

WITNESS STATEMENT

(CJ Act 1967, s. 9, MC Act 1980, s.s.5A (3a) and 5B MC Rules 1981, r70)

Statement of: Darrell John Butterworth

Age if under 18: Over 18

Occupation: Licensing and Security
Compliance consultant

(if over 18 insert "over 18")

This statement (consisting of 4 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.

Dated the 30th April 2018

Signature: D J Butterworth

This supplementary statement is made in addition to my previous report made in relation to Space to Eat, Hirst's Yard Leeds.

I conducted two further compliance visits to the premises on Saturday 28th April and Sunday 29th April 2018 the results of which are outlined below.

Saturday 28th April 2018

I arrived in Leeds City Centre at 0250 hours and made my way to Hirst's Yard. Open at this time was Space, Mook and Space to Eat. The food and none alcoholic drink offering from Space to Eat was the same as I had seen on my previous visit. I purchased a coffee for £1.50 and watched activities in the area.

No litter was evident on the floor area near to Space to Eat. One doorman with their SIA licence displayed in an arm band was standing near to the door into Space to Eat and remained present throughout my observations. At 0313 two uniformed Police officers walked through Hirst's Yard. At 0321 two different uniformed Police officers walked through Hirst's Yard. At 0324 two Evening Ambassadors wearing purple tabards and displaying SIA licences in arm bands, walked through Hirst's Yard. A male purchased a hot dog which he ate as he walked away. At 0329 a male purchased a Pizza which he ate at the counter serving hatch. At 0331 two uniformed Police officers walked through Hirst's Yard.

At 0335 I approached the male serving behind the counter at Space to Eat and examined the incident book which did not have any recorded incidents of note. I then made my way to Space to examine the CCTV covering Hirst's Yard. I found the two cameras covering Space to Eat were recording in real time and the time and date stamp was correctly displayed. Jamie the manager on duty was able to show me historic footage of the premises back to the 5th February 2018.

I left the Hirst's Yard area at 0345 and noted a queue of approximately twenty people waiting to enter McDonalds. Two door supervisors wearing high visibility jackets and SIA licences in arm bands were monitoring the queue. My observations ceased at 0400 and I left the area.

Signature *D J Butterworth*

Sunday 29th April 2018

My third visit to Space to Eat took place in the early hours of Sunday 29th April 2018. I arrived in Leeds City Centre at 0238 and made my way along Duncan Street towards Hirst's Yard. As I passed Yates I noticed a member of staff with a bucket swilling vomit from the entrance way and footpath immediately outside the premises. Thirty people queued to enter McDonald's and 4 uniformed Police officers were dealing with an incident in Call Lane. On arrival at Hirst's Yard Space to Eat was operating and one door supervisor displaying their SIA licence in an arm band was standing near to the entrance door. Also open in Hirst's Yard was Mook and Space night club.

I purchased a cup of tea for £1.50 and observed the area. I noticed two paper plates on the floor opposite the serving hatches of the type used by Space to Eat. At 0246 a male purchased a slice of Pizza which he ate nearby. At 0248 a male purchased a slice of Pizza which he ate nearby. Two females in their early twenties stagger through Hirst's Yard from the direction of Call Lane. Both females are highly intoxicated. At 0255 two police officers deal with a drunken female at the junction of Hirst's Yard and Call Lane.

At 0300 I examined the incident book at Space to Eat before entering Space night club to examine the CCTV system which was operating and recording correctly. I left Space to Eat at 0305 and noted that the paper plates that I had seen on the floor earlier had been picked up. No other litter was evident. I left Hirst's Yard at 0305 and made my way across Leeds. The queue to enter McDonald's had grown to approximately 50 people and 5 door supervisors wearing high visibility clothing and SIA licences in arm bands were supervising the entry and exit. 5 Evening Ambassadors wearing purple tabards were stood talking outside Bella Italia opposite McDonald's. I ceased my observations and left the area at 0315.

Summary of Licence conditions

Only individuals licensed by the Security Industry Authority may be used at the premises.

Compliant: A SIA licensed door supervisor was present throughout my observations.

A suitable Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable activities are being carried out and at all times where members of the public are present on the premises..

Compliant: I examined the CCTV system which was located in Space Club. It was operating and recording correctly and gave a view of the serving counter at Space to Eat. I asked the operator to review recorded footage which was available to 5th February 2018.

The minimum number of door supervisors for the premises is one from 21: 00 to 5.00. From 21.00 until 2.00am the door supervisor can be mobile within Hirst's Yard. From 2.00 to 5.00 the door supervisor is to remain static at the premises.

Compliant: An SIA licensed door supervisor was present at the venue throughout these observations.

The PLH will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti-social behaviour, admissions and ejections from the premises.

Compliant: An incident log book has been kept at the venue since 27th October 2017. No incidents of note have been recorded.

Electrical installations will be inspected on a periodic basis (at least every 3 years or at a frequency specified in writing) by a suitably qualified and competent person. Inspection records/certificates will be kept and made available at the request of an authorised officer. If used, any temporary electrical wiring

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available at the request of an authorised officer.

Compliant: Electrical wiring certificates were available for inspection.

Members of the public will be prevented from accessing hot food and drink preparation areas to prevent risk of scalds or burns.

Compliant: No members of the public were allowed access to the venue.

The activities of persons using the external area will be monitored after 23:00 hrs and they will be reminded to have regard to the needs of local residents and to refrain from shouting and anti-social behaviour etc. when necessary.

Compliant: The SIA supervisor was observed talking to customers and reminding them to behave.

The licence holder shall ensure that sufficient measures are in place to remove litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises. Where necessary, the premises licence holder shall ensure that adequate measures are in place to provide customers with sufficient receptacles for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter etc.

Compliant: Staff were observed collecting litter from the area and disposing of it. Litter in the area appeared to be from other hot food venues.

Ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties.

Compliant: No offensive smells were noticed during this visit

There shall be no amplified sound / music generating equipment or devices used on the premises.

Compliant: No music was being played at the premises.

The activities associated with the provision of late night refreshments shall be designed and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.

Compliant: No noise or vibration associated with the provision of late night refreshment was heard.

Noise from plant / equipment or machinery shall not be audible at adjoining noise sensitive bungalow.

Compliant: No machinery was audible in Hirst's Yard.

That three independent and anonymous visits are to take place between 3:00 and 5:00 hours within the first five months of the Licence and the reports of those visits are to be provided to the Police and the Licensing Authority.

Compliant: There have now been three compliance visits conducted at the premises between these times.

Crime and Disorder

1. There was no behaviour observed during these observations that breached this Licensing Objective.

Public Nuisance

2. There was nothing observed during these observations that breached this Licensing Objective.

Public Safety

Signature *D J Butterworth*

Protection of children from harm

4. There was nothing observed during these observations that breached this licensing objective.

Summary

27. The premises was fully compliant with its licence conditions and best practice and appeared to be promoting the Licensing Objectives. I did not observe poor management by those operating the venue. SIA staff appeared professional and vigilant in conducting their duties and responsibilities.

Conclusion

28. The majority of customers were already customers of other licensed venues in Hirst's Yard. The premises did not appear to attract large volumes of customers from outside this small defined area. The majority of customers consumed the food and drink purchased from Space to Eat within the Hirst's Yard area. The opening of the venue had no or very little impact on the wider night time economy of Leeds City Centre. The area of Hirst's Yard appeared to be better controlled during the visit which took place when Space to Eat was open and the SIA supervisor was present. The premises food and non-alcoholic beverage offering will help in reducing the amount of drunkenness and levels of intoxication in the area. The venue appears to be well-managed by responsible operators. The venue appears to operate in a manner that promotes the licensing objectives.
29. This conclusion is based on my visits to Hirst's Yard, my experience in other cities and towns and my past experience as a licensing Inspector.

EXPERT'S DECLARATION

30. I understand that my duty in writing reports and giving evidence is to assist the Licensing Committee and this duty overrides any duty to the party by whom I am engaged or paid. I confirm that I have complied with and will continue to comply with that duty.

Signed D J Butterworth

Dated 30th April 2018

Signature *D J Butterworth*

WITNESS STATEMENT

(CJ Act 1967, s. 9, MC Act 1980, s.s.5A (3a) and 5B MC Rules 1981, r70)

Statement of: Darrell John Butterworth

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This statement (consisting of 6 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.

Dated the 7th day of December 2017

Signature: D J Butterworth

This report is made in relation to Space to Eat, Hirsts Yard Leeds

Qualifications and Experience

1. I am an independent licensing consultant and a former Police Inspector, having completed 30 years' service with the Greater Manchester Police in a variety of uniform and non-uniformed roles.
2. The longest period of attachment to a department was between 1998 and 2006 when I performed the role of Force Licensing Inspector. This role involved the supervision of 12 divisional licensing officers, tasking and management of a covert licensing unit comprising a sergeant and six constables, developing force policy and enforcement in relation to all licensed units and employment and briefing of a licensing solicitor to act on behalf of the force in more complex licensing hearings.
3. During the period as the Force Licensing Inspector I was responsible for the good conduct of outlets involved in selling alcohol but also those that provided gambling, betting and bingo facilities. I have represented Greater Manchester Police at Magistrates Court hearings, Crown Court Appeals, The High Court and Council Licensing Committee hearings to oppose unsuitable applications and to take enforcement action against those premises whose standards had fallen below an acceptable level. I was responsible for the Force's response to support the Government led Alcohol Misuse Enforcement Campaigns (AMEC) which was highly acclaimed for reducing alcohol related crime and disorder.
4. Throughout my period in the central licensing role Assistant Chief Constable Robert Taylor, also from the Greater Manchester Police, was the Association of Chief Police Officers (ACPO) lead spokesman on Alcohol and Licensing matters. As a result of this connection I became secretariat to the ACPO National Licensing officers group and National Licensing Forum (NLF). The latter group was made up of trade organisations including the British Beer and Pub Association, Retail Trade Consortium, Business in Sport and Leisure, Magistrates Association, Justices Clerks Society, Local Government Association, Home Office, and Department for Culture, Media and Sport. During the period above, these groups scrutinised and made

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recommendations for amendments to the proposed Green and White papers, which were subsequently presented to the House of Commons as the Licensing Act 2003.

5. In 2006 on leaving the Central Licensing Unit I received a Chief Officer's Commendation, recognising the contribution I had made to licensing enforcement across Greater Manchester, particularly in relation to my leadership and commitment shown in developing force policy and training in response to the Licensing Act 2003
6. Between 2006 and my retirement from the Greater Manchester Police in December 2010 I took up the role of Neighbourhood Inspector for the town of Heywood on the Rochdale division. I continued to work with the licensed trade in that area to improve safety in and around licensed premises and reduce crime and disorder. I was chairperson of the Heywood Pub Watch and closed a number of premises in the town that failed in their licensing objectives using my powers under the Licensing Act 2003 and subsequent amendments.
7. In recent years I have continued my professional development in regard to licensing knowledge by taking and passing the National Licensees Certificate and National Door Supervisors course. This enabled me both to successfully apply for a Personal Licence and to become approved by the Security Industry Authority (SIA) as a front line operative. In September 2011 I successfully applied to become a nominated tutor with the British Institute of Inn keeping enabling me to carry out training in the award for responsible alcohol retailing and the award for personal licence holders which are National Vocational Qualifications. In October 2017 I attended a Licensing Seminar to update solicitors and practitioners on licensing changes.
8. Since January 2011 I have worked in a consultancy role with licensed premises in Bedford, Birmingham, Blackpool, Brighton, Canterbury, Cardiff, Chester, Derby, Guildford, Harrogate, Lancaster, Leeds, London, Manchester, Mildenhall, Newcastle, Nottingham, Preston, Sheffield, Stratford, Watford and York, producing strategies aimed at reducing crime and disorder in and around venues. In addition to conducting investigations on behalf of operators I have also been engaged by Camden LBC and residents in Cardiff, Newcastle and York to conduct observations and reports on licensed venues. I would estimate that since January 2011 I have visited in excess of 450 premises licensed under the Licensing Act 2003. In all of these cases I believe that I have been able to make a positive impact on the licensing objectives.
9. I am experienced in the production of independent written reports and giving evidence before Licensing Sub-Committees and Magistrates' Courts. It is important to stress that in carrying out this work, I act independently, record what I see and express my own opinions. Due to concerns expressed by a number of Licensing Committees and Magistrates Courts that premises modify their behaviour in anticipation of a compliance visit I always endeavour to conduct my observations without the local operators being made aware of my impending visit. I am informed by those instructing me that this was the case regarding my investigations at Salt.

Scope of investigation

10. I have been requested by Paddy Whur of Woods Whur LLP to attend the premises currently operating under a Premises Licence authorising Late Night Refreshment under the Licensing Act 2003. Unusually the Premises Licence contains a condition that three independent and unannounced visits shall be conducted to the premises to verify its compliance with the conditions of its licence. In preparation for my visit and in order to address my investigation to the matters of concern I have seen and read the current Premises Licence. I have previously conducted investigations in this area for other operators and I am familiar with the area and its night time economy.

Signature *D J Butterworth*

11. The following terms of reference for the investigation have been agreed with those instructing me.
 - (a) To conduct an unannounced visit to Hurst Yard and observe the operation of the venue and its potential and actual impact on the Licensing Objectives.
 - (b) Carry out a review at the premises and its compliance with its Licence conditions.
 - (c) Compile a report of my findings
 - (d) Attend future Licensing hearings and give evidence

Saturday 11th November 2017

12. My first visit to Hirsts Yard took place in the early hours of Saturday 11th November 2017. I arrived in the area at 0325 to find Space to Eat was closed. Although I was unable to verify the units compliance with its licence conditions it did allow me the opportunity to compare the area whilst Space to Eat is closed in comparison to how it appeared when open during later visits. Call Lane had been converted into a pedestrianised area by the use of traffic barriers at its junction with Duncan Street. Open in Hirsts Yard at this time was Space Night Club and Red Door. There was large quantities of take away wrappers on the floor in the area displaying the McDonald's logo. Despite the presence of a number of door supervisors and CCTV cameras as I walked through Hirsts Yard I could smell Cannabis but could not identify who or where the smell originated from. Large groups of young people aged 20-25 were sitting on the floor leaning against the building line. I concluded my observations and left the area at 0330.

Sunday 3rd December 2017

13. My second visit to the area took place on Sunday 3rd December 2017. I arrived in the Hirsts Yard area at 0230 hours. Call Lane was very busy with people who had clearly been enjoying the many bars and clubs in the area. I estimated that 50% of the people in the area were showing visible signs of being heavily intoxicated and vomit and urine was evident in many of the door ways. Call Lane had been made into a pedestrianised Street but as I approached an ambulance with blue lights operating entered the Lane and parked up outside Revolution.
14. Open in Hirsts Yard at this time were Red Door, Mook, Space, and Space to Eat which was open on this occasion. A male was standing behind the counter which offers service through two serving hatches directly into Hirsts Yard. There is no public access to the premises interior. At each side of these hatches were boards of what was for sale and the price of items. I noted that they offered hot food including Pizzas, Burgers, Hot Dogs and Nachos. As well as food non-alcoholic drinks, including water, tea and coffee was being provided. A door supervisor displaying their SIA licence in an arm band was standing nearby the serving counter. I then observed the take away from a short distance away.
15. There was a small amount of take away wrapping on the floor but this was less noticeable than on my previous visit and all of it contained the McDonalds logo. There was no smell of Cannabis on this occasion which I had noticed on my previous visit. At 0237 I observed the SIA supervisor approach a group of 7 people who tried to sit on the floor opposite the serving hatches and asked them to stand up and move away which they complied with. Approximately 70 people occupied Hirsts Yard at this time.
16. I then walked around the locality outside of Hirsts Yard. McDonalds was open. Briggate, Boar Lane, Call Lane and Norman Street were all very busy with revellers, many of whom appeared intoxicated. 2 Police officers and two ambulances were parked outside Revolution. Queens Court was similar in appearance to Hirsts Lane but did not have a take away facility. I then returned to Hirsts Yard to continue my observations.

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17. At 0248 3 customers purchased Nachos from Space to Eat which they ate in Hirsts Yard. At 0256 a female was banging on the door to Space to Eat and was moved away by the door supervisor. 3 male customers purchased what appeared to be Pizza slices and cans of soft drinks which they consumed nearby. At 0258 2 uniformed police officers walked through Hirsts Yard. At 0310 a male purchased a slice of Pizza which he ate at the counter. At 0315 a male purchased a cup of coffee. An accordion player walked through Hirsts Yard whilst playing music. At 0324 a manager from Space handed an empty beer bottle he had found on the floor to the staff in Space to Eat to dispose of. 2 females sat on the entrance step to Space to Eat and were moved along by the security supervisor. At 0334 a male purchased a slice of Pizza which he ate as he walked towards Call Lane.

Compliance Check

18. At 0340 I approached the male behind the counter of Space to Eat and identified to him who I was and the purpose of my visit. He then called a male who was a manager at Space called John who assisted me in conducting a review of the premises licence conditions.

Only individuals licensed by the Security Industry Authority may be used at the premises.

Compliant: A SIA licensed door supervisor was present throughout my observations.

A suitable Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable activities are being carried out and at all times where members of the public are present on the premises..

Compliant: I examined the CCTV system which was located in Space Club. It was operating and recording correctly and gave a view of the serving counter at Space to Eat. I asked the operator to review recorded footage which was available to 23rd September 2017.

The minimum number of door supervisors for the premises is one from 21: 00 to 5.00. From 21.00 until 2.00am the door supervisor can be mobile within Hirst's Yard. From 2.00 to 5.00 the door supervisor is to remain static at the premises.

Compliant: An SIA licensed door supervisor was present at the venue throughout these observations.

The PLH will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti-social behaviour, admissions and ejections from the premises..

Compliant: An incident log book has been kept at the venue since 27th October 2017. No incidents of note have been recorded.

Electrical installations will be inspected on a periodic basis (at least every 3 years or at a frequency specified in writing)by a suitably qualified and competent person. Inspection records/certificates will be kept and made available at the request of an authorised officer. If used, any temporary electrical wiring and distributions will also be inspected. Inspection records/certificates will be kept. These will be made available at the request of an authorised officer.

Compliant: Electrical wiring certificates were available for inspection.

Members of the public will be prevented from accessing hot food and drink preparation areas to prevent risk of scalds or burns.

Compliant: No members of the public were allowed access to the venue.

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The activities of persons using the external area will be monitored after 23:00 hrs and they will be reminded to have regard to the needs of local residents and to refrain from shouting and anti-social behaviour etc when necessary.

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Compliant: Staff were observed collecting litter from the area and disposing of it. Litter in the area appeared to be from other hot food venues.

Ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties.

Compliant: No offensive smells were noticed during this visit

There shall be no amplified sound / music generating equipment or devices used on the premises.

Compliant: No music was being played at the premises.

The activities associated with the provision of late night refreshments shall be designed and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.

Compliant: No noise or vibration associated with the provision of late night refreshment was heard.

Noise from plant / equipment or machinery shall not be audible at adjoining noise sensitive bungalow.

Compliant: No machinery was audible in Hirsts Yard.

That three independent and anonymous visits are to take place between 3:00 and 5:00 hours within the first five months of the Licence and the reports of those visits are to be provided to the Police and the Licensing Authority.

Crime and Disorder

19. There was no behaviour observed during these observations that breached this Licensing Objective.

Public Nuisance

20. There was nothing observed during these observations that breached this Licensing Objective.

Public Safety

21. There was nothing observed during these observations that breached this Licensing Objective.

Protection of children from harm

22. There was nothing observed during these observations that breached this licensing objective.

Summary

27. The premises was fully compliant with its licence conditions and best practice and appeared to be promoting the Licensing Objectives. I did not observe poor management by those operating the venue. SIA staff appeared professional and vigilant in conducting their duties and responsibilities.

Signature *D J Butterworth*

Conclusion

28. The majority of customers were already customers of other licensed venues in Hirsts Yard. The premises did not appear to attract large volumes of customers from outside this small defined area. The majority of customers consumed the food and drink purchased from Space to Eat within the Hirsts Yard area. The opening of the venue had no or very little impact on the wider night time economy of Leeds City Centre. The area of Hirsts Yard appeared to be better controlled during the visit which took place when Space to Eat was open and the SIA supervisor was present. The premises food and non-alcoholic beverage offering will help in reducing the amount of drunkenness and levels of intoxication in the area. The venue appears to be well-managed by responsible operators. The venue appears to operate in a manner that promotes the licensing objectives.
29. This conclusion is based on my visits to Hirst Yard, my experience in other cities and towns and my past experience as a licensing Inspector.

EXPERT'S DECLARATION

30. I understand that my duty in writing reports and giving evidence is to assist the Licensing Committee and this duty overrides any duty to the party by whom I am engaged or paid. I confirm that I have complied with and will continue to comply with that duty.

Signed D J Butterworth

Dated 7th December 2017

Signature *D J Butterworth*