and photo<br/>C. Fake ID cards do not exist</p> <p><b>8. Someone you think is under 21 is trying to buy an age restricted product. What should you do?</b></p> <p>A. Believe what the customer tells you is correct<br/>B. Ask the purchaser to provide valid proof of age<br/>C. Make the sale, but only this once</p> <p><b>9. A child arrives with a letter from their mother asking to buy an age restricted product. What action should you take?</b></p> <p>A. Write on the letter that you've made the sale, but next time the mother should come along<br/>B. It must be genuine; kids don't create fake letters<br/>C. Refuse the sale and write nothing on the letter</p> <p><b>10. What is the minimum legal age to buy alcohol?</b></p> |
|--|--|

|   |  |
|---|--|
| <p><b>buyer insists they are the proper age. You refuse the sale. How can you advise the buyer regarding future purchases?</b></p> <p>A. Advise them to obtain a PASS accredited proof of age card<br/>         B. Tell the customer to clear off<br/>         C. Ask if the customer's friend can guarantee the customer's age for you</p> | <p>A. 16 years<br/>         B. 18 years<br/>         C. 21 years</p> <p><b>11. What is the minimum legal age to buy tobacco products?</b></p> <p>A. 14 years<br/>         B. 16 years<br/>         C. 18 years</p> |
|---|--|

**Section 2: Alcohol**

|  |   |
|--|---|
| <p><b>1. What is the minimum legal age to buy alcohol?</b></p> <p>A. 16 years<br/>         B. 18 years<br/>         C. 21 years</p> <p><b>2. What could happen to a Premises Licence following an underage sale of alcohol?</b></p> <p>A. No action would be taken against the Licence<br/>         B. Licence could be suspended or revoked<br/>         C. Be awarded extra hours to sell alcohol</p> <p><b>3. What action can the Police take against a person (e.g. member of staff) who sells alcohol to someone under the legal age required to buy alcohol?</b></p> <p>A. Congratulate the seller for selling alcohol to youngsters<br/>         B. No action would be taken against the seller, only against the business holding the Licence<br/>         C. Seller could be prosecuted and receive a fine and criminal record</p> <p><b>4. Who could the Police or Trading Standards take action against if a member of staff sells alcohol to someone under the legal age?</b></p> <p>A. The business owner<br/>         B. The seller<br/>         C. Both the business owner and the seller</p> <p><b>5. Young people are asking adult customers to buy alcohol for them. What should you do?</b></p> <p>A. Serve the adult customer with the alcohol for</p> | <p><b>6. What should you do if the group of young people (see question 6 above) do not move on within a short time?</b></p> <p>A. Get a customer to tell them to move on<br/>         B. Leave your position and confront them<br/>         C. Call the Police</p> <p><b>7. How old do you have to be to buy liqueur chocolates?</b></p> <p>A. 14 years<br/>         B. 16 years<br/>         C. 18 years</p> |
|--|---|

**Section 3: Cigarettes and Tobacco (including vending machines and cigarette papers)**

|   |   |
|---|---|
| <p><b>1. What is the minimum legal age to buy tobacco products (e.g. cigarettes, rolling tobacco, cigars)?</b><br/>A. 14 years<br/>B. 16 years<br/>C. 18 years</p> <p><b>2. How old do you have to be to buy cigarette papers?</b><br/>A. 12 years<br/>B. 16 years<br/>C. 18 years</p> <p><b>3. Can you sell 'single' cigarettes?</b><br/>A. Yes<br/>B. No<br/>C. Only to school children</p> <p><b>4. How old must you be to buy cigarettes from a vending machine?</b><br/>A. 14 years<br/>B. 18 years<br/>C. 16 years</p> <p><b>5. Where should you position a tobacco vending machine on your premises?</b><br/>A. Position it outside so anyone can buy from it<br/>B. Position it wherever you like<br/>C. Ensure that staff can see the machine to restrict anyone under 18 years old from using it</p> <p><b>6. Does the law require a notice to be displayed regarding tobacco?</b><br/>A. No<br/>B. Yes, it's up to us to design it<br/>C. Yes, the notice is prescribed by law</p> | <p><b>7. Can a properly employed minor sell tobacco products?</b><br/>A. No, you have to be 18 years old to sell cigarettes<br/>B. Yes<br/>C. Yes, provided the purchaser is over 18 years old</p> <p><b>8. How old do you have to be to purchase matches or disposable lighters?</b><br/>A. 18 years<br/>B. 14 years<br/>C. No age limit but it is recommended that a voluntary age restriction of 16 years is applied</p> <p><b>9. What is the legal age limit applicable to buy herbal cigarettes or smoking mixtures?</b><br/>A. No age limit applies<br/>B. 16 years<br/>C. 18 years</p> |
|---|---|

Claimant  
Surname of Witness  
Number  
Exhibits  
Date

## WITNESS STATEMENT

[REDACTED]

Case No.

BETWEEN

[REDACTED] AND [REDACTED]

-and-

TORBAY COURT HOTEL

---

STATEMENT OF

[REDACTED]

---

I, [REDACTED], Private Investigator, of [REDACTED], [REDACTED]

MAKE THE FOLLOWING STATEMENT OF FACTS AS THEY ARE KNOWN  
TO ME:-

1. I am a retired Police Officer from the Devon and Cornwall Constabulary having completed 27 ½ year service, the last 22 years of which were served on the traffic division.
2. Since 1985 I have been self employed as a private investigator and have undertaken various forms of investigations and surveillance for Solicitors and major Companies throughout the Country as well as Australia and the United States of America.
3. On the 31 October 2017, I was instructed by Michael Hayman of Woolcombe, Beer Watts, Solicitors, Union Street, Torquay to go to Steartfield Road,

I believe the facts as stated in this witness statement are true

Signed

[REDACTED SIGNATURE]

Dated

31/10/17

Page 1 of 3

## Statement of Witness

Continued Statement of LESTER SHAPTER

Paignton where I would find the Torbay Court Hotel who have been involved in a dispute with 2 neighbours over the music noise emanating from the hotel during the evenings and to gauge the reaction of residents close by as to the extent, if any, that this happens.

4. The address of the hotel is in Steartfield Road, but the bulk of the premises and main entrance are situated in Warefield Road.
5. Warefield Road is governed by a cross roads with 12 properties to the right with even numbers 2 to 12 and odd numbers 1 to 11. To the left of the cross roads is the hotel and opposite the hotel are three houses 13, 15 & 15a, following on from 15a is a development of 8 town houses named Pier Sands.
6. There are a total 23 properties in Warefield Road some of which are split into flats.
7. I formulated the following questions on my approach to residents and they were: -

Do you have a problem with any music noise coming from the Torbay Court Hotel? -

Have you had cause to complain to the hotel management about any type of noise in the past? -

Would you complain if the noise was too excessive?

8. I visited 7 properties in total which included [REDACTED] and although the residents would give me their names they declined to be quoted for fear of retribution from the objectors to the music licence. Two of the residents I spoke to believed they knew who the complainants were.

I believe the facts as stated in this witness statement are true

Signed

Dated

31/10/17

Page 2 of 3



## Statement of Witness

Continued Statement of LESTER SHAPTER

9. One resident stated "I do not hear any noise from the hotel when I am in the house but standing outside it is very faint"
10. Another said, "I was in the hotel business and whilst sometimes I hear music I cannot complain because I chose to buy a house near a hotel – however, if the hotel were to shut the side door by the car park and the main door it would help as well as painting the outside, it would not be a problem because the complainers would go away."
11. Another said, "If I had a complaint which I don't I would see Kayleigh (the manageress of the hotel) and she would sort it like she's done for others, we had a residents meeting with the hotel last year and I know that at least one of the complainants couldn't be bothered to attend."
12. Another reply was, "I am in the music business and yes if I'm outside I can hear it sometimes, but it's very quiet but all the properties are double glazed anyway so it isn't a problem."
13. Another said, "We know who one of the complainants is but nobody complains when she's in the street screaming at her kids".
14. Another said, "We bought the property knowing it was by a hotel so we accept what is happening".
15. I therefore formed the opinion from the persons I spoke to that there was no objection to the music being played in the hotel.

I believe the facts as stated in this witness statement are true

Signed 

Dated

31. 10. 17

Page 3 of 3



Try restaurants, coffee



Rd



Vaverley Guest House



Warefield Rd

Warefield Rd

Stearfield Rd

Torbay Court



Blue Waters Lodge



Leighon Rd

Richmond Guest House



SINGER HOUSE  
GUEST HOUSE



Norman Rd



Stearfield Rd

Lynchhurst



Hotel Bonair



Cambria



Setford Lodge



Britney House



The Palace



The Palace Hotel, Part  
Of Duchy Hotels Group



MERSAUNDS

ESPLANADE ROAD



Esnt-

