

## Representations of Matthew Lyon

1. I have run the Devon Dumpling public house at 108 Shiphay Lane, Torquay TQ2 7BY in partnership with my father, Raymond Lyon, for approximately 22 years.
2. When the Devon Dumpling opened after lockdown there was necessarily much more activity in the outside areas of the pub from patrons. As had been experienced by many public house nationally, local residents, who had become accustomed to the lower background noise levels during lockdown, made a number of noise complaints which triggered a review of the licence. As a result of the review, the Council's licensing sub-committee imposed a new condition number 13 on the licence which stated "After 10pm patrons wishing to smoke, must use the designated smoking area, known as the cage". Julie Smart suggested that I either remove the roof of the cage or locate another suitable alternative area for smoking which would require a variation.
3. On 1<sup>st</sup> March 2024 Julie Smart also suggested that I submit a minor variation to the pub's licence to note the new wooden structure with a bar and TV in it that was then under construction.
4. I continued to look into making the cage compliant and to also look at alternative areas in the pub's outside areas to ensure compliance with the licensing conditions and the law on smoking shelters. During this time some patrons smoked in the street outside the front of the pub.
5. I acknowledge that Mr Tom West, Public Protection Officer, contacted my manager by e-mail on 8<sup>th</sup> March about the variation.
6. Julie Smart and Tom West visited the pub again on 4<sup>th</sup> July. I informed them of my understanding (and had indeed been advised) that the cage met the requirements of the Health Act 2006 and the Smoke Free (Premises and Enforcement) Regulations 2006. They also advised me that I should submit a minor variation if I wanted the condition removed from the licence which required patrons to be seated at all times (a condition which was proving difficult to comply with). I was also informed of three noise complaints received.
7. On 25<sup>th</sup> July 2024 my pub manager called Julie Smart to express concerns that removing the roof of the cage might lead to more noise complaints.
8. By letter dated 2<sup>nd</sup> October I received a letter saying that I needed to submit the proposed licensing variation by no later than 18<sup>th</sup> October 2024 or there would be a potential prosecution or a review of the licence. The deadline was extended to 25<sup>th</sup> October 2024 by a letter to my father dated 11<sup>th</sup> October.
9. On 16<sup>th</sup> October I received an e-mail from Mr West advising of a further noise complaint and I agreed to meet Mr Lyon on 22<sup>nd</sup> October. I subsequently met with Mr West and Julie Smart. They provided me with a DPS variation as I had expressed a

wish to be DPS. I signed the variation but they left it with me. I didn't really think about this at the time and rather assumed that I had done what I had been asked at the time. Mr West also agreed to provide a minor variation for me to sign to which I had to attach a plan and make payment over the phone. Some noise issues were discussed.

10. In Tom West's representation at p.77 of the committee agenda Mr West notes "Following out meeting, there was a noticeable improvement in the situation. One complainant said they'd witnessed staff members approaching patrons to ask that they leave quietly as well as moving customers on to prevent unnecessary congregation."
11. On 27<sup>th</sup> November I wrote to Mr West explaining that I was waiting for a contractor to inform me how much of the roof needed to be removed from the cage to comply with the anti-smoking legislation. I actually asked four contractors to complete the works before I finally found one that was prepared to carry out the work. There were also delays due to the weather.
12. On 29<sup>th</sup> November Julie Smart attended the pub. I was not aware that anyone sang happy birthday but that would not be an unusual and impromptu occurrence. I also understand that there were people in the garden. This was very shortly after 10am and my staff were pro-actively asking people to move inside.
13. The Licensing review is dated 16<sup>th</sup> December 2024. This was unfortunate timing as the contractor that I had finally asked to remove part of the cage roof completed the work the following day as had already been planned.
14. I submitted the minor variation to change the premises licence and the form to make me the DPS on 22.10.2024. I sincerely apologise to the licensing sub-committee for the delay in getting these forms to the Council. I also apologise for the delay in the works to the cage to ensure that it was compliant with the Health Act 2006 and the Smoke Free (Premises and Enforcement) Regulations 2006. This was at least in part due to my belief that the structure was compliant and then the unavailability of contractors but accept that I should have better kept the Council informed of progress in this regard.
15. There have been no noise complaints since the works to the cage were completed on 17<sup>th</sup> December 2024. Tom West had already noted a noticeable improvement at the premises following his meeting with me and others on 22<sup>nd</sup> October. It is acknowledged that this is primarily because patrons have no need to stand at the front of the premises or in the car park and it was this which was generating the complaints from residents. Since the review application was submitted further signs have been erected asking patrons to keep quiet and respect neighbours when they are in outside areas or leave the premises. I have implemented a new noise book where staff are required to record hourly noise in meaningful detail.

16. On 30<sup>th</sup> January Julie Smart attended the premises again. It was her view that the cage was still not compliant with the relevant anti-smoking rules. Rather than consider the point further I instructed contractors to remove a further section of the cage roof which happened on 31<sup>st</sup> January and there should be no question that it now complies with the relevant regulatory requirements for smoking shelters.
17. I have not commented on every e-mail in Julie Smart's review. Unfortunately some of the e-mails were sent to the e-mail address [info@devondumpling.co.uk](mailto:info@devondumpling.co.uk) which is not regularly monitored and when it is, it tends to be used by staff to take bookings. I did not therefore receive all of the e-mails as alleged or at all which caused the delay in part. Whilst I have apologised for any errors in the way that I handled the matter, I am confident that all licensing issues are now dealt with.
18. Tom West has acknowledged that there has been a noticeable improvement since 22<sup>nd</sup> October 2024 and no further noise complaints have been received. It is submitted that there should be no justification to impose further noise conditions on the licence as suggested on pages 80 and 81 of Tom West's report (removal of live music act exemption, earlier closing on a Friday and Saturday night and the requirement of CCTV) or at all. There are also many positive representations from nearby residents who say that they have not been disturbed by noise from the pub (pp. 101 to 144 including Councillor Darren Cowell). The issues that ultimately triggering the review were my admitted failures to submit the licence variation to show a structure in the pub garden and DPS change from my father to I promptly on request which I have apologised for and failure to make the smoking shelter (the cage) compliant with the relevant smoking laws which I have also apologised for but I have explained the reasons why this was the case above and the issue with the smoking shelter is primarily a public health and not a licensing matter.

I make this representation believing it to be true to the best of my knowledge and belief.

Signed ..... Dated .....  
Matthew Lyon