



Friday, 23 March 2018

## **LICENSING SUB-COMMITTEE**

A meeting of **Licensing Sub-Committee** will be held on

**Wednesday, 4 April 2018**

commencing at **11.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

### **Members of the Committee**

Councillor Doggett

Councillor Thomas (D)

Councillor Stocks

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

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# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Declarations of interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**  
To consider any other items that the Chairman decides are urgent.
5. **Winstons, Station Square, Paignton**  
To consider an application for a Summary (Expedited) Review of a Premises Licence.

(Pages 3 - 7)

ANNEX B

Devon and Cornwall Constabulary  
HQ Middlemoor  
Devon

## CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious disorder.

Premises: Winstons, Station Square, Paignton, TQ4 5DS

Premises licence number (if known): PL0357

Name of premises supervisor (if known): Mr John Mudge

I am a Superintendent in the Devon and Cornwall police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because :

S161 has been repealed and replaced with S76 of the Anti-Social Behaviour, Crime and Policing Act 2014, and I have considered this legislation but not do consider it appropriate as it relates to disorder and/or nuisance that has taken place or is about to take place, where the notice is necessary to prevent the disorder or nuisance continuing.

I do not consider a Review under Section 51 of the Licensing Act to be an appropriate course of action due to the serious nature of an incident on Saturday 10 March 2018. In addition, the DPS was present at the premises at the time of the incident and took no action in relation to the incident or the offender.

As the relevant incident raises serious concerns regarding the DPS and the door stewards employed at this premises immediate action is required to protect the safety of members of the public

Signed: ..... *[Signature]* ..... *[Signature]* Date: *29.3.18* .....

Delete as applicable.

2 Include business name and address and any other relevant identifying details.

3 Insert rank of officer giving the certificate, which must be superintendent or above.

4 Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

**FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW**  
**TORBAY COUNCIL, LICENSING SECTION, C/O TOWN HALL, CASTLE CIRCUS,**  
**TORQUAY, TQ1 3DR**

**Application for the review of a premises licence under section 53A of the**  
**Licensing Act 2003 (premises associated with serious crime or disorder)**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

I, Superintendent Matthew Lawler, [on behalf of] the Chief officer of police for the Torbay police area apply for the review of a premises licence under Section 53A of the Licensing Act 2003

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description: Winstons, Station Square

Post town: Paignton

Post code (if known): TQ4 5DS

**2. Premises licence details:**

Name of premises licence holder (if known): Mr Hossam El-Din Fahmy Gabriel Kasbar

Number of premises licence holder (if known): PL0357

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:**

I confirm that a certificate has been given by a senior member of the police force for the police area above that in my opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.  
*(Please tick the box to confirm) X*

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

**Any other information:**

At 0044 hrs on the morning of Saturday 10 March 2018 police received a call from a male (Male 1) who stated that he had been assaulted by the door staff of Winstons (Log 43 of 10/03/18 refers). This male stated that the door staff had grabbed him and thrown him out of the premises and in the process they pushed him to the ground causing a head injury.

Upon police arrival at 0049 hrs the aggrieved was located and it was apparent that he had 2 open wounds to the rear of his head that were bleeding. He stated he could not recall what had happened other than that he was hit and fell backwards, hurting his head. He could not remember who had hit him or give a description of that person.

The aggrieved was in the company of his friend (Male 2) who stated that he too had been assaulted and Male 1's wife stated that she saw who did it but she could not give a description of this male other than he was a stocky white male.

Police spoke with door staff who stated that they did not know what happened and had ejected one male but there were no issues.

Police took Male 1 and his wife home as he initially refused hospital treatment. However after a few hours he felt ill so went to A&E and his wounds were seen to. It was confirmed that he had 2 cuts on the back of his head that had to be glued. One wound was 1 inch long and the other was approximately 2 inches long and both were described by the nurse as 'deep wounds'.

Subsequently the DPS, John Mudge, was requested to download the CCTV footage for the incident and leave it for officers to collect the following day.

The CCTV was collected and sent to our Video Processing Unit. When it was returned to PC TIFFANY-JAMES, the investigating officer, it clearly showed the following:

Door staff eject Male 2 from the premises and Male 1 was manhandled out of the premises and pushed backwards into the road.

At this point 3 door stewards can be seen on the pavement outside Winstons. Male 1 and Male 2 walk back onto the pavement and a dispute continues, resulting in a member of the public punching Male 1. As a result of this punch, Male 1 falls onto his back in the road and is motionless for a short period of time. A coach then comes along the road, and thankfully it is not being driven at an excessive speed, as the front wheels narrowly miss male 1's head. By chance at this point the male starts to sit up which prevents the trailing rear wheels of the coach from running over his head and causing him serious injury.

He is then seen to drag himself to his feet and then stumbles onto the pavement and is clearly very unsteady on his feet. He stumbles towards a door steward however instead of offering any form of assistance, the door steward pushes him away with such force that he falls straight onto his back into the road again, with his head hitting the floor with considerable force. At this point he appears to have been knocked unconscious and is seen laying still for several minutes.

During the part of the incident where the door steward pushed Male 1, the DPS John Mudge is seen less than 3 metres away and has a clear and unobstructed view of the incident. In fact he is seen to look directly at the male lying prone in the road. As Male 1 lays unconscious on the road no staff from this premises go to help or assist him but he can be seen being attended to by members of the public, who also divert on-coming traffic around him, preventing him from being run over.

Furthermore, there is no record of the police receiving any contact from the door staff or the DPS to report this incident. The police only attended after Male 1 had contacted the police and he rang about 10 minutes after the incident had concluded.

For the duration of time that the police were at Winstons, the DPS did not approach the police to offer any information and was stood outside the front of the building just watching what was going on.

The door steward company that supplies stewards to this premises is Fortem Security Ltd, whose correspondence address is Winstons, 62 Victoria Street, Paignton, and the directors of this company are John Mudge, the DPS, and Simon Mabin, a door steward at the premises, who was present throughout this incident.

From her past experience of dealing with this premise Mrs Smart, my Police Licensing Officer, has advised me that the Premises Licence Holder, Mr Hossam El-Din Fahmy Gobriel Kasbar, is a [redacted] who has no involvement in the management of this premises. In fact in October 2012 he was invited to attend a meeting regarding concerns in relation to his premises, however he was too busy to attend and sent a solicitor in his absence.

Due to the serious nature of this incident, which could have resulted in serious injury or even a fatality, where the door stewards and DPS showed a total disregard to their duty of care towards their patrons, the police recommend that the licence is suspended with immediate effect in order to ensure the public safety licensing objective is met. This will then allow for the police to meet with the Premises Licence Holder, or his representative, in order to discuss the future management of his premises.

**Any other information:**

Signature of applicant:	<i>[Handwritten Signature]</i>
Date:	<i>29.3.18</i>
Capacity:	<i>Supt. HEAD OF PREVENTION</i>

**Contact details for matters concerning this application:**

Address:

Telephone number(s):

Email:

**Notes for guidance:**

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must

explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of twenty- one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.