

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

Item No 5

MEETING: 15TH DECEMBER 2014

SUBJECT: RESULTS OF PROSECUTIONS

JOINT REPORT OF THE CLERK TO THE AUTHORITY AND THE CHIEF FIRE OFFICER

1. INTRODUCTION

1.1. The purpose of this report is to update members in relation to the outcome of Fire and Rescue Authority prosecutions that have come before the local courts this year.

2. JAHANGIR HUSAIN QURESHI

2.1. On 8th October 2013 a fire safety audit was undertaken at the Thai Manor Restaurant in Foyle Street, Sunderland. Although the premises had been identified as a restaurant only, it was discovered during the audit that staff and student residential accommodation was also being provided on the premises. In addition to the restaurant on the ground floor of the premises, three staff bedrooms were provided in the basement and three student bedrooms and a kitchen were discovered on each of the upper two floors. It was subsequently established that four members of staff and six students were resident on the premises at the time.

2.2. At the time of the inspection, when the restaurant was open for business, one of the fire exits was secured with a cycle lock and the staff member in charge did not know where the key could be located. A hallway on the fire exit route from the restaurant was partially obstructed by combustible items and the final fire exit from the hallway was secured with bolts which prevented the exit from being quickly and easily opened in the event of an emergency. Intumescent strips and seals were missing from the fire door between the kitchen and the single escape staircase from the basement and the fire door itself could not be closed because of obstruction by stock items. This meant that the single escape route for staff sleeping in the basement area was unprotected. Combustible items (racks of clothes) in the circulation area between the basement rooms gave rise to an additional fire risk which could have resulted in individuals becoming trapped within the basement rooms in the event of a fire.

2.3. When officers returned for a more detailed inspection the following day, the ground floor fire exit was still secured by a cycle lock. Fire precautions within the basement were found to be totally unsatisfactory, with improvised electrical

wiring and multiple extension leads in use, a taped-over smoke detector in one of the three bedrooms, non-fire resistant bedroom doors and obstructions on the escape route. The student flats on the first and second floors lacked any means of fire detection or alarm. The escape route from the flats on both floors led through the kitchen areas of the flats onto a stairwell via doors that were not adequately fire resistant and the stairwell itself was obstructed by storage of clothing.

- 2.4. In view of the serious concerns that existed, a Prohibition Notice was issued, preventing the use of the premises as residential accommodation.
- 2.5. Mr Qureshi, the leaseholder of the premises at the time, admitted responsibility for the deficiencies that had been identified. He conceded that no fire risk assessment had been undertaken at the premises and further failings including lack of fire drills and lack of proper maintenance of fire extinguishers.
- 2.6. Mr Qureshi was charged with a total of eight offences under the Regulatory Reform (Fire Safety) Order 2005. Guilty pleas were entered when the matter came before the Sunderland Magistrates' Court on 20th March 2014, however the magistrates considered that, in view of the seriousness of the offences the matters should be referred to the Crown Court for sentencing.
- 2.7. The sentencing hearing took place at Newcastle Crown Court on 19th May 2014. The Judge hearing the case said that it was a serious case, which crossed the custody threshold. He considered that Mr Qureshi had been charged with 8 serious offences and that he had knowledge of the requirements and risks in relation to fire as the holder of a licence for housing in multiple occupation elsewhere. This was primarily a restaurant business with live in staff occupying the basement and the first and second floors being let to students. The circumstances meant that the failings gave rise to a real risk of loss of life in the event of fire. The Judge considered that the court must deter others from breaching the regulations. Whilst noting that Mr Qureshi had co-operated immediately with regard to compliance with the Prohibition Notice served by the Fire and Rescue Service and had entered early guilty pleas, the Judge considered it necessary to impose a sentence of four months' imprisonment for each offence (to run concurrently), suspended for 15 months. In addition, Mr Qureshi was ordered to pay £5,000 towards prosecution costs and a victim surcharge of £80.

3. MUHAMMED TAHIR MEHMOUD

- 3.1. As a result of information received via the Safe Newcastle Darker Nights Initiative partnership in October 2013, fire officers undertook an inspection of the premises known as Drinks Express in Adelaide Terrace, Newcastle. The store had previously been registered under the Manufacture and Storage of Explosives Regulations 2005 for the storage of fireworks but that registration had lapsed and had not been renewed.
- 3.2. The employee in charge of the store at the time denied that fireworks were being sold from the premises but conceded that a delivery of fireworks was due later that week. However, upon inspecting the premises, officers discovered - in a separate rear store - 18 cardboard boxes containing 457 individual

fireworks with a net explosive content of just over 46kg. The fireworks were not contained in their original packaging (increasing the risk of accidental ignition) and there was an inadequate number of fire extinguishers found on the premises.

- 3.3.** Mr Mehmoud, the owner of the business at that time, was interviewed about the matter under caution. He indicated that the fireworks discovered on the premises were items of left over stock originally purchased in 2011 and 2012. Mr Mehmoud cited recent illness and a family bereavement as the reason for failing to renew his registration in time, although it was pointed out to him that he had a history of late renewal applications over the preceding four years.
- 3.4.** As a result of what was discovered during the inspection, Mr Mehmoud was charged with two offences under the Manufacture and Storage of Explosives Regulations 2005, namely storage of fireworks without a licence and failure to take appropriate measures to limit the extent of any fire or explosion that may occur (specifically, the lack of proper fire fighting equipment and storage of fireworks outside of their original packaging).
- 3.5.** When the matter came before the Newcastle Magistrates' Court on 27th May 2014, Mr Mehmoud pleaded guilty to both offences. The magistrates considered the matter serious enough to have passed the custody threshold. They found that the defendant had been totally irresponsible and had not taken seriously the safety of his staff and anyone nearby. Giving credit for an early guilty plea, the magistrates imposed a sentence of 16 weeks' imprisonment for the offence of failing to take appropriate measures to limit the extent of fire and explosion and a concurrent sentence of 4 weeks' imprisonment for the offence of unlicensed storage of fireworks, with both sentences being suspended for a period of 12 months. In addition, Mr Mehmoud was ordered to pay prosecution costs of £500 and the standard victim surcharge of £80.

4. PASSION LEISURE LIMITED

- 4.1.** It was previously reported to members that in November 2013 in the Newcastle Magistrates' Court, the company Passion Leisure Limited was convicted of three offences under the Regulatory Reform (Fire Safety) Order 2005. The offences related to fire safety deficiencies in the licensed premises known as Butler's Bistro in Nun Street, Newcastle, above which a residential flat (let to students) was situated.
- 4.2.** Fines totalling £7,500 were imposed by the magistrates, together with an order to pay prosecution costs of £4,890 and a victim surcharge of £120.
- 4.3.** The company appealed against the conviction and that appeal was listed for hearing in the Newcastle Crown Court on 9th May 2014. However, the appeal was withdrawn shortly before the hearing and so the decision of the Magistrates' Court has not been superseded.

5. NORTH TERRACE HOTEL LIMITED

- 5.1.** On 2nd January 2014 officers visited the North Terrace Hotel in Newcastle after receiving information that a means of escape door had been padlocked shut when the Hotel was open for business on 26th and 29th December 2013. At the

time of the inspection, the fire exit in question was found to be unlocked but the means of escape route to the rear final exit door was obstructed by a step ladder and other combustible items and the exit door itself would only partially open.

5.2. A representative of the operating company (North Terrace Hotel Limited) was interviewed under caution and the deficiencies referred to above were admitted.

5.3. On 29th April 2014, the company accepted a caution in relation to three offences under the Regulatory Reform (Fire Safety) Order 2005, namely the locking of a fire exit on two separate occasions and the obstruction of a means of escape route with building materials.

6. RISK MANAGEMENT

6.1. There are no risk management implications in respect of this report.

7. FINANCIAL IMPLICATIONS

7.1. There are no financial implications in respect of this report.

8. EQUALITY AND FAIRNESS IMPLICATIONS

8.1. There are no equality and fairness implications in respect of this report.

9. HEALTH AND SAFETY IMPLICATIONS

9.1. There are no health and safety implications in respect of this report.

10. RECOMMENDATIONS

10.1. Members are asked to note the contents of the above report.

BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report:

- Case summary – Thai Manor Restaurant
- Case outline – TWFRA v Mehmoud
- Record of caution – North Terrace Hotel Limited