



Working for a brighter future together

Private and Confidential
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Date: 24 February 2022

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 and you have been visited on 3 separate occasions by Enforcement Officers in 2021 about this issue.

As you are aware 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.

At my visit of 7 October 2021 you informed me that in order to try and resolve the issue of having to open the roof to allow the smoking of shisha pipes you were going to install additional wide opening doors to the south wall to make the area 50% open. At this time you were informed that 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.

On 17 February 2022 I visited your premises again to see what progress had been made installing the new doors. Upon entering the area to the rear of the business a member of staff was found to be vaping, with the roof closed, an issue that was discussed with Mr Ozjaya at the time. I also discussed that we had seen numerous photos on social media sites of people smoking shisha pipes, with the roof partially or fully closed, after the previous warning letter had been sent to you. The arrival of the new doors was also discussed and Mr Ozjaya informed me that these would hopefully be installed at some point in March 2022. Mr Ozjaya was also informed again at this time that no smoking signs should be placed at the entrance of the premises to cover the main dining areas of the business.

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