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National Pubwatch

Newsletter



**This edition comes to you courtesy
of the British Beer & Pubs
Association**



FORTHCOMING 2012 ANNUAL CONFERENCE

Our ninth annual Conference is being held on Tuesday 7th February 2012 at the prestigious Guildhall, City of London, and is again attracting considerable interest. The content of the Conference is intended to help delegates prepare for the forthcoming major events to be held in 2012, which include the Queen's Diamond Jubilee in celebration of her 60 year reign and the Olympic and Paralympic Games. We have already lined up Deputy Assistant Commissioner Stuart Osborne, Metropolitan Police who is an expert on Counter Terrorism issues and Brigid Simmons, Chief Executive, British Beer and Pub Association, as key-note speakers. Presentations will again be made to persons who have made outstanding contributions to their local Pubwatch.

Following last years successful format delegates will be able to attend both workshops and we will have a total of six presentations with a duty of care theme:

- * Terrorist threats to business premises and ways to identify and reduce potential vulnerabilities to them.
- * Illegal drugs in licensed premises and the response from London Drugs and Alcohol Policy Forum
- * Recent judicial duty of care issues
- * Risk assessments in licensed premises
- * Policing the Olympic & Paralympics games and implications for the licensed trade
- * Assaults in licensed premises, revised sentencing guidelines and how to present the best possible evidence.

Continued on Page 2

If you are not the person to whom this was addressed or no longer wish to receive newsletters please let us know, one it saves money and two reduces unnecessary work. Our contact information is on page 2.

Continued from Page 1 As always we will have a varied range of interesting static display stands including the NPW desk where our enthusiastic representatives will be on hand to answer your Pubwatch questions and offer support. We hope to see you there.

You can apply to attend at www.nationalpubwatch.org.uk

ROLE OF THE CPS PROSECUTOR

Ben Warne, Chief Prosecutor, Hertfordshire Branch, has been kind enough to provide us with the following two articles. The section underlined below is of particular relevance to Pubwatch members and their partner agencies.

The Crown Prosecution Service prosecutes most criminal offences in England and Wales. When a person has been charged they are responsible for prosecuting the case at court. On sentencing after conviction, the CPS will also present the facts of the case, and where appropriate ask for “ancillary orders”. These, if granted, become part of the sentence. They include the costs of bringing the case, compensation for a victim of crime, and also Drink Banning Orders (DBOs). Where such an order has been requested, the court often adjourn the case to another date so that evidence can be provided to support an application for a DBO.

HOW CAN THE LICENSING COMMUNITY HELP?

For an offender to be sentenced appropriately, it is important that the CPS has all the relevant information to put before the sentencing court. This will include up-to-date previous convictions and, where appropriate, a Victim Personal Statement (VPS) and estimates for repairs or loss for compensation. A VPS is a statement by a victim of crime which sets out what impact the offence has had on them. Often this will be in the form of a second statement made at a later date. However, if the effects are easily described, it is possible for a small VPS to be added to the bottom of the statement that describes the actual offence.

Of equal importance at sentencing is having the correct figures for compensation. These should be included in the statement. The court is much more likely to grant the correct amount if they have an invoice or estimate for work carried out. If the case is adjourned, either for a trial or for sentencing on *Continued on Page 3*

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Continued from Page 2 another day, this gives the CPS extra time to obtain full and accurate details. However, with more cases being sentenced at the first hearing, it may not always be possible to provide the documentation in time for the hearing, so it is important that a rough estimate is provided. Some items, such as a broken window or a damaged lock, may be hard to estimate by a layman, but others might be easily valued. For example, a licensee may be fully aware how much drinking glasses, bar stools or bottles of alcohol cost due to dealing with orders for them on a regular basis. You would also need to explain how it is you've reached that figure.

Finally, the court will need to know if this is something the defendant has done before. It is really useful to know if the defendant has a history of causing problems on licensed premises. The police may say that they only want to know the details of the current offence when they take a statement. This is quite right from an evidential point of view because previous problems with a defendant are not usually admissible at a trial to determine if a defendant is guilty or not. The situation is very different when it comes to sentencing. If a court hears that a defendant causes problems frequently in one or more establishments, then it may well lead to a heavier sentence.

In relation to applications for DBOs, the CPS would know if they had any previous convictions, but it would not necessarily be apparent if they were drink related. For example, we may know that a defendant has two previous convictions for common assault, but not that both were assaults on door staff or licensees while they were drunk. It is because of this that it is vital that the CPS communicate and share information with the local community and the police. This particular aspect is one that members of Pubwatch schemes would be able to assist greatly with, because they are the people on the front line with a much better working knowledge of who is causing problems on licensed premises. Sharing of information between the CPS, the Police and Pubwatches would ensure that the CPS and the court are given the most accurate picture when it comes to sentence.

When making the statement, be proactive. Whilst the police will ask victims to include important evidential facts to make sure the CPS build strong cases to secure convictions, don't forget that if there is a conviction the court will want to know more about the offender, the offence and the impact it has had on the victim.

DRINK BANNING ORDERS

A Drink Banning Order is a Civil Order which a court can impose to address an individual's alcohol misuse behaviour and protect others and their property from that behaviour by imposing prohibitions on them. It is similar in many respects to an Anti-Social Behaviour Order (ASBO). DBOs have been *Continued on Page 4*

Continued from Page 3 available since 2009, on application by the Police or a local authority. However, since 2010, courts in certain areas have had a power to make a DBO on conviction where an offence has been committed under the influence of alcohol. This means that for criminal cases meeting the criteria, the court must consider making a DBO as part of their sentence, whether they are asked to make one or not. If they decide not to, they have to give their reasons in court. It is not yet known when they will become available nationally.

A DBO can be made against an individual:

- * who is 16 or over; and
- * has engaged in criminal or disorderly behaviour while under the influence of alcohol; and
- * the court thinks that one is necessary to protect people from further criminal or disorderly behaviour by that person while they are under the influence of alcohol.

DBOs can contain a variety of prohibitions, including:

- * exclusion from individual licensed premises;
- * exclusion from a number of licensed premises;
- * exclusion from licensed premises in a particular street or geographical area, such as a town centre;
- * prohibiting them consuming alcohol in a public place; and / or
- * attendance on a course to address their alcohol related behaviour.

It is important to remember that the prohibitions must be necessary and proportionate. Prohibitions preventing an individual going to all licensed premises in a certain area would include anywhere that sells alcohol, such as supermarkets, food outlets, cinemas and some petrol stations. Banning people from these sorts of establishments would be unlikely to be considered necessary in most cases, so it is important that geographical bans are carefully worded.

The court cannot impose conditions which would prevent an individual:

- * going to their home;
- * obtaining healthcare or medical treatment;
- * going to their place of worship;
- * going to work; or
- * attending education or training.

A DBO can be imposed for a minimum of two months and a maximum of two years. This can be reduced if a course is satisfactorily completed. It is also possible for people to apply to the court to vary or remove the order. Once imposed, it is a criminal offence to breach the order or fail to comply with it. If it is breached or the subject fails to comply, the CPS will prosecute the

Continued on Page 5

Continued from Page 4 case in accordance with the Code for Crown Prosecutors. If found guilty they can be sentenced to a fine up to £2,500.

For further information on drink banning orders, please see:

http://www.cps.gov.uk/legal/d_to_g/drinking_banning_orders/ and
<http://www.crime-reduction.homeoffice.gov.uk/dbo001.htm>

Editor's Note: We would like to thank Ben Warne, Crown Prosecutor, Hertfordshire Branch for preparing these last two articles.

LISA ELDER, WEST CUMBRIA PUBWATCH CO-ORDINATOR

Lisa's role is essentially to develop a partnership approach involving Pubwatch Schemes throughout West Cumbria with the objective of reducing alcohol-related crime and disorder.

Pubwatch Schemes exist in eleven towns in West Cumbria and her role as Pubwatch Co-ordinator is to identify individuals involved in offences linked to the night time economy and, once these individuals have been dealt with through the Criminal Justice System, such information is then made available to licensees for them to consider the issuing of Pubwatch Bans or warnings if they feel appropriate. She stresses that as the Pubwatch Co-ordinator she has no involvement in nominating any individual to be banned or any of the decision making processes of the Pubwatch Schemes.

A schedule of offences has been agreed with Licensees that provides guidance in the decision making process so that proportionality and fairness is taken into account when warnings or bans are considered. In addition, Town Centre businesses now have an effective means of recovering costs of damage caused by alcohol fuelled crime following the stance by Pubwatch members that bans will continue until compensation is paid in full before any consideration of appeal or return.

Without doubt one of the main benefits of Pubwatch has been the prospect of being banned from pubs and clubs has influenced behaviour. In her view, being banned or threatened with the prospect of being banned from licensed premises can have a greater impact than custodial sentences when faced with the prospect of staying home alone while their friends are out socialising.

Pubwatch Schemes in West Cumbria have also taken the view that young people under 18 years involved in offences linked to the Night Time Economy are automatically banned from licensed premises until their 18th birthday. Additionally, any breaches of these bans result in the ban starting when they are 18. Enforcement by way of a night in the cells, fixed penalty tickets, Cautions, Court appearance, fines and custodial sentences have not always impacted on *Continued on Page 6*

Continued from Page 5 behaviour, unlike Pubwatch, which can prevent entry and exclude from every license premises involved in these schemes. Pubwatch in West Cumbria both protects Licensees, Bar Staff and Door Supervisors and also benefits offenders when the reality of having their social lives ruined and being isolated from their friends as a direct result of being banned from licensed premises is realised.

CHILDREN ON LICENSED PREMISES

Andrew Woods, a solicitor with WoodsWhur in Leeds and London, has kindly written the following article for publication in this newsletter. He writes similar licensed focused articles in the WoodsWhur bi-weekly newsletter.

Despite the fact that the Licensing Act 2003 has been in force for a number of years, there still appears to be confusion amongst operators and responsible authorities as to the position regarding children on licensed premises and this topic probably raises more questions than any other.

An example of one of the questions usually asked is whether or not those under the age of 18 can consume alcohol with a meal and if so whether in an area set aside for food or in a bar area. The law specifies that people between the ages of 16 and 18 can drink wine beer or cider with a table meal as long as the drink is purchased by an adult. This can take place anywhere in the premises including the bar or an area set aside as a restaurant. This is different to the law under the Licensing Act 1964. It should be noted, however, that 16 year olds cannot purchase their own alcoholic drink when consuming a meal. There still remains the strict liability offence of adults buying alcohol on behalf of youngsters, i.e. taking money from them, buying the alcohol and then giving the alcohol back to them. Adults are quite properly allowed to buy drinks for those aged between 16 and 18 with a meal but not as an agent.

The Licensing Act 2003 also makes it an offence for an unaccompanied child (child meaning an individual under 16) to remain on a premises when they are open for the supply of alcohol for consumption. A child is unaccompanied if he is not in the company of an individual aged 18 or over. There is, however, no offence if the unaccompanied child is simply passing through the premises and there is no other convenient way to go. There is, however, a distinction between licensed premises and relevant premises in that The Licensing Act refers to a person committing an offence if he knows the premises are relevant premises.

The key point to note here is that the offence of allowing those under 16 on licensed premises without an accompanying adult is only committed if the premises are relevant premises, which means they are primarily used for alcohol. There is therefore a whole range of licensed premises which would not be classed as relevant premises such as bowling alleys, snooker halls, cinemas and possibly many other multi purpose venues.

Continued on Page 7

Continued from Page 6 What is clear, however, is that licensed premises such as hotels where the main business will be the provision of accommodation and cinemas where the main business will be watching the films and snooker halls where the main business would be playing snooker will not be relevant premises and would not therefore be covered by Section 145 Licensing Act 2003.

OUTSTANDING CONTRIBUTION AWARD **JOE GILDEA**

Steve Baker, Chair of National Pubwatch, attended the Chester Pubwatch AGM in September where he presented Joe Gildea with an Outstanding Contribution Award for his services to this scheme.



Joe has been a licensee for 17 years having taken over the Ship Victory pub in Chester in 1994. This is a traditional community pub in the heart of the city and it is a measure of Joe's involvement in the community is that he has raised almost £100,000 for the Countess Hospital in memory of his daughter Angela who died from cancer in 2002.

He has been actively involved in the Chester Pubwatch Scheme for many years and has held the position of Secretary since 2001. This Pubwatch is recognised by National Pubwatch as a strong independent scheme which is run by the licensee members. It promotes good practice and supports its members through a close working relationship with the local police and its training programme aimed at new licensees and their staff.

Joe's hard work and good humoured approach to the role of Secretary has been crucial to maintaining the consistent approach needed to keep Chester Pubwatch relevant to the pub trade and an effective partner to the police and local council. Inspector Ian Thorp of Cheshire Police said, "Cheshire Police really values the relationship that it has with Pubwatch, which is extremely strong in Chester City Centre. Chester continues to record positive trends in relation to the levels of violent crime and anti social behaviour at night time in the City. There can be no doubt that the efforts of Joe Gildea together with other key individuals involved in Pubwatch have played a significant part in this success".

Whilst he is standing down as Secretary he has agreed to continue in the role of the Cheshire Regional Representative to National Pubwatch where his experience as a both a licensee and Pubwatch member will be of great value to local licensees who need advice and guidance.

SHARING PUBWATCH ACTIVITIES

National Pubwatch invite all Pubwatches to forward details of their activities to us in order that we can share them with others via this Newsletter. There must be numerous initiatives taking place that would assist others to understand both how they were undertaken and their effect. Please forward such details to the Editor via the Contact Addresses shown at the bottom of Page 2.

Challenge



If you are lucky enough to look under 21

you will be asked to prove that you are

over 18

when you buy alcohol

If you are under 18 you are committing an offence if you attempt to buy alcohol



The only acceptable forms of proof are:

- Photocard Driving Licence
- Passport
- Proof of age cards bearing the PASS hologram



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