

**FINAL**



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27<sup>th</sup> October 2009

**“THE GEORGE HOTEL ”, GREAT GEORGE STREET, LEEDS, LS1 3BB**

On the 23rd October 2009 the Licensing Sub-Committee met to consider an application for a Review of the Premises Licence currently held at the premises known as ‘The George Hotel’ Great George Street, Leeds, LS1 3BB. The application to Review the Licence was made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to all of the Licensing Objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

This letter represents the formal record of the hearing.

In attendance:

**West Yorkshire Police**

- Sgt. R. Fullilove
- Mr. R. Patterson

**Premises Licence Holder**

- Mr. D. Watson, Punch Taverns - Premises Licence Holder
- Mr. J. Coen, solicitor for the Premises Licence Holder

**Preliminary Procedural Matters**

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The Sub Committee considered preliminary procedural matters. There were no declarations of interest made. The Sub-Committee resolved not to impose a time limit on representations.

The Sub Committee also considered whether the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on submissions and evidence presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing a copy of the application as made by West Yorkshire Police (WYP) and a copy of the lease between Punch Taverns and the tenant of The George Hotel. In addition the Panel considered the following information:

- Witness Statements Sgt. R. Fullilove
- Witness Statement Pc. P. Martin-Chambers
- Witness Statement Sgt. R. Abbott
- Email of complaint from local resident
- Emails of complaint from Jamie Hall
- Emails of complaint from Danny Hudson, Security Officer, Leeds General Infirmary
- Email from Michael Waters, Senior Liaison and Enforcement Officers, LCC
- Email from Samantha Longfellow, Senior Liaison and Enforcement Officers, LCC
- Email from Carmel Brennand, Senior Liaison and Enforcement Officers, LCC
- Emails between Sgt. Fullilove, Carmel Brennand and Punch Taverns
- Email from Elaine Outram, Leeds, Combined Court Centre
- Decision letter in respect of the Review of the premises licence held on 27<sup>th</sup> April 2009

The Sub Committee went onto consider the Review application.

### **Reason for the Application**

The reason for the Review was set out in the application form submitted to Leeds City Council. In brief:

The premises had been subject of a previous premises licence Review on 27<sup>th</sup> April 2009 which West Yorkshire Police had instigated on grounds of Crime and Disorder. The Sub-Committee which considered the application made the following decision:

- The remove Mr. Kwong Keung Chow as Designated Premises Supervisor (DPS)
- Noise levels to be alleviated by a direction that noise should be inaudible at the nearest noise sensitive premises after 23:00 each night.
- One SIA registered door person to be on duty from 20:00 hours to closing time each Friday and Saturday night.
- Reduction in terminal hour to midnight except for Sunday when this would be 23:30 hours (except for statutory Bank Holiday conditions that allow an extra hour's trading)

Since the Review, due to delays in the production of the decision letter and the statutory 21 day appeals period, the George Hotel continued to trade legally with their pre-Review licence conditions well into the Summer. During this period the crime and disorder issues in the locality due to the premises continued.

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Mr. Chow appealed the decision to remove him as DPS which allowed the premises to continue to operate until 10<sup>th</sup> August 2009 when the Magistrates Court considered the appeal. Mr. Chow failed to turn up and the case was dismissed.

Immediately following the hearing Sgt. Fullilove went to the premises and instructed that licensable activities should be ceased until a new DPS had been nominated.

On the 13<sup>th</sup> August 2009 Pui Shan Chow was nominated as the new DPS. Local enquiries revealed that this person was supposedly the brother of the previous DPS whose personal licence was issued in Torquay. Within days of this the police received anecdotal evidence that the premises was operating beyond the new terminal hours with people being seen leaving the premises at 05:00 hours. The police's attempts to speak to the new DPS failed and they were informed that both the 'Chow brothers' were running the premises.

On 26<sup>th</sup> August 2009 WYP submitted an objection to the appointment of the new DPS which was considered by the Licensing Sub-Committee on 21<sup>st</sup> September 2009. At 01:40 on 28<sup>th</sup> August 2009 police officers visited the premises and found the premises in full operation with 30 customers premises, some queuing for and being served alcohol. The terminal hour on this date was midnight and the premises was closed by officers.

Since this date Sgt. Fullilove had been in receipt of a further nuisance complaints from neighbouring premises, Leeds Combined Court Services, which related to beer bottles and glasses being thrown in the Crown Court Staff Car Park from patrons in the George Hotel's beer garden. They complained of potential damage to motor vehicles, possible injury to staff and staff time spent clearing up the mess which they stated had been a lot worse over the last couple of weeks.

The second application for the review of the premises licence Sgt. Fullilove said was another attempt to obtain some regulation over the activities of the premises and minimise nuisance to business and residential neighbours.

It was discovered by the police that the new DPS was in fact Mr. Chow's sister-in-law and the police were of the opinion that she held the post in title only and that she was under the control and direction of the previous DPS post holder Mr. Chow. Neither had shown sufficient ability or willingness to adhere to the conditions of their premises licence both before and after the implementation of the previous Review decision.

The police believed that the premises licence holder had shown no inclination or intention to remove the previous DPS from their employment, or to prevent him from having any dealings with the venue. They also appeared to be unable to remove him from the business, citing the landlord/tenant position the police believed that they had engineered and associated legal complexities as being the main reason. On the day of the premises licence Review in April 2009, Punch Taverns informed Sgt. Fullilove that they had taken steps to serve papers on the previous DPS to enable them to remove him from the George Hotel but some weeks later changed that to state that they were unable to remove him from the premises until the expiry of his lease in 2010.

Punch Taverns had managed to take legal action against another of their tenants in the city in August 2009 and remove them from one of their premises but persistently failed to do so with

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the George Hotel. Sgt. Fullilove felt that the company had made a bizarre decision, in the view of the past history of the site, to sponsor the recent new DPS.

Punch Taverns claimed that their hands were tied with regard to their tenant/landlord issues and that their new Business Relationship Manager, Mr. Watson, had recently attended the premises to make sure that the new DPS was operating the premises within the law. These two points, coupled with the recent causes of police concern and the conclusion that the premises licence holders' actions had failed to have any effect, led Sgt. Fullilove to seek the revocation of the premises licence in this instance.

### **Submission by the Applicant – West Yorkshire Police**

Sgt. Fullilove began by stating that it was the shame that all parties again needed to be present at a Review hearing. The police had shown that they had tried a number of avenues to regulate activities at the premises. This was the first time that the officer had applied for a second review of a premises licence in such a short period of time however there was only so long the police could talk to someone for before action was necessary. Since the first Review of the premises licence in April 2009 there had been only a slight improvement and the Officer was of the opinion that further action was necessary. Sgt. Fullilove informed Members that he had sought the revocation of the premises licence in the application and had since spoken to Mr. Coen in relation to the civil law aspects of Punch Taverns' relationship with Mr. Chow which had clarified a few matters. Mr. Coen would outline these points to Members during his submission on behalf of the premises licence holder. The fact remained that the nature of the relationship between Punch Taverns and their tenant made it difficult for the company to take any action against the tenant. Problems which had occurred at the premises had not been rectified and Punch Taverns appeared to have their hands tied.

At this stage Sgt. Fullilove corrected an error in PC Martin-Chambers' statement that the date should read Friday 28<sup>th</sup> August 2009 and not Friday 8<sup>th</sup> August 2009. The Sub-Committee noted that Sgt. Fullilove had objected to the application for the transfer of the DPS and enquired as to why he had submitted the objection. Sgt. Fullilove explained Mr. Chow was no longer DPS at the premises and his appeal had been rejected at the Magistrates Court there had still been concerns in relation to the new DPS and the circumstances surrounding the premises. The Legal Adviser informed Members that at the first hearing of the appeal at the Magistrates the Council had successfully argued that the DPS had no right of appeal. In relation to the previous DPS, Mr. Chow, Sgt. Fullilove was of the opinion that he was one of the most inept people to be a DPS and this fact had been included in the decision letter in respect of the last appeal. The Officer had been surprised that when the new DPS was proposed, she was nominated by the previous DPS who had been removed. Sgt. Fullilove could not see how Punch Taverns, as premises licence holders, could allow the previous DPS, who had left in disgrace, to nominate a family member as DPS. As a police officer, Sgt. Fullilove could not help but suspect that in these circumstances Mr. Chow was still in control of the premises in spite of the decision to remove him as DPS. Under the new DPS, Mrs. Chow, the problems had persisted and the Officer presumed that she did not have control of the premises. Mrs. Chow had been living in Torquay where her personal licence had been issued. At the time of the application to name her as DPS the police still had their concerns as to whether she was living with Mr. Chow as stated. The Sub-Committee on 21<sup>st</sup> September 2009 had heard that Mrs. Chow intended to move to the Leeds area but was in the process of selling her home in Torquay and finding a school for her children. However, Sgt. Fullilove still had doubt in his mind as to whether Mrs. Chow was living in the area and whether she had

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any control over the premises. Since she had become DPS she had failed to show that she was in control of the premises and the fact the Punch Taverns appeared to have 'rubber stamped' her instalment did not seem reasonable to Sgt. Fullilove. When the Sub-Committee made their decision to allow Mrs. Chow to be DPS of the premises the Chair had issued a warning that due to the recent history of the premises she should spend time on the premises, especially on a weekend. Since Mrs. Chow had become DPS she had not been present at the premises during any of the police visits over the last few weeks. Sgt. Fullilove informed the Sub-Committee that apart from himself, no other police officer had seen Mrs. Chow. During the drugs raid on the premises she was not present and Mr. Chow had identified himself to officers as the licensee.

In respect of the warrant which had been issued to carry out the drugs raid at the premises Sgt. Fullilove had initially been surprised as he had not been advised of the intelligence in respect of this matter until the warrant was issued. The evidence in relation to the warrant had been very good and related to the period before and during Mrs. Chow's time as DPS. The evidence had related to the downstairs area of the premises which had since been closed to the public and only used for functions. The result of the raid was that no drugs were found at the premises however the UK Borders Agency had also taken part in the raid and had arrested a person on suspicion of immigration offences. The instances of immigration offences at the premises had been a common thread at the premises.

Sgt. Fullilove stated that there had been enough talking with people who managed the premises. During the majority of the police visits to the premises there had been problems with the premises licence and the management did not appear to want to deal with the problems. Punch Taverns had stated that Mr. Chow was tied to the premises until the end of his lease in Spring 2010. The police were in the position that the only alternative option open to them was each time they observed a breach of the premises licence they could make an arrest under section 136 of the Licensing Act 2003. This option was quite draconian as people were running the premises in the absence of the DPS and they often had poor English and were very poorly trained. There were allegations also that some staff were being paid cash in hand at the premise which was not a matter for the Sub-Committee. Sgt. Fullilove felt that it would be unreasonable to pursue this option as in this instance the lack of management meant that the staff were often the victims also. Members were also asked to note that fact that the UK Border Agency had been asked to be involved in the raid which indicated that the premises was linked to immigration offences.

Members noted that the Sgt. Fullilove supported the revocation of the premises licence unless there were other measures which could ensure that Mr. Chow's involvement in the premises ended. Sgt. Fullilove suggested that at least the current DPS should be removed and that the premises licence should be suspended for a period of time until the police were satisfied that Mr. Chow's involvement in the premises had ended. Sgt. Fullilove understood why the Sub-Committee had allowed the current DPS to be named in September 2009 but noted that the problems at the premises had persisted since this date. If the premises licence was suspended for a period of time and a good DPS could be found for the premises there was no reason why the premises could not be a good business and well run like it had been two years previously. Members noted again that the maximum period a premises licence could be suspended was for three months.

The following issues were addressed during questions:

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- Both Sgt. Fullilove and Punch Taverns were in agreement that they wanted Mr. Chow out of the premises.
- Sgt. Fullilove informed Members that the type of disorder from the premises involved fighting and noise nuisance. Calls were received from residents and the hospital noting that the problems went on until the early hours of the morning. Mr. Hall, whose emails were included in the pack, had decided to move out of his premises due to the level of problems and was not present due to this fact.
- Members noted that the police's application had not been supported by Environmental Health Services (EHS). Sgt. Fullilove informed Members that he had received a letter in support of the Review from EHS but was aware that he had not submitted the letter as evidence and so it could not be referred to without the agreement of the premises licence holder.
- There had only been a slight improvement in the number of incidents at the premises since the last review in April 2009 however the security guard at Leeds General Infirmary had changed locations and had been less proactive in recent months.
- The last incident of the premises operating beyond its permitted hours was in August 2009.

### Submission by Premises Licence Holder

The Sub-Committee then went on to consider representations made by Mr. Coen on behalf of Punch Taverns plc. Mr. Coen began by confirming that the current DPS, Mrs. Chow, was the sister-in-law of the former DPS Mr. Chow who was also the tenant of the premises. The premises licence currently allowed the premises to carry out licensable activities Monday to Saturday to 00:00 hours (midnight) and Sunday 23:30 hours. There was an additional 30 minutes 'drinking-up time'. There were 95 standard conditions on the premises licence with an additional 26 conditions which, Mr. Coen felt was fair to say, was a large number for the hours of operation and the licensable activities permitted at the premises. Much emphasis had been placed on the contractual relationship between the tenant, Mr. Chow, and the landlord, Punch Taverns. A copy of the lease had been provided for Members and they noted that Mr. Chow was not the original party to the lease. The lease also predated the Licensing Act 2003 so there was no mention of the role of DPS in the documentation. Mr. Coen advised Members that Mr. Chow was self-employed and ran his business from the premises. Mr. Chow was not an employee or agent of Punch Taverns and it was not the case the Mr. Watson could give orders to Mr. Chow.

Members sought clarification from Mr. Coen as to whether Mr. Chow could be removed as tenant of the premises due to a breach of contract. Mr. Coen informed Members that lawyers who specialised in property law in his company had advised him that unless there was a trade debt, such as rental arrears, it was extremely difficult to obtain a possession order for the premises. In other premises where the tenant had been a cause for concern, Punch Taverns had been able to pursue the tenant to surrender the tenancy and no possession order was required. This had happened recently at another of Punch Taverns' premises in Leeds. There had been numerous meetings and requests made to Mr. Chow to leave the premises and he had also been offered various inducements to leave however he had refused. In relation to possession proceedings the Courts were reluctant to remove a tenant from their premises as often the premises was not only their business and income but their home also. Mr. Coen had been advised that the Court would look at the fact that the previous restriction to the hours imposed at the last Review had taken the premises back to what it was when Mr. Chow had taken over the premises. Punch Taverns were in fact no worse off than when Mr. Chow had

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taken over the premises. This did exclude the fact that the company's relationship with the police had been affected.

The Sub-Committee noted that this was the second Review of the premises licence within six months which was very unusual. Whilst Members acknowledged the representations regarding the contractual relationship between Punch Taverns and Mr. Chow this did not change the fact that Punch Taverns were the premises licence holder for the premises. There had been clear breaches of the lease and the premises licence and Members requested further information as to what the company was doing to resolve the problems. Mr. Coen informed Members that following the last Review an alternative DPS had to be sought. Mrs. Chow's application received an objection from the police however a Sub-Committee found that there were no crime and disorder reasons as to why her application should be refused. In dealing with the police's allegations of nuisance and crime and disorder Mr. Coen was surprised that their application for Review was not supported by Environmental Health Services or the Combined Court Services or the Leeds General Infirmary. This suggested to Mr. Coen that there were issues in the area but they could not be linked to the premises directly. Mr. Coen could not condone the throwing of glass bottles however there was no evidence to link these bottles to the premises and that the email from the Combined Court Services did not contain information that there was, for example, CCTV footage of people leaving the premises and throwing bottles in to the car park as alleged. This particular area was used by many other people as a route out of the city centre and not just by clients of the George Hotel. There were other premises in the area such as the Town Hall Tavern although Mr. Coen acknowledged that the George Hotel was closer to the court. Sgt. Fullilove brought Members attention to the letter written on behalf of the Combined Court Services which referred to the George Hotel in the title of the letter. Mr. Coen suggested that it was easy to put two and two together and to get five. Mr. Watson informed Members that the first time he had been made aware that there may have been an issue with glass bottles from the premises was when he read the paperwork for this Review hearing. The legal adviser assured all parties that the Members would give consideration as to what weight they should put on the evidence during their deliberations.

Mr. Watson had taken over the management of the area in the last four months and had visited the premises on at least six occasions during this period. Following the hearing to consider the application for Mrs. Chow to become DPS Mr. Watson and Mr. Coen had a meeting with Mrs. Chow to advise her of what standards they required at the premises. Mr. Coen reminded Members that until the 10<sup>th</sup> August 2009, when Magistrates Court considered the appeal made by Mr. Chow against the decision of the Sub-Committee, the premises was able to operate to its old hours. When the premises was visited on 5<sup>th</sup> September 2009 at 00:05 the premises was allowed to sell alcohol until 00:00 hours and that the premises was allowed an extra thirty minutes drinking-up time. Mr. Coen read the statement to mean that the customer did not understand that he could not be in the beer garden and not that the staff didn't understand. In relation to the premises operating beyond their permitted hours on 28<sup>th</sup> August 2009 the Members were told that the member of staff in question had lost their job for this and that this matter was a one off problem and had been dealt with.

Mr. Coen brought Members' attention to the fact that the Review held on the 27<sup>th</sup> April 2009 did not include representations from any other interested parties and was an application made solely by West Yorkshire Police. The legal adviser informed Members that witness statements from other parties had been presented to the Sub-Committee and that a Security Guard from the Leeds General Infirmary had been called by the police to give evidence at the

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hearing. Mr. Coen thanked the legal adviser for the clarification but noted that these were statements and not representations in their own right.

Following the introduction of Mrs. Chow as DPS Members had heard that a meeting had taken place with the DPS where she was 'read the riot act'. Mr. Coen felt that there had been some feeling that Punch Taverns had used the contract to avoid their responsibilities as premises licence holder which was not the case. The explanation of the contractual relationship between Mr. Chow and Punch Taverns had been provided to give Members a clarification of the law and the nature of the relationship between the two parties. Mr. Coen then went on to address the point which had been raised that it was bizarre that the company had supported the application of Mrs. Chow to become DPS when they wanted Mr. Chow to leave the premises. Mrs. Chow appeared to be a person of good standing therefore Punch Taverns made the application which was approved by the Sub-Committee. Punch Taverns had not engineered the situation and Mr. Coen was surprised when an objection was made to the application as he felt that any new DPS was better than the previous DPS.

Leeds Combined Court Centre had not made a representation and neither had the Hospital in relation to this application for the Review of the premises licence. Mr. Coen conceded that had they made representations in their own right he would not be able to argue that they were not interested parties however, neither party had seen it fit to make representations. Of the information the police had gathered there was no evidence to link the problems identified to the premises itself.

Mr. Coen had already explained the difficulties in obtaining a possession order and at the hearing on 21<sup>st</sup> September 2009 Mr. Chow had been informed that there were steps in motion to remove him from the premises. However, there were still question marks over the allegations made against the premises. Mr. Coen did not condone any crime and disorder and anti-social behaviour happening at the premises however there was no evidence which linked the allegations to the premises in the evidence submitted. Mr. Hudson in his statements had thought that the George Hotel was responsible for the problems at the premises however if the premises had been such a problem then why had the decision been made to move the security from that area of the Hospital to another area. Mr. Coen did not believe that the premises was a paragon of virtue however there were still issues surrounding the quality of the evidence against the premises. For instance, in Sgt. Fullilove's application for the Review he mentions that the new DPS was Mr. Chow's brother when in fact it was his sister-in-law. This was a further indication of the fact that police intelligence was sometimes incorrect. A drugs raid by the police had also taken place at the premises and had found nothing. In relation to the charges reported at the premises Mr. Coen was not aware of any charges or convictions made which had been made. Sgt. Fullilove had previously referred to correspondence and discussions between himself and the premises licence holder in respect of this application. Sgt. Fullilove had asked for the revocation of the premises licence which Mr. Coen hoped had been scaled back following the discussions which had taken place. Taking a step back from the process Members would be able to see that the problem was with the management of the premises and not Punch Taverns as the premises licence holder. Mr. Coen informed Members that the value of the premises with a premises licence was £1.1 million however without the premises licence it was worth £750,000. Whilst Mr. Coen acknowledged that this was something that the Sub-Committee could not take into consideration it did give them an indication of the stakes at play in relation to the application. The legal adviser had already informed Members that any action taken by the Sub-Committee should be necessary and proportionate. If Members were satisfied that the problems were a



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result of the George Hotel then there were other options which were necessary and proportionate. The Sub-Committee could make the decision to remove the DPS of the premises however the current DPS had only been confirmed on 21/09/09 and no problems had been reported at the premises since then. The police had suggested suspension of the premises licence for an indefinite period which Members were aware was not possible.

The following issues were addressed in questions:

- Mr. Watson noted that the current DPS, Mrs. Chow, was of good character and there had been no reason to suggest why her application should not be supported.
- When Punch Taverns had dealt with other premises in a similar situation then they had been able to negotiate with the DPS to surrender their tenancy however this had not been possible at The George Hotel.
- Members noted that when Mrs. Chow had been approved as DPS of the premises the Chair of the Sub-Committee had strongly recommended that Mrs. Chow should be present on the premises at problem times such as the weekend. The Sub-Committee enquired as to what the Punch Tavern had done to ensure this and to address the other concern with the premises. Mr. Coen noted that there is no obligation on the DPS to be on the premises twenty four hours a day. Following the meeting on the 21<sup>st</sup> September 2009 Mr. Watson, Mr. Coen and Mrs. Chow had met at the premise where Mrs. Chow was told that she was expected to comply with the guidelines, the Licensing Act and the recommendations made regarding the premises. All points were made very clear to her and it was stated at the premises that she was expected to be at the premises on the weekend. Mr. Coen felt that Mrs. Chow was in no doubt regarding the expectations made of her and the premises.
- Mr. Watson had not been aware of the problems and accusations of a link between the premises and illegal immigrants until he had received the paperwork for the hearing. However this matter would be investigated further by the company and could be used to persuade the tenant to leave the premises. Mr. Coen noted that the person arrested for immigration offences was found in the living quarters at the premises and not in the licensed area. Mr. Coen was also not aware of any convictions or charges made against this person and therefore these were still alleged offences.
- Sgt. Fullilove raised the following points:
  - That in relation to the raid at the premises it was worth noting that there had to be a certain level of intelligence in relation to the premises for the UKBA to be involved in the raid at the premises in the first place. The person arrested was taken to Bridewell and was still in custody 24 hours after the arrest which was a significant period and people were usually able to confirm their immigration status within this period. The police's licensing department were also given very short notice that the warrant had been issued. It was standard practice to inform the premises licence holder of such events at the premises. Mr. Watson informed Members that he had only taken over responsibility for this premises four months ago and had not been made aware of these problems.
  - Sgt. Fullilove was disappointed that Mr. Coen had raised the issue of the gender of the new DPS as this confusion had arisen due to a phone call he had made to the premises where he had been advised by a members of staff at the premises, who had poor English, that the Chow brothers were to run the premises.
  - Punch Taverns owned the building.
  - Section 4 ss 38 (a) gave Punch Taverns the ability to ask for a list of staff at the premises. Mr. Watson had not asked for this information in the period he had

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worked with the premises and as he had only just been made aware of the problems in relation immigration at the premises had no reason to ask for the information.

- A file was held on each of the premises Punch Taverns owned. Mr. Watson had taken over 49 new premises and advised that he would only look at the files if a problem was brought to his attention. Mr. Coen confirmed that there was a file in relation to the premises however he could not recollect there being any information on immigration concerns raised at the premises however if Sgt. Fullilove stated that information was sent Mr. Coen agreed to acknowledge that it was on file.
- The issue of immigration offences had been raised at the previous Review hearing however these had been allegations and Mr. Coen was not aware of any further action which was taken against those arrested at the premises. This meant that no further investigations were made by the company.
- The Legal Adviser sought clarification as to whether there was sufficient provision in the lease to allow the tenant to be removed for breaches to the lease. Mr. Coen informed Members that he had been advised that at present there were insufficient grounds to seek possession of the premises. The hours of the premises licence had been reduced to the hours initially enjoyed when Mr. Chow took over the tenancy at the premises and the court would look at what prejudice had occurred to the company. Following the outcome of the hearing Mr. Watson agreed that Punch Taverns would discuss the matter of proceeding with the possession of the premises without a trade debt.

### **Submissions made by the Applicant**

In summarising the main point of his case Sgt. Fullilove explained that West Yorkshire Police had reached a dead end in relation to the premises and their only alternative option was to carry out enforcement action on staff members. In Sgt. Fullilove's opinion Mr. Chow was inept and bordering on useless. Punch Taverns had claimed that their hands were tied due to their contractual relationship with the tenant. However, Sgt. Fullilove was of the opinion that there was sufficient provision in the lease for the tenant to forfeit the lease. The tenant had breached parts of the lease and if the company was unable to remove the tenant then the contract was poorly worded. Competitors of Punch Taverns allowed their pub managers/DPS to be premises licence holders and perhaps this was something that the company should take into consideration. West Yorkshire Police were not happy with the current DPS and the way that the premises still appeared to be run by the previous DPS which meant that revocation was both necessary and proportionate.

### **Submissions made by the Premises Licence Holder**

Mr. Coen reminded Members that he was present to represent Punch Taverns and not Mr. Chow or Mrs. Chow. Many points had been raised in relation to the nature of the relationship between Punch Taverns and Mr. Chow however unless there was a trade debt it was extremely difficult to carry out possession proceedings against a tenant. Mr. Chow's lease at the premises would come to an end in 2010 and he had already been served with the relevant section 146 notice in order for Punch Taverns to take possession of the premises. No request by Mr. Chow had been made to extend the lease and Punch Taverns would object to any request made him. However the premises licence holder was to start possession proceedings following the outcome of the hearing. Mr. Coen had aimed to provide

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balance to the evidence and that there were instances of 'smoke without fire'. There was nothing in the documentation before Members which directly linked the premises to the problems in the area and there were no instances linked to the premises since Mrs. Chow had taken over as DPS. No other interested parties had made representations themselves and from the documentation Mr. Coen could not see any criticism of Punch Taverns as premises licence holder. Mr. Chow would not be a permanent fixture at the premises in the future as his lease would not be renewed. Mr. Coen emphasised that the stakes were high in relation to the application and that revocation was certainly not necessary or proportionate in these circumstances.

### **Decision**

The Sub-Committee considered a Review in respect of The George Hotel, Great George Street, Leeds.

The Sub-Committee heard from Sgt Fullilove on behalf of West Yorkshire Police and considered his statement dated 15th October 2009. The Members also considered the statements of Paul Martin-Chambers and Richard Abbott, and the letters from Mr Hall and the email from Danny Hudson, security person with Leeds General Infirmary.

The Sub-Committee have applied what they considered to be the appropriate weight to the written representations made. They did not take into account the incident on the 1st May 2009 as there was no evidence that this was connected to The George Hotel. They also accepted that not all of the incidents of glass throwing could be attributed to customers of the George Hotel.

The Sub-Committee considered from the evidence that there has been little improvement since the last Review in April 2009.

The Sub-Committee heard from Mr Coen as solicitor for Punch Taverns and from Mr Watson as Business Relationship Manager. They also considered the documentation provided including the lease dated 9th May 2000 which was assigned to Keung Kwong Chow on 27th April 2005. It was said on behalf of Punch Taverns that there was a problem in dealing with Mr Chow because of the complicated landlord and tenant position. It was said that advice had been taken which suggested that it would be difficult to obtain possession through the court in the absence of rent arrears. It was then said that consideration will again be given as to whether possession proceedings would be viable.

The Sub-Committee considered that there are still problems with the George Hotel, notwithstanding the previous Review, and that it is necessary and proportionate in order to promote the licensing objectives to revoke the premises licence and the premises licence is therefore revoked.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:  
Clerk to the Justices  
Leeds Magistrates Court

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Leeds  
LS1 3JP

Appeals should be accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours faithfully

Laura Pilgrim  
Clerk to the Licensing Sub Committee