

Licensing Act 2003 Section 51

Representation regarding the application made by Lancashire Constabulary to review the premises licence of The Hunters, Hannel Lane, Walton-le-Dale, PR5 5UL

Introduction

I am Alison O'Sullivan, Health Protection Practitioner for South Ribble Borough Council and Chorley Council, and I lead the Covid-19 response shared services team.

I am making this representation on behalf of the Environmental Health team at South Ribble Borough Council. In my capacity of health protection practitioner it is my opinion that this premises has undermined the licensing objective, public safety, for the following reason:

The large gathering that occurred at the Hunters on the 11 July was not managed in a safe manner, as it presented a risk of transmission of SARS-CoV-2 (the causative agent of Covid-19), thus putting people in attendance at risk of harm.

Background

On Monday 12 July, I was contacted by Chris Ward (licensing officer) and asked to attend a meeting at the Hunters on 14 July with himself and Julie Stewart (police licensing team) for a meeting with the proprietor. The police were considering a licence review as a consequence of a situation that occurred during their screening of the Euro cup final on 11th July. A lot of the breaches were Covid related, and so I was asked to attend in my role as Covid lead for the council.

I met Chris at the Civic Centre prior to the premises visit to view the footage taken by police on the 11 July. It was clear from the video that the outdoor space was very crowded (police estimated over 500 people, possibly up to 700); no social distancing, no separation of groups. Individuals were seen merged as one extremely large group singing, shouting, cheering, dancing, and drinking whilst stood up. There was also clearly bar service being offered, as footage showed people leaving the bar area holding 'rounds' of drinks; there was no evidence of table service.

Context

By the middle of July 2021, the country was approaching the peak of a third wave of infection, which was suspected to be caused predominantly the 'Delta' variant, known to be highly transmissible. Infection rates in South Ribble at the time of the event were in the region of 350 / 100 000, deemed to be high.

Social distancing is by now a well known control of coronavirus transmission. At the time of the incident, these controls were enshrined in law, with hospitality premises having an obligation to prevent groups merging together, and also to limit movement around the premises by only permitting ordering, service, and consumption of food and drink by customers whilst seated.

Although at the time of the incident groups of up to 30 were permitted to gather outdoors, it was still recommended to remain socially distanced (approx. 1m outdoors) from people not in the same household. Furthermore, each group should have been separated from other

groups. It was apparent from the video that there were simply too many people gathered in the area to permit safe separation of groups.

Offences

It is my belief that based on the video evidence gathered by the police on the 11 July, that the following regulations were contravened:

The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021. Regulation 7 and Part 2 of Schedule 3, paragraph 7(1)

Nature of contravention:

- Sold, without reasonable excuse, food or drink for consumption on the premises that was ordered by a customer not seated on the premises; or
- Sold, without reasonable excuse, food or drink for consumption on the premises that was served to a customer not seated on the premises; or
- Having sold food or drink for consumption on the premises, failed, without reasonable excuse, to take all reasonable steps to ensure that a customer remained seated whilst consuming the food or drink on the premises.

Evidence: police video footage shows customers waiting at the bar to be served, and the promotional video posted on Facebook highlighted the pop-up bottle bar in the fanzone, which implied that customers would be permitted to approach the bar to be served; police video footage shows customers walking away from bar with 'rounds' of drinks; police video footage of numerous customers drinking whilst not seated (particularly in the very crowded 'fanzone' which was predominantly a standing area.

It is our intention to serve a fixed penalty notice in respect of these offences.

The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020. Regulation 1A (2)(c)

Nature of contravention: Failed, during the emergency period, to take all reasonable steps to ensure that no person joins another group or otherwise acts in a way which would contravene the Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021

Evidence: police video footage of very large crowd, with no clear separation of groups of 30 (throughout video)

We also have reason to suspect that the following regulation was contravened:

The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020. Regulation 7

Nature of suspected contravention: Failed to request Track and Trace details from a person who seeks to enter the premises, unless the person has already scanned the QR code made available.

Evidence: Although we have no direct proof that contact details were not being requested, the sheer volume of people present at the time of the incident made it very unlikely that everyone in attendance was able to access the premises QR code (which are situated on tables), and police video footage showed customers entering the premises without being asked to check in. The managers have acknowledged that customers had been accessing the premises by climbing over or removing fence panels, thus giving staff no opportunity to request contact details.

Failures leading up to the breaches

The situation could have been avoided had the management conducted a thorough risk assessment, taking into account the nature of the event (very different to their 'business as usual' offer, which is predominantly seated dining), and the likelihood of large numbers of people attending, especially as the event was 'open-access' and not ticketed. They had advertised the event via a video posted to Facebook, and were clearly promoting a 'fanzone' standing area, and a bottle / cocktail bar that they had set up outside. 240 people reacted to the video, and it was shared 41 times. This is much more activity than their regular posts, indicating the level of interest in the event. The video was posted at 11:41 on the morning of 11 July, and already there was a large queue of people waiting to get in. One customer was clearly heard to say that he had been waiting since 9:00am. This should have given management an early warning that the premises were likely to be busy, and consideration should have been given to how they would be able to comply with the coronavirus regulations in force at the time.

The management has previously contacted the council to ask advice about special events (e.g. a Christmas market that was being considered in December 2020). We had also visited the premises to assess compliance, and the managers knew they could approach us at any time for advice. It was therefore disappointing that on this occasion they didn't think to do so. Had we been given the opportunity to advise on this occasion, we could have ensured that the managers understood the regulations in place at the time, ensured that a thorough risk assessment was completed, and recommended suitable controls.

Future expectations

Although the specific coronavirus regulations have now been revoked, government guidance for pubs and restaurants is very clear about what is expected of employers in terms of managing risks posed by Covid-19:

As an employer, by law you must protect workers and others from risks to their health and safety. This include risks from COVID-19. COVID-19 is a workplace hazard. You should manage it in the same way as other workplace hazards. This includes:

- *completing a suitable and sufficient assessment of the risks of COVID-19 in the workplace*
- *identifying control measures to manage that risk*

Failure to carry out a suitable and sufficient risk assessment and put in place sufficient control measures to manage the risk may be considered a breach of health and safety law.

This incident has severely undermined our confidence in the management of this premises, and we are no longer assured that the risks to health posed by Covid-19, and the measures needed to control that risk are understood by the management. I would strongly recommend that the premises managers approach us for advice regarding Covid-19 controls to ensure that their staff and customers are not put at risk in future.

Alison O'Sullivan, MSc (Public Health)

Health Protection Practitioner