

Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Nicola Ruth Barrett**

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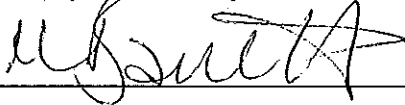
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Age if under 18 **Over 18** (if over 18 insert "over 18"). Occupation **Licensing Enforcement Officer**

This statement (consisting of **7** 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 **17th** day of **February 2009**Tick if witness evidence is visually recorded
(supply witness details on rear)

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My name is Nicola BARRETT and I am employed by South Ribble Borough Council as the Licensing Enforcement Officer, a post I have held since December 2005, when the new licensing regime came into effect. Prior to this I was employed as an Environmental Health Technician.

My duties include working with licensed premises to ensure they operate in accordance with their authorisations and by doing so, promote the four licensing objectives.

Stanley Iain DUNCAN applied to transfer the Premises Licence for the Lancs & Yorks public house into his name on the 12th March 2007. He made a further application on that day to install one of his employees Carley Ann HIGSON as the Designated Premises Supervisor.

Following a number of telephone allegations during the summer months that Iain DUNCAN was offering regulated entertainment after the hours permitted by his licence, I arranged to monitor the activities at the pub on the weekend of the 15th/16th September 2007, in company with PS1506 Tony BUSHELL.

At 00:15 on Sunday 16th Sept 2007, I witnessed a disco in full swing inside the Lancs & Yorks.

The premises licence at that time authorised the playing of recorded music until midnight but did not authorise the provision of facilities for dancing at all. Following the investigation it was agreed by all parties that the offence would be disposed of with a simple caution, which was issued on 5th December 2007.

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On 26th September 2007 the Licensing Authority received an application to vary the Premises Licence to extend the types and hours for regulated entertainment and to extend the hours for the sale of alcohol. Representations were received from the Police and Environmental Health and a hearing was held on 6th December 2007 to determine the application. Iain DUNCAN lodged an appeal against the Licensing Authorities decision not to grant the full extent of the hours he had applied for. The appeal hearing was scheduled to be heard by the Magistrates in June 2008.

I carried out routine monitoring visits on 27th January 2008, 3rd February 2008 and 17th February 2008, during all of which there was evidence that regulated entertainment was still being provided after the permitted hours. Iain DUNCAN was invited to attend Leyland Police Station on 18th February 2008 to be interviewed in respect of the alleged offences.

I received a call from PS1506 BUSHELL on 18th February postponing the interview until 21st February 2008 at the request of Martin STAFFORD, Iain DUNCAN's solicitor.

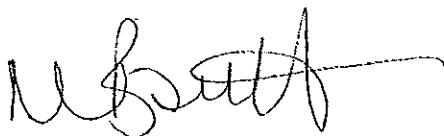
The meeting went ahead on 21st February and Iain DUNCAN agreed that all recorded music provided by the DJ would cease at midnight until the outcome of the appeal had been determined. He was then assured by myself and PS1506 BUSHELL that neither the Licensing Authority or Police would pursue any further action in respect of the unauthorised early morning entertainment witnessed in the weeks running up to the meeting.

Despite Iain DUNCANs commitment that the DJ would finish at midnight, at approximately 00:10 on 30th February 2008 I noted that recorded music from pub could be heard from the footpath on the opposite side of the road and I could see disco lights flashing inside the premises and new customers arriving at the venue.

On 5th April 2008 between approximately 00:10 and 00:20, I saw flashing disco lights and could hear loud music coming from the premises.

On 15th April 2008 I sent a written warning to Iain DUNCAN about the ongoing provision of

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Continuation of Statement / Interview of Nicola Ruth Barrett

unauthorised entertainment. [I exhibit a copy of this letter referenced NRB/1].

Following the agreement which had been reached between the parties over the outstanding appeal, an updated licence was issued on 16th May 2008.

On 30th June 2008 I received a telephone complaint from a local resident who informed me that the noise generated by customers at the pub, particularly those outside in the beer garden late at night was so bad that she had to move into the front bedroom at weekends.

On the 4th July 2008 I received 2 separate complaints from residents that they too were regularly disturbed by the noise from customers using the rear beer garden late at night and particularly at weekends. I rang Iain DUNCAN that afternoon to advise him of the problems reported to me and asked that he take steps to control the noise levels generated by his customers using the outside area.

On 28th July 2008, I received a call from one of the complainants who advised that they had noted an initial decrease in noise nuisance following my call to the landlord but that over the weekend of the 25th, 26th and 27th July 2008 the disturbance was bad again.

On 29th July 2008 I received a call from another of the complainants who also advised me that she felt the problems with noise were as bad as they were, when she had first reported it although, it had improved for a few weeks after my intervention.

On 30th July 2008 I received a complaint from another local resident about the ongoing disturbance they were subject to from customers in the smoking area in the rear car park

I wrote to Iain DUNCAN on 30th July 2008 to inform him of the ongoing complaints. [I exhibit a copy of this letter referenced NRB/2]

Iain DUNCAN telephoned me on the 1st August 2008 about the letter. He was unhappy that it had been sent, claiming it was malicious. I replied that all the letter did was point out given the number of complaints from residents; activities at his pub would be monitored. He asked for the names of the people who had complained claiming that they were being malicious but I

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denied his request to divulge that information. I advised him to keep a log of the measures he was taking to control the use of the area and reiterated that if he was confident that no nuisance was being caused no evidence would come to light.

On the 25th August 2008 I received telephone calls from 2 separate residents and a third person who had been visiting a local resident complaining that they had been subject to very loud music and amplified commentary coming from an event in the rear car park between 12 noon and 5pm on the 24th August 2008. One resident reported that the music was so loud she could not hold a conversation in her own garden and another reported that her enjoyment of the Olympic final ceremony was spoiled as she couldn't hear the TV coverage in her sitting room, over the noise from the pub.

I spoke to Iain DUNCAN who advised me that it was a charity event and that there had been a bouncy castle and a DJ but no live music. I advised him that the recorded music played by the DJ was unlawful as his licence only authorised regulated entertainment indoors. I also explained that if he was planning any similar events that involve licensable activities outside his current permissions he must apply for a temporary event notice.

A residents meeting was held at Bamber Bridge Police Station on 22nd September 2008 which was attended by myself, PC359 HOWARTH, Jennifer MULLIN and 5 of the affected residents. During the meeting residents reported being fearful of the landlord Iain DUNCAN and his clientele and they did not want to be identified because they were afraid of repercussions.

At the time of the meeting their main concerns were the noise nuisance caused by the use of the rear beer garden late at night, broken glasses and loud music. It was agreed that residents would monitor the nuisance and report back to me if the problems were ongoing.

On 5th January 2009 I received a letter from one resident. [I exhibit a copy of this letter referenced NRB/3, some sections have been obscured to protect the identity of the individual concerned]

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On 7th January 2009 I received a telephone call from a gentleman who asked what time the Lincs & Yorks was permitted to have entertainment on until. I explained that they could provide live and recorded music until 00:30. The gentleman said that the disco often went on after 00:30 and that the landlord Iain DUNCAN was not enforcing the red card scheme and would serve anyone.

I arranged to monitor the activities at the pub with PC886 GELSON on the night of the 16th January 2009. PC886 GELSON advised me that a number of local licensees had reported they were considering pulling out of the pubwatch scheme because the Lincs & Yorks were serving those on the banned list.

On the 8th January 2009 I spoke to the resident who sent in the letter. I advised her that I had made arrangements to monitor the pub on the 16th in company with the Police. She informed me that it had quietened down after our meeting in September which she assumed was because he knew he was being watched. She told me that she was worried that the levels of noise disturbance she has had to put up with over the winter months will only get worse as the weather improves.

On 16th January 2009 I was working with PC886 GELSON. We monitored the rear of the pub between approximately 23:40 and 23:55 during which time there were 6 customers in the smoking area. They were all smoking and drinking and their voices were clearly audible beyond the perimeter of the car park. A blonde female member of staff came out into the area to collect empty glasses but did not make any attempt to bring the drinkers back indoors.

We returned to the rear of the premises at approximately 00:35 and I noted a large group of 14 customers in the beer garden. The customers were talking in loud voices and I could hear the actual words spoken from my monitoring point on Princess Street, although I could not hear any music.

PC886 GELSON and I entered the pub at approximately 00:45. I asked the member of staff I

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had seen earlier in the beer garden, if I could speak to Carley HIGSON, the DPS and was told she didn't work there because she had just had a baby. I then asked if Iain DUNCAN was available and she replied he was upstairs and she went to get him.

Iain DUNCAN appeared and I explained that I was investigating complaints from local residents about noise from the beer garden caused by patrons drinking outside after 23:00. DUNCAN told me that he did not believe that anyone had complained and asked for their names so he could speak to them. I refused to identify the residents involved. I told him that I had visited the area twice after 23:00 that night and on both occasions had witnessed drinkers outside; he denied this to be the case saying that he had been downstairs all night. I then pointed out that just before we entered the pub we had been round the back and there were around 14 customers drinking outside directly in contravention of a condition on his licence.

On 2nd February 2009 Iain DUNCAN came to the Civic Centre. We spoke about Carley's absence and Iain indicated that he did not think she would be coming back to work. He told me that he had done the personal licence course and would be applying for his personal licence and putting himself forward as DPS. I gave Iain DUNCAN the application forms and advised him on the process for making applications. I informed him that I would be issuing a written warning in respect of the breaches I witnessed on the 16th January 2009 and reiterated the need for him to control the noise from the pub and ensure drinkers are not permitted outside after 23:00.

On 3rd February 2009 I issued a further written warning to Iain DUNCAN. [I exhibit a copy of this letter referenced NRB/4]

Iain asked if there were problems with his pub and I told him that it was a high priority among the Police and Licensing Authority due to complaints about compliance levels and disorder issues. He denied that there were problems, citing the fact that they hardly ever call out the Police because he sorts out any problems himself. He told me that his staff are told not to phone

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the Police without his permission and went on to give me an example from the previous Wednesday, the day of the funeral, when one of his staff wanted to ring the Police to report an incident occurring directly across from the pub and he told her to leave it up to the shops to call them, because it wasn't the pubs problem.



Signature

Handwritten signature of Nicola Ruth Barrett in cursive script.

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