

# Annex G

MK  
milton keynes council

FAO Mr Sasa Lama / Ngoma  
Memling's  
Unit 40 The Agora Centre  
Church Street  
Wolverton  
Milton Keynes MK12 5LG

Duncan Sharkey  
Corporate Director - Place

Neil Allen  
Head of Regulatory Services

Our Ref: M142297

Your Ref:

Reply To: Mr E Fisher

E-Mail: eddie.fisher@Milton-Keynes.gov.uk

Direct Line: 01908 252409

Helpline: 01908 252800

16<sup>th</sup> January 2017

Dear Mrs Lama / Ngoma

**Re: Closure Notice - Section 19 of the Criminal Justice and Police Act 2001 at Memling's, Unit 40 The Agora Centre, Wolverton**

Further to the recent event at the above premises during the weekend of January 6<sup>th</sup> to 8<sup>th</sup> 2017 when there was no authorisation in place under the Licensing Act 2003 I am satisfied that the premises are being used for the unauthorised supply of alcohol.

I am aware that temporary event notices have been given for various events in December 2016 and January 2017 and I accept these are and remain a legitimate authorisation to supply alcohol but there have now been a number of other occasions when alcohol has been supplied where no authorisation is in place of which the week before last was a further example.

January 6<sup>th</sup> to 8<sup>th</sup> is the latest occasion but prior to that the premises was trading during October and November 2016 under the terms of a lapsed premises licence and before that there were occasions when the premises licence that was in place was not complied with in terms of conditions; or hours of operation. These incidents took place when you were involved as either the Designated Premises Supervisor (under the old premises licence) or I am informed when you were supervising alcohol supply on other occasions.

I am therefore serving a closure notice upon you. The Notice does not require the premises to close but is in effect a warning that if alcohol is supplied otherwise than in accordance with the authorisation to do so (i.e. a Temporary Event notice or Premises Licence), this Authority can make an application to the Magistrates Court for a Closure Order to be given against the premises. Any Closure Order given would require the premises to close at the Courts discretion and there are provisions of the legislation that allow costs to be potentially levied against you as part of this process if you were directly involved.

Regulatory, Civic Offices, 1 Saxon Gate East,  
Central Milton Keynes MK9 3EJ

Tel: (01908) 691691 Fax: (01908) 528159 Havs DX 31406 Milton Keynes



The reason a Closure Notice is being served is because I am satisfied that previous interventions have failed to prevent alcohol being supplied without the correct authorisation under the Licensing Act 2003 in place. The closure notice does not prevent you operating under sanctioned Temporary Event notices but is in place to allow the Council to go to Court to prevent you operating when you do not have an authorisation in place

Your attention is drawn to the notes on the back of the Notice and also the most recent fact sheet from the Home Office on closure notices but if you have any queries or questions please do not hesitate to contact me.

Yours sincerely


A handwritten signature in black ink, appearing to read 'Ed Fisher', written in a cursive style.

**Ed Fisher**  
**Senior Practitioner**  
**Licensing**

Encl.



**CLOSURE NOTICE MADE UNDER SECTION 19 OF  
THE CRIMINAL JUSTICE AND POLICE ACT 2001**

<b>Date and Time of the Closure Notice:</b>	<b>Date:</b> 16 <sup>th</sup> January 2017 <b>Time:</b> 17:00hrs
<b>Name of Person making the Notice:</b>	Ed Fisher
<b>Designation of person making notice:</b>	Senior Practitioner
<b>Signature:</b>	
<b>Name of Premises</b>	Memling's
<b>Address of Premises</b>	Unit 40, The Agora Centre, Church Street, Wolverton, Milton Keynes MK12 5LG
<b>Alleged unauthorised use of the Premises:</b>	1. Supply of alcohol without an authorisation under the Licensing Act 2003
<b>Steps which may taken to end the alleged unauthorised use of the Premises, or to prevent it from re-occurring:</b>	1. Obtain a premises licence or Temporary Event Notice under the Licensing Act 2003 for any events where alcohol is to be supplied
<b>Name of the Person (if applicable) on whom the closure notice has been served:</b>	Mrs Sasa Lama / Ngoma
<b>Signature:</b>	

**Contact details:** Licensing Team, Milton Keynes Council, Civic Offices Saxon Gate East, Milton Keynes. Telephone: 01908 252800

## **YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES AND IN PARTICULAR TO SECTION 20 OF THE CRIMINAL JUSTICE AND POLICE**

### **Notes: Police closure orders and notices.**

A police officer, or an authorised officer from the local authority, has decided to issue this closure notice under the terms of section 19 of the Criminal Justice and Police Act 2001 ("the 2001 Act"). The notice alleges that the said premises are being, or within the last 24 hours have been, used for the unlicensed sale of alcohol. It also mentions the actions which may be taken by the owner or manager of the premises to end the unlicensed sale of alcohol, or to prevent it from re-occurring.

#### **Section 20 of the 2001 Act – Closure Orders**

Your attention is drawn to section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a justice of the peace at the local magistrates' court for a closure order if the unlicensed sale of alcohol (as alleged in this closure notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a closure order must be made not less than 7 days, and not more than 6 months, after the date on which this closure notice was served.

After an application for a closure order is made, the justice of the peace may issue a summons requiring the applicant, and also the person or persons on whom the closure notice was served, to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a closure order should or should not be made. In accordance with the Magistrates' Courts Act 1980, and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

#### **Appeals – Section 24 of the 2001 Act**

An appeal against a decision by the magistrates' court to grant a closure order, or a decision to refuse an application for a closure order, can be made by an affected person to the Crown Court within 21 days.

#### **Enforcement Powers and Offences – Section 25 of the 2001 Act**

It is an offence for a person, without reasonable excuse, to permit a premise to be open in contravention of a closure order made by the magistrates' court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000, or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse, fails to comply with any other terms of a closure order made by the court, or does an act which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at "any reasonable time", and do anything reasonably necessary to secure compliance with the closure order (for example, to board up the premises). However, when exercising this power, the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officers from exercising these powers. Any person convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to one month's imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.

Department for Culture Media and Sport  
November 2005

## Section 19 Closure Notice Fact Sheet

### What is a section 19 closure notice?

Section 19 of the Criminal Justice and Police Act 2001 (the Act) enables a police constable or a local authority to serve a closure notice where:

- any premises are being used, or have been used within the last 24 hours, for the sale of alcohol for consumption on or in the vicinity of the premises; and
- this activity is or was carried on without an authorisation (premises licence, club premises certificate or temporary event notice) or not in accordance with the conditions of an authorisation for the sale of alcohol.

The notice informs a person with control of, or responsibility for, the activities carried on at the premises (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to a court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19.

### Does a section 19 notice require premises to close or cease licensable activities?

No it does not. A section 19 notice informs a person in control of, or responsible for, the premises that there is either no authority to sell alcohol or one or more of the conditions of an authorisation are not being met. The person should be warned that it is an offence under section 136 of the Licensing Act 2003 to carry on the sale of alcohol without, or in breach of, an authorisation. However, it is their decision whether to close or to continue trading, with or without the sale of alcohol.

### So, for example, could a restaurant continue trading legally after being issued with a valid section 19 notice if it stopped selling alcoholic drinks?

Yes it could, because it would have ceased the unauthorised licensable activity.

### Why issue a section 19 notice if it has no power to close premises?

A section 19 closure notice must be served before an application can be made, under section 20, for a section 21 closure order. It is also evidence that the unauthorised sale of alcohol has been brought to the attention of the owner or management of the premises. This evidence can be useful at a subsequent review or prosecution for carrying on a licensable activity, or knowingly allowing it to be carried on, otherwise than in accordance with an authorisation.

**What if there is continued non-compliance with an authorisation and the sale of alcohol continues after a section 19 notice has been served?**

It is possible to apply to a magistrates' court for a section 21 closure order if at least seven days have elapsed since serving a section 19 notice. The court may order the immediate closure of the premises, discontinuance of alcohol sales or payment of money into court, as a form of bond, until the other requirements of the order are met. A further option is to apply to the licensing authority, for a review of a premises licence or club premises certificate. The licensing authority may remove or suspend a licensable activity or suspend or revoke the licence or certificate.

In addition, any person who carries on any licensable activity otherwise than in accordance with an authorisation, or who knowingly allows such an activity to be carried on, is committing an offence under section 136 of the Licensing Act 2003. Home Office advice is that such persons should be reported for that offence. Conviction for a section 136 offence carries a maximum penalty of a £20,000 fine and 6 months imprisonment.

**If staff continue to sell alcohol after a section 19 notice has been served on the appropriate person for the premises, may they be threatened with arrest?**

A person who carries on a licensable activity otherwise than in accordance with an authorisation, or who knowingly allows such an activity to be carried on, is committing an offence under section 136 of the Licensing Act 2003. Such persons may be reported for that offence, but arrest may be considered only if there are sufficient grounds under section 24 of the Police and Crime Evidence Act 1984.

Full wording of the legislation regarding Closure Notices can be viewed via this link: <http://www.legislation.gov.uk/ukpga/2001/16/section/19>.