

RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

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Statement of:

Age if under 18: 0/18 (if over 18 insert over 10) Occupation:

This statement (consisting of 2 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 anything in it, which I know to be false or do not believe to be true.

Signature:

Date 18/2/2014

Tick if witness evidence is visually recorded (supply witness details on rear)

Throughout the past eleven months I have experienced severe noise disturbance from Mode Public House in Hastings. I have had cause to repeatedly make calls and send emails to Environmental Health of Hastings Borough Council to report these disturbances; I even call the out of office hours emergency line. To date, in my opinion, no positive action appears to have been taken to address this issue by Mode some eleven months and countless complaints later. Environmental Health should have a complete record of times and dates I have called and emailed and I grant my permission for that data to be shared with this statement.

Further to that I have attached a copy of an email sent to Environmental Health on Tuesday 4th February, the contents of which are self explanatory regarding severe noise from Mode on Saturday 1st to Sunday 2nd February. This started approximately 10.30 pm and lasted until approximately 1.30 am. The noise was from extremely loud music which literally shook the floor of my bedroom and from customers outside drinking and smoking. There appeared to be no door staff from my point of view, and if there were then they allowed the side doors to (PTO)



Continuation of statement of

be left open and customers to file in and out with drinks all night. I rang the emergency number four times that night and NO action was taken. At one point I was told that the officer, Stuart, had his phone switched off.

This noise from the music kept me awake again for 3 hours. It is fair to say that the noise problem is making me ill now and I dread Thursday, Friday and Saturday nights. I have complained directly to mode but I have been abused and ignored. In my view the night in question was a deliberate action on the part of mode as the music - loud as it was - became intolerable for the last half hour. I called my landlady, [REDACTED], into my room to witness it.

This is just one example of noise from mode. I am prepared to give evidence in court if required

Signature _____

Signature witnessed by: _____

PTO



FAO: David Steeds Re: Moda, Hastings

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Tue, Feb 4, 2014 at 10:34 AM

Dear Mr Steeds

Further to my current ongoing complaint of almost one year regarding Moda in Hastings I write to advise you of a distressing incident which occurred on Saturday 1st February through till Sunday 2nd February.

At approximately 10.30pm on Saturday Moda started to play loud music once again. There were also customers outside and although they appeared to be using the side door it was in a permanent open state.

As advised I called your out of office line at approx 10.40pm and I was told that this would be passed on to the duty environmental officer and he would call me and come out and measure the noise - again. I heard nothing for about an hour so I rang back and was told that the message had been sent and nobody could get hold of the duty officer. My landlady then returned home and she tried contacting the duty officer and again there was no call back. I tried once more about midnight and still no joy.

Finally I received a call from "Stuart" approx 12.30am who said that he was sat by his phone all evening and had not had a call. I knew this was utter rubbish. He wanted to come round to measure the noise but as I was in bed by now, albeit trying to block out the increasing noise, I said no. I told Stuart that he should have been in contact some 2 hours previously and then he could have come round at a reasonable hour. I pleaded with him to contact Moda to ask them to turn the music down and after being reluctant at first he agreed.

I don't know if Stuart did contact Moda but the music went on until 1.30am at which point the flat was literally shaking from the bass levels. It was quite honestly the loudest I have ever heard it and it couldn't have been louder if I had my head next to the speaker!

So please I ask that you now seriously look at removing Moda's music licence forthwith. You have tested the noise in my flat on two occasions and each time it has breached the accepted level. I am also no longer prepared to have to wait for hours for someone to call me back, nor to have to wait up for a noise level visit - you can do this from outside the flat or in Russell Street. In fact, given the problems I would expect a noise officer to be constantly monitoring Moda and for there to be no need for a call from me or my landlady Ms Southgate.

We are both prepared to sign a statement if you need it for a licence review and will happily do so this week. In the meantime please suspend their music licence whilst you put in measures to restrict it. Nearly a year for this to be resolved is unacceptable and shoddy and as council tax payers it is not what we expect.

Please don't respond with any platitudes just a timescale of action you are taking, but please respond today!!



URGENT: MODA Hastings

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Sun, Oct 27, 2013 at 11:09 AM

/s@hastings.gov.uk

Dear Sir/Madam

Ref: Moda - [REDACTED] Hastings

I write to you, once again, following a weekend of non-stop noise problems from Moda in Hastings, which once again seems to have been overlooked by your environmental noise team.

At 2am on Saturday morning, 26th October, I had cause to call your out of office emergency line to report loud music and customers outside of Moda drinking and smoking once again. This had been going on for most of the night from 11pm but I had endeavoured to try and sleep as I was tired and had to be up for work at 6am. I was awoken at 2am with an almighty noise emanating from Moda which then caused me to ring your line.

Again on the night of Saturday 26th October and early morning of 27th October I had cause to ring your line THREE times - at 11.20, 11.50 and 12.30. On each occasion I was reporting loud music from Moda and customers outside causing noise and disruption.

In the first call I did advise that I did not want a call back from an Environmental officer, and that I certainly did not want a visit to test the noise as I was trying to get to sleep and could not wait up an hour and half (as last time) as I had to be up at 6am for work. But lo and behold I was then called by Mr Wheeler who insisted that he had to come round to measure the noise - once again. I refused as that would have meant another night of four hours sleep and explained this to Mr Wheeler. Incredibly I was then told that this had to be carried out to see if this would develop into a long term problem!! I was astounded. Surely noise complaints about the same venue for 7, or possibly 8 months, qualifies this as a long term problem? Or am I missing something? In the eyes of most people this would qualify as a long term problem and more pertinently one that you have yet to resolve.

Eventually Mr Wheeler agreed to call Moda but I suspect that this did not happen. If it did happen then Moda simply ignored Mr Wheelers advise to address the noise problem, as I had cause to call back as stated earlier at 11.50 and 12.30. Each time I asked the operator to pass on a message to please contact Moda urgently as it was my understanding from previous communications with yourselves that this is all that was required now as Moda and my complaint were on your "list". In the last the call the operator was extremely rude and cut me off which is maybe a public relations staffing issue that you should look into? But that is a separate issue.

Now I really would like some positive and notable action taken against Moda. Hence I have copied in Licensing and Highways to address this problem with yourselves. It seems to me that there seems to be a general ignorance from everyone regarding the activities of Moda, and if between yourselves and the other departments you managed to change the culture of the Old Town in weeks, as it was deemed that George Street is a residential area (which it isn't), then Queens Road is also a residential area - well I live there so it must be. In which case as with the Old Town then I would suggest that no customers should be permitted outside Moda after 10pm and that absolutely no music is audible at all after 11pm.

In fact I do wonder if Moda has a licence for DJ's to play at all which seems to happen every weekend night from 10.30pm? It is not their standard sound system that appears to cause the noise, it is hired DJ's with their own PA systems in the bar downstairs, or those using the facilities upstairs. This is something that I will take up with the PRS in time, but I would have thought that a pub does not have an automatic DJ/Dance licence and Moda is most certainly a pub not a club. This may be one for the licensing department to look at,

as would the question of whether drinkers and smokers should be congregating outside the pub after 10pm should be an issue for Highways.

Now as I have stated this complaint has been ongoing for over half a year and the problem still remains. You have had noise diaries from myself and my landlady. You have been round and measured the noise. You have called and made soothing sounds that all will be addressed - but nothing has to date. Therefore I would like a consultation with yourselves and an assurance on what measures will be taken and for that to happen promptly. And if you are unable to act on this then I will pursue the matter through legal means and that is via a case of dereliction of duty by Environmental Health of Hastings Borough Council.

Please either call me as a matter of urgency on [REDACTED] or email me back to let me know when we can meet and what measures you and the other departments are taking to avoid this escalating into a matter for the Courts.

Licensing <Licensing@hastings.gov.uk>

Mon, Oct 28, 2013 at 3:40 PM

To: [REDACTED]

From: Gregory Casey <GCasey@hastings.gov.uk>, Trevor Scrase <TScrase@hastings.gov.uk>

I acknowledge receipt of your email, I am sorry to hear of your problems with Bar Moda. I understand from the Environmental Protection department that you are meeting with one of their officers to discuss the matter further. I have agreed with their manager that my staff will assist them in any way we can to work towards a resolution that suits all parties. I now have your e mail lodged on my premises file for recording purposes.

On the issue of their licence I can confirm the following;

Bar Moda has one of the most extensive licences in town and has held it since we took over Licensing responsibility in 2005. The initial licence holders asked for and got the following;

Live Music. Mon - Wed 6pm to 00.30hrs, Thursday 5pm to 1am, Fri & Sat 5pm to 2 am, Sunday 12 noon to 00.30hrs.

Recorded music, dance etc Mon to Sunday 06.00hrs to 04.30 hrs

Supply of alcohol Mon to Sunday 06.00 to 04.00hrs

and on 12 occasions a year they can go through the complete 24hrs.

At the time of the application there were no objections and as a result the licence was granted.

On the subject of the outside area, the licence for the tables and chairs is issued by ESCC not Hastings BC , the licence requires them to clear the area of tables/chairs etc by 11pm at night. The issue of smokers is sadly as a result of the health Act 2006, it is an offence to allow smoking inside such premises and the licence holder has no option but to allow those persons outside, a problem replicated up and down the country.

The current licence holders took over the premises in late 2006.

I will follow up with the Environmental team once your meeting has occurred.

Regards

Bob Brown
Licensing Manager, Licensing Team
Hastings Borough Council
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Breeds Place
Hastings
East Sussex.
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http://www.hastings.gov.uk/environment_planning/licensing