

On 29/09/21 I received a complaint of people smoking shisha pipes in an enclosed space at the newly opened Swish Lounge. On the evening of 29/09/21 I visited the premises to see what the current situation was and if this was an issue. At this visit I did discoverd that people were smoking shisha pipes in an enclosed space. At this time, I spoke to the manager Ogus Ozjaya and explained that if people were going to smoke shisha pipes this would be allowed but the roof would need to be retracted. At this time Mr Ozjaya said he understood what was required of him to comply with the law. The roof was opened at this time of the visit to comply with the legislation.

On 01/10/21 I visited the premises with Amy Chilver Environmental Protection, Tracey Billington Licencing, Kyle Dalton Planning and Kelly Warburton Police to discuss issues including the smoking of shisha pipes. Upon arrival there were 2 men smoking a shisha pipe with the roof fully closed. At this visit I spoke to the owner Abdullah Anik and the manager Ogus Ozjaya again about the requirements needed to comply with Section 8 of Health Act 2006, allowing smoking in a smokefree premises, and again both men stated they understood the requirements. Ogus Ozjaya had reiterated he knew the requirements to comply with the law when he was questioned about the 2 men smoking upon our arrival, and could offer no suitable explanation as to why this had occurred. This information was reiterated to Abdullah Anik. His understanding of English is not as good as Ogus Ozjaya, however he did appear to know from my previous visit what was required and parts of the conversation were being translated into Turkish by Ogus Ozjaya at the time. In addition to verbally agreeing their understanding, both men signed a statement in my PACE notebook reiterating their responsibilities and the consequences if they did not comply. A copy of the signed statement is included as Appendix A.

A further visit was made on 07/10/21. At this visit the roof was closed and no customers were smoking shisha pipes, however the manager Ogus Ozjaya was smoking a shisha pipe at the start of the visit. When spoken to he stated that he thought he was able to smoke the shisha pipe with the roof closed as there were no members of the public there at the time. At this point I reiterated that the premises was smokefree at all times as it was a public premises and a workplace and if any person wanted to smoke a shisha pipe the roof would have to be open. Again the requirements to comply with Section 8 of the Health Act 2006 were discussed with Ogus Ozjaya and at this time he stated that he understood completely what was required.

After this visit a warning letter was sent to Ogus Ozjaya and Abdullah Anik on 14/10/21 explaining the breaches of the Health Act 2006 and the requirements needed for the premises to be compliant with this. A copy of this letter is included as Appendix B.

On 17/02/22 a follow up visit was made to the premises to determine the current situation with smoking on the premises, at this visit the roof was closed and there were no people smoking. I spoke to the manager Ogus Ozjaya and stated that we had seen pictures on social media showing people smoking shisha pipes with the roof closed. These photos appeared to be taken by multiple visitors to the premises on dates following my visits in October 2021. All of these photos showed people smoking shisha pipes with the roof fully closed. At this point Ogus Ozjaya stated that the photos must have been taken as the roof was being retracted. I disagreed with this. I once again stated the requirements to comply with the Heath Act 2006 and Ogus Ozjaya stated he understood and would follow the requirements.

A further follow up letter was sent to Ogus Ozjaya and Abdullah Anik again describing the breaches to the Health Act 2006 and the requirements needed for the premises to comply with the legislation. A copy of this letter is included as Appendix C.

On the 09/04/22 the premises put a video on their Facebook page that clearly showed people smoking cigarettes and shisha pipes in the area to the rear of the premises with the roof closed. Screen shots of this video are included as Appendix D. As a result of the video a further visit was carried out on 27/04/22 to determine the current situation. At this visit the roof was closed and there were 2 people smoking a shisha pipe, who appeared to have been there for a period of time, as there were empty drinks on the table they were sat at. I again spoke to Oqus Ozjaya, who claimed the couple had just been given the shisha pipe and that the roof was now going to be opened. I disagreed with him over this point. I stated again the requirements for the legislation to Oqus Ozjaya and the owner Abdullah Anik and both stated they understood. I informed them that further action would be taken against them for these ongoing breaches. A copy of the photo taken of the couple smoking the shisha pipe is given in Appendix E.

As a result of this visit and the continuing images put on the Swish Lounge social media pages showing people smoking shisha pipes, Oqus Ozjaya and Abdullah Anik were invited to attend an interview under caution, conducted in accordance with the Police and Criminal Evidence Act 1984 (PACE) on 06/06/22. The interview with Abdullah Anik was conducted with his son Kadir Anik as his representative for the business, as Abdullah Anik did not feel his English was sufficient for the interview and an interpreter had not been requested prior to commencement. During the interview the video posted to the Swish Lounge Facebook page and the people smoking a shisha pipe on my visit on 27/04/22 were discussed. During this interview both individuals admitted that there were people smoking shisha pipes and cigarettes in the Facebook Live video. They claimed at the time that the video was a promotional video and that no people were paying to consume drinks and smoking of the shisha pipes at the time of recording. I once again explained that even if no one was being paid to work that night or that no one was paying to be there the premises was still open to the public and a workplace and as such is still considered a Smokefree premises in accordance with the relevant legislation. When questioned about the couple seen smoking at the visit on 27/04/22, both individuals claimed that this was an electronic shisha pipe and as such was exempt from the smokefree legislation. This was not mentioned by Oqus Ozjaya at the time of the visit on 27/04/22. Selections of the transcripts for the individual PACE interviews discussing these issues can be found in Appendix F in respect of Oqus Ozjaya and at Appendix G for Abdullah Anik.

A further visit was conducted on 21/07/22 as a spot check following the PACE interviews. At this time the issues raised in the PACE interview were discussed with Oqus Ozjaya and Abdullah Anik in particular the use of electronic shisha pipes, as these are exempt from the Smokefree premises requirements. In order to assist Members in understanding the difference between these two types of pipe, the details of the differences between a traditional shisha pipe and an electronic shisha pipe can be found in Appendix H. When checking the information provided at this visit regarding the electronic shisha pipes and the photo taken at the visit on 27/04/22 I believe that the shisha pipe being smoked at this visit was not an electronic shisha pipe. At this visit the CCTV covering the rear of the premises was also checked to see if there was any evidence of shisha smoking with the roof closed. The following dates were checked 19/07, 12/07, 15/07, 16/07 between 18:00 and closing. There appeared to be no evidence of the roof being closed while the shisha pipes being smoked. However, due to the location of the CCTV cameras there was no clear view of the roof and it was not possible to determine conclusively if the roof was open or closed.

Since this visit further photos have been put on the Swish Lounge Instagram page on 04/09/22 showing people smoking traditional shisha pipes with the roof closed. Screenshots of these images are provided in Appendix I. As a result of these new images a final visit was made on 30/09/22 as a follow up to the issues stated above. On this visit the premises roof was closed due to the heavy

rain at the time and no people were found to be smoking shisha pipes at the time in the area to the rear. However due to the relocating of the bar in the premises there was no CCTV available on the premises to allow me to check the previous days. I was told by Ogus Ozjaya at this visit that the CCTV had not been working for at least the last 2 to 3 weeks.

Given the evidence presented above regarding the multiple breaches to Section 8 of Health Act 2006, despite being told on numerous occasions the requirements to comply with the legislation I believe that the premises will not and has not complied with the law sufficiently. Due to repeated failures to comply I am asking for the premises licence to be revoked.