

The Oak Inn

Public Health Representation

Public Health wish to submit a relevant representation regarding The Oak Inn, based on the following licensing objectives being undermined:

- Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- And Public Safety

Introduction & Context

The staff outbreak at The Oak Inn was the largest outbreak at a licensed premises reported to Public Health in Coventry since the first lockdown in March 2020.

During early July 2021, COVID-19 rates in Coventry were increasing at a high rate on a par with the upward trajectory seen in December 2020. Between 10th July 2021 and 16th July 2021, the period when the majority of positive COVID-19 cases occurred at The Oak Inn, there was a rate of 632 per 100,000 population (2,348 cases) which is a rate higher than it had reached during any of the previous lockdowns.

COVID-19 vaccination for the age group 20 to 29 years old was running at 45%, which was lower than other age groups and reflective of the fact that vaccination had only been available to this age group from June 2021. This age group is largely the demographic that frequent The Oak Inn.

Whilst many of the COVID-19 restrictions for licensed premises were lifted on July 19th 2021, the legal requirement remained for persons who tested positive to self-isolate. Additionally, anyone who had been in close contact with an individual who had tested positive for COVID-19 were at that time required to self-isolate. In business settings, employers were expected to identify close contacts within their workplace following notification of a positive case, and ensure relevant staff were self-isolating.

In addition, businesses still had legal duties to have suitable and sufficient health and safety risk assessments and associated control measures in place, in order to safeguard their staff and visiting public, including risks from COVID-19.

It should be noted that the above was on the back of previous concerns raised by Public Health regarding the Oak Inn in September 2020, linked with discussions with staff at the Oak Inn following a positive case (customer) having visited the setting. The concerns raised related to staff working whilst they were unwell, and a lack of social distancing in the setting, alongside a staff member stating they feared for their job for discussing the situation with Public Health. At this time, no members of staff had tested positive for COVID-19. A visit by regulatory services showed they had good measures in place at that time.

Basis for Public Health's Relevant Representation

Whilst public health is not a licensing objective per say, the issues requiring intervention at The Oak Inn (by Public Health in conjunction with Regulatory Services colleagues) during the period detailed

here, demonstrate that the failure to manage COVID-19 responsibly at the premises undermined both public safety and the prevention of public nuisance.

Public nuisance is a common law offence that has been defined to include the following: a person is guilty of a public nuisance (also known as common nuisance), who (a) does an act not warranted by law, or (b) omits to discharge a legal duty, if the effect of the act or omission is to endanger the life, health, property or comfort of the public.

Cases of COVID-19 notified through the national test and trace system involving employees from The Oak Inn totalled 11 during July 2021 and all required investigation and follow up.

In addition to these cases, three complaints were concurrently received, independently of one another, from concerned members of The Oak Inn staff regarding: -

1. The lack of COVID-19 measures and management at the premises.
2. Perceived pressure from Darren Lee for staff to work whilst experiencing COVID-19 symptoms.
3. Non-declaration that staff had been in close contact with other staff who had tested positive with COVID-19. They also explained that they had been told not to declare close contacts to anyone that requested the information.

Unfortunately, the staff were reluctant to provide information formally due to fear of reprisal, negative ramifications (e.g. loss of earnings) and anxiety about losing their job.

The number of positive cases in a short time frame, together with receipt of staff concerns and a lack of responsiveness and engagement from managers at the premises (despite previous advice and support from Public Health) indicated that COVID-19 management was not being dealt with responsibly. The possibility of onward transmission to staff and customers was also a major concern.

This resulted in the need for enforcement intervention in the form of two Health and Safety Improvement Notices. It is worth noting that this level of intervention has not been required with any other licensed business in Coventry, demonstrating the lack of confidence in Darren Lee's management at The Oak Inn.

The two Improvement Notices required that:

- 1) The premises' COVID-19 risk assessment to be reviewed to determine what site specific COVID-19 control measures were needed in order to prevent onward transmission: suitable and sufficient arrangements to ensure collaboration and co-operation with contractors working at the venue relating to COVID-19 management (i.e. security staff) and contingency arrangements to ensure adequate staffing levels should a member of staff test positive for COVID-19 or be absent from work, in order to ensure the venue can be operated safely.

The issues requiring action within the schedule to the notice came from specific concerns after conversations with Darren Lee who did not provide evidence these issues were being managed effectively.

- 2) A suitable and sufficient procedure to screen staff for COVID-19 symptoms prior to work including a procedure that staff followed in order to report illness to management including COVID-19 illness and a procedure to ensure that if a member of staff tests positive for COVID-19, relevant close contacts from the workplace are identified and are required to self-isolate. The notice also required that information, instruction, training and supervision was provided to staff to ensure, they do not attend work with COVID-19 symptoms, that staff who have tested positive for COVID-19 self-isolate from work, and that appropriate workplace close contact tracing is undertaken and where necessary self-isolation is implemented.

Again the issues listed as requiring action within the schedule to the Notice came from specific concerns following conversations with Darren Lee where he did not provide confidence that these issues were being managed effectively.

Supporting information: chronology of events related to the representation.

- 1) During July 2021 - Positive COVID-19 cases were notified to Coventry City Council via the National Test and Trace system involving staff members working at The Oak Inn.
- 2) 12th and 14th July - Complaints were received from 3 members of public, about management of staff at The Oak Inn outlining concerns about a lack of COVID-19 management and pressure being exerted on them by Darren Lee to work whilst symptomatic, or having been in close contact with members of staff who has tested positive for COVID-19. Staff were allegedly discouraged from taking COVID-19 tests.
- 3) 13th July - A joint visit was undertaken by officers from Public Health COVID-19 Test and Trace team and Regulatory Services COVID-19 Team in order to discuss positive cases. No staff were on site at the time of the visit, so officers conducted a phone call with Darren Lee. Some of the information he provided conflicted with national test and trace data and not all positive staff cases were known to him at the time of the phone call, demonstrating a lack of awareness about what was going on in his premises.
- 4) 14th July - Due to the number of cases and concerns around Darren Lee's lack of awareness of the situation or staff identities, an Incident Management Team meeting (IMT) was called. This was chaired by Nadia Inglis, Public Health Consultant. Darren Lee was asked to attend which he did.

IMTs are held when there are potentially complex outbreaks that need investigation and to provide a business with additional levels of advice and support. It provides a forum for discussion and to agree and co-ordinate actions to control an individual outbreak situation and reduce risk of onward transmission of virus to other people. During the meeting individual COVID-19 cases were reviewed and discussed with Darren Lee. In addition, issues of concern, including delays in COVID-19 testing for symptomatic staff, staff members potentially working whilst unwell with COVID-19 symptoms were discussed.

Darren had not identified any links between the positive cases despite them working on the same shifts. With some of the cases there had been a long delay between when symptoms had developed and when tests had been undertaken. Concerns were raised that staff had been working whilst unwell.

Darren was asked to provide a copy of his COVID-19 risk assessment which was reviewed and found to be unsuitable and insufficient with regards to self-isolation procedures for positive staff or for identifying close contacts within the workplace.

- 5) 22nd July - In view of ongoing concerns regarding the management of COVID-19, a site visit to The Oak Inn was undertaken attended by Police, Licensing, Public Health and Regulatory Services colleagues. Further COVID-19 advice was provided to Darren Lee and he agreed to

close that evening for a deep clean of the premises to be undertaken.

Two Improvement Notices under the Health and Safety at Work Act 1974 were served (referred to above). These Notices were subsequently complied with.

- 6) In addition to the above, an Incident Management Team meeting had been held with the Oak Inn earlier in the pandemic on 6th September 2020, linked with discussions with staff at the Oak Inn following a positive case (customer) having visited the setting. The concerns raised related to staff working whilst they were unwell, and a lack of social distancing in the setting, alongside a staff member stating they feared for their job for discussing the situation with Public Health. At this time, no members of staff had tested positive for COVID-19. A visit by regulatory services showed they had good measures in place at that time.

Summary and Recommendation

It is Public Health's opinion that in relation to the management of COVID-19, Darren Lee showed a disregard for the safety of his staff and customers. He did not demonstrate that he was a responsible licensee therefore undermining licensing objectives "The Prevention of Public Nuisance and Public Safety".

The level of intervention required to make Darren Lee and The Oak Inn compliant was way above other licensed premises in Coventry. This amount of effort was necessary due to the high case rates, a lack of confidence that COVID-19 management was being taken seriously and the required controls not being implemented.

Public Health acknowledge that Darren Lee attended the IMT and also undertook steps recommended from the IMT process. However, his actions and response fell short of what is normally expected requiring additional visits and Improvement Notices in order for Public Health to be satisfied that adequate steps had been taken to rectify the issues raised and reduce the risk of further transmission. A responsible licensee should not need this level of oversight or intervention and should be more proactive in managing a premises in a COVID-19 safe way.

Public Health therefore have no confidence in the current licensee of this premises and agree that the license should be reviewed.

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Consultant in Public Health