



Working for a brighter future  together

Private and Confidential
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Date: 14 October 2021

Our Ref: 052768

Dear Mr Ogus Ozjaya and Mr Abdullah Anik

HEALTH ACT 2006 SMOKEFREE PREMISES

As you are aware Cheshire East Council had received a complaint regarding people smoking shisha pipes in an enclosed area, to the rear of your premises.

On the 29 September 2021 I visited the premises where I informed you that under the Smokefree Legislation it is categorised as substantially enclosed. Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis. Premises are substantially enclosed if they have a ceiling or roof, but there are permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises. This is known as the 50 per cent rule. Due to the roof of this area being closed on arrival this area is classed as enclosed and **it is** an offence for anyone to smoke or for the personnel at the premises to allow anyone to smoke in this area. I informed you that if the entire retractable roof is kept open then the smoking of shisha pipes would be allowed in this area.

It is an offence to fail to prevent smoking in smoke-free place for which the person controlling or managing the premises can be prosecuted under section 8 of the Health Act 2006. Upon summary prosecution and conviction the maximum penalty for this offence is £2,500.00.

On 1 October 2021 I visited the premises again with several colleagues. At this time you had 2 gentlemen smoking a shisha pipe and the roof was only just being retracted as we entered the premises. I again reiterated that in order to comply with the above legislation you must have the roof at all times when shisha pipes are being smoked. At this visit I also got you both to sign a statement in my PACE notebook explaining the requirements of this legislation.

On my visit of 7 October 2021 I once again found Mr Ogus Ozjaya and another member of staff smoking a shisha pipe on arrival, something that you tried to hide from me as I

entered. At this time only half the retractable roof was open, and you claimed that only staff and yourselves were smoking the pipe. This was despite me explaining on both previous visits that the whole roof had to be retracted as it is one large room and that staff are not permitted to smoke under different requirements as the premises is still considered both a workplace and a public space. Both of these are to be smokefree at all times under the requirements of the Health Act 2006. I understand from this visit that you intend to replace a portion of the wall with opening glass doors to make the area more than 50% open with the roof closed.

In order to avoid any formal action by the Council, you must ensure that until the new doors are put in place, the whole of the roof is retracted when anyone, staff and customers are smoking a shisha pipe. When the new retractable doors are put in place you must ensure that all the openable doors are fully open, if the roof is closed and anyone is smoking a shisha pipe. This is a requirement of section 6 of the Health Act 2006. If a further visit is made and you are found not to be complying with these requirements prosecution action will be taken against you.

I trust you will take this matter seriously and put measures in place immediately to prevent any further incidents of this nature.

Yours sincerely

Brioni Turner
Senior Environmental Health Officer