

TYNE AND WEAR FIRE AND RESCUE SERVICE

Item No

MEETING: 15th SEPTEMBER 2008

**SUBJECT: TYNE AND WEAR FIRE AUTHORITY -- v -- ULTIMATE
LEISURE LIMITED**

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

1 INTRODUCTION

- 1.1 The purpose of this report is to inform members of the successful outcome in the case of Tyne and Wear Fire Authority -- v -- Ultimate Leisure Limited heard at Gosforth Magistrates Court on September 1st.

2 BACKGROUND

- 2.1 On the 23rd of June 2007 a member of the public, Andrew Reilly of Low Fell Gateshead, suffered serious burns to his back during a night out at Sea Nightclub in Newcastle .
- 2.2 The circumstances were that Mr Reilly was standing against a shelf on a balcony overlooking the dance floor on the first floor of the club just after midnight. On the shelf was a tea light candle. As Mr Reilly leaned against the shelf he felt his back getting warm and discovered that his shirt was on fire. He ran to the toilets and took his shirt off and attempts were made to put out the fire. Afterwards he was taken to Newcastle General Hospital where he received initial treatment and later transferred to the Royal Victoria Hospital Burns Unit. Mr Reilly suffered severe burns to his back and has been scarred for life.
- 2.3 As this Authority is the enforcing authority for fire safety in nightclubs, public houses and other licensed premises, Officers of the Authority conducted an investigation. The purpose of the investigation was to determine where the company who owned Sea Nightclub, Ultimate Leisure Limited, had failed in their fire safety duties.
- 2.4 The investigation concluded that there was no suitable and sufficient fire risk assessment in place, which addressed the use of candles or tea lights, furthermore, general fire precautions had not been taken to ensure that the premises were safe.

3 OUTCOME

3.1 Ultimate Leisure Limited, as the responsible person for fire safety, were charged with two offences against the Regulatory Reform (Fire Safety) Order 2005.

3.2 There were breaches of the following articles of the Regulatory Reform (Fire Safety) Order 2005, namely:

Article 8 (1)(b) :Duty to take general fire precautions

in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.

And

Article 9 (1) : Risk assessment

The responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order.

3.3 As usual Sunderland City Council Legal Services represented the authority in the prosecution of the case resulting in Ultimate Leisure pleading guilty to both offences. They were fined £2,000 on each count (a total of £4,000), the standard £15.00 victim surcharge was imposed together with costs of £975 being awarded to the authority.

3.4 In summing up the case the Magistrates commented that whilst they acknowledge that Ultimate Leisure had instructed outside consultants Perry Scott Nash, to undertake the risk assessment, it is the responsibility of the organisation and its managers to assess the use of tea lights and candles in the premises.

3.5 The actions the Authority has taken is in line with national guidance and is proportionate to the offence

4 EQUALITY AND FAIRNESS IMPLICATIONS

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

5 HEALTH AND SAFETY IMPLICATIONS

5.1 Letters reminding owners of public houses, nightclubs and other licensed premises of their responsibilities have been sent out and inspections will be carried out in October to confirm this.

6 FINANCIAL IMPLICATIONS

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

7 RISK MANAGEMENT IMPLICATIONS

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

8 RECOMMENDATIONS

8.1 The Authority is recommended to note the contents of this report and receive further reports as appropriate

BACKGROUND PAPERS

The under mentioned background papers refer to the subject matter of the above report:

HSE – Enforcement Management Model 2005
FSC 42/07 – Annex A – Enforcers Guide
The Regulatory Reform (Fire Safety) Order 2005