REVIEW OF PREMISES LICENCE

ZARA'S BAR, 80 BROAD STREET, BIRMINGHAM B15 1AU

wilkin chapman lip

solicitors

PO. Box 16 Town Hall Square Grimsby DN31 1HE

JRH/JW/1063661/1

17 October 2016

Birmingham City Council Licensing Section PO Box 17013 Birmingham **B6 9ES**

By post and email - licensing@birmingham.gov.uk

Dear Sirs

REVIEW OF PREMISES LICENCE ZARA'S BAR, 80 BROAD STREET, BIRMINGHAM B15 1AU

We write on behalf of our client, Cumberland House Hotel Birmingham Limited, who is the proprietor and operator of the Hampton by Hilton Birmingham Broad Street, 200 Broad Street, Birmingham B15 **1SU.**

On 29 September 2016 an application for review of the Premises Licence in respect of Zara's Bar was applied for by Councillor Gareth Moore.

Please accept this letter as a representation by our client to the review.

The grounds upon which our client submits a representation are as follows:-

- 1. The prevention of public nuisance
- 2. Public safety
- 3. The prevention of crime and disorder

The Hampton by Hilton has operated as a hotel at this location for four years and comprises 285 bedrooms over 17 floors (floors 4-17) as well as providing other facilities including a gymnasium and a bar. It caters for a diverse mix of guests from both the UK and abroad including families, business and leisure visitors, in particular business guests visiting the city for conferences as well as general business. The age range of hotel customers is also wide ranging from children to the elderly. The bar area is retailed for the sale of alcohol daily from 08.00 to 02.00 hours the following morning. In reality the majority of the trade is for hotel residents for whom the licence is 24/7.

As will be seen from the attached Google Maps image (GM1), the hotel is located directly opposite Zara's Bar (GM2).

As a brand, Hampton by Hilton offers a 100% satisfaction guarantee. This is a genuine guarantee, such that if patrons do not enjoy a good night's sleep they obtain a refund of their accommodation costs. Such claimants and payments made under this scheme are centrally monitored and, due to the activities of the customers of Zara's Bar and the levels of disturbance emanating from the premises, my client has made refund payments to patrons of the hotel.





Examples of the general late night disturbance include:-

1. Loud music played from inside the bar which is audible inside the hotel.

Announcements being made by the DJ throughout the evening both during between tracks being clearly audible inside the bedrooms of the hotel.

3. Disturbance caused by external speakers playing music in the external seating/smoking area

at the front of the bar.

- 4. Customers shouting and making loud noises etc as they use the external seating area.
- 5. Customers shouting and making loud noises etc as they enter and leave the premises.

6. Noise from customers queuing outside the venue, together with disorder.

7. Altercations between door supervisor and members of the public leading to physical assaults.

8. Altercations between customers outside the premises.

- 9. Poor security management including failure to manage crowds/queues.
- 10. No adequate disposal of patrons later in the evening and at closing time.

It would appear that any existing controls to limit noise and disturbance caused by customers of Zara's Bar, particularly late at night, are inadequate.

It would also appear that existing conditions on the Premises Licence in relation to noise are not being complied with.

The existing operation, for the reasons outlined above – are a source of public nuisance to our client and their customers and as a result it is sought that the permitted hours for all licensable activities are limited to 02.00 hours.

Full details of the complaints records of our client will be disclosed in advance of the hearing together with a summary of the payments made to customers who have had their sleep interrupted through the operation of Zara's Bar.

Additional evidence in relation to noise nuisance shall also be provided.

We look forward to hearing from you soon with regards details of the hearing date.

Yours faithfully

WILKIN CHAPMAN LLP Jonathan Tyldon Sepior Solicitor

Google Earth Maps (GM1) and (GM2)

Google Maps Broad St

(GMI)

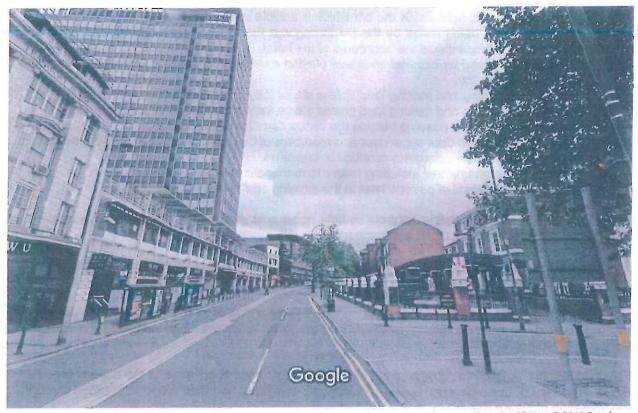
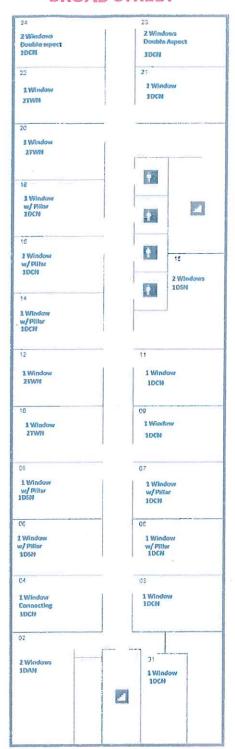


Image capture: Jun 2016 @ 2016 Google

Birmingham, England Street View - Jun 2016



BROAD STREET



Tennant Street

1

102.01 GUARANTEE

Every hotel must participate in the 100% Hampton Guarantee program and unconditionally deliver the 100% Hampton Guarantee to every guest. If guests are not completely satisfied—regardless of the reason—they must not be charged for the stay. To effectively implement this unconditional guarantee, each hotel must:

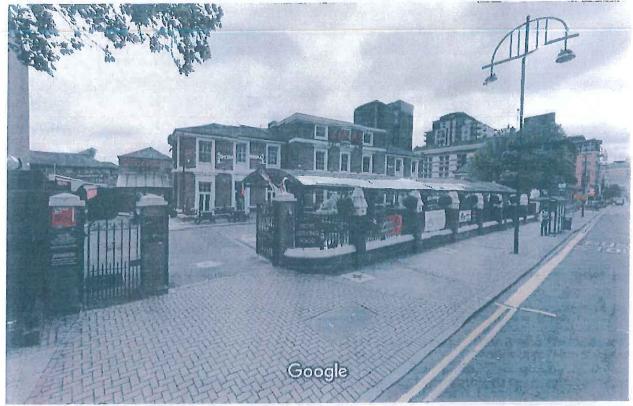
A. GUARANTEE DELIVERY

Empower each hotel employee to action and deliver the guarantee when needed without requiring additional management approval.

B. DISPLAY OF GUARANTEE

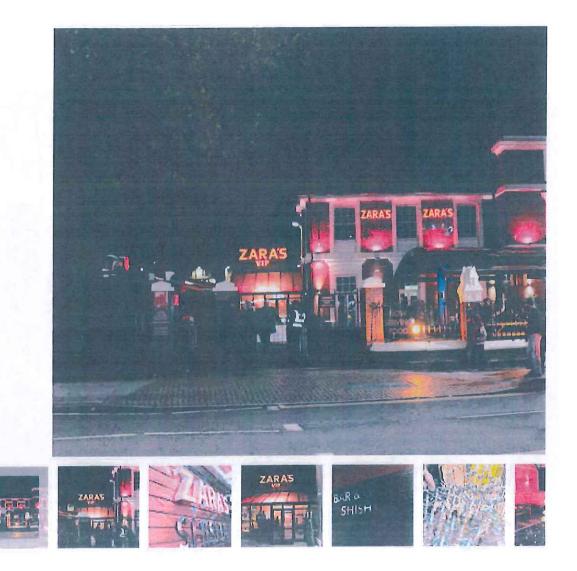
Prominently display the 100% Hampton guarantee plague on the front desk facing the guest—one plague in the front of each work station. Google Maps Broad St

(GM2)



© 2016 Google lmage capture: Jun 2016

Birmingham, England Street View - Jun 2016









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Public Register: Licence Report

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1. Licence

Summary of the licence certificate.

| Application Reference | 83973 | |
|---------------------------------|--------------------------|--|
| Licence Holder Name | Five Rivers 2 UK Limited | |
| Registered Company Number | 07421533 | |
| Licence Number | 4052 | |
| Time Limited Start Date | N/A | |
| Time Limited End Date | N/A | |
| Issue Number | 1 | |
| Issue Date | 21/12/2013 | |
| Grant Date | 20/11/2013 | |
| Granted By | David Kennedy | |
| Status | Current | |
| Representation Start Date | 23/09/2013 | |
| | 21/10/2013 | |

Representation End Date

2. Current Designated Premises Supervisor

A DPS is required wherever there is a licenced activity for the sale of alcohol for consumption on or off the premises.

| Status | Assigned |
|----------------------|-----------------------|
| Name | Miss Victoria Sherwin |
| Licence Number | 3683 |
| Issuing Authority | Birmingham |
| Start Date | 23/09/2013 |

3. Premises Details

Details of the premises, the licensed activities and hours of operation.

| Premises Name | Zara's Bar |
|----------------------|---|
| Premises Type | BAR/RESTAURANT |
| Premises Address | 80 Broad Street, Birmingham, B15 1AU |
| Ward Name | LADYWOOD |

3.1 Licensable Activities

A list of activities for which this premises is licensed.

| Code | Description |
|------|--|
| A | Plays |
| В | Films |
| С | Indoor sporting events |
| E | Live music |
| F | Recorded music |
| G | Performances of dance |
| Н | Anything of similar description to that falling within (live music), (recorded music) or (performances of dance) |
| L | Late night refreshment |
| МЗ | Sale of alcohol by retail (both on & off the premises) |

3.2 Activity Times

The times of day during which the activities listed in 3.1 are permitted. Where the start time is later than the end time, the period of activity spans mid-night. Where the start time is equal to the end time, the period licensed is 24 hours.

| Days | Start Time | End Time | Licensed Activity Codes |
|--------------------|------------|-------------|-------------------------|
| Monday - Sunday | 07:00 | 06:00 | A, B, C, E, F, G, H, M3 |
| | 23:00 | 05:00 | L |

3.3 Operating Hours

The hours of operation of the premises during the day. Where the start time is later than the end time, the period of operation spans mid-night. Where the start time is equal to the end time, the period of allowed operation is 24 hours.

| Days | Start Time | End Time |
|-----------------|------------|----------|
| Monday - Sunday | 07:00 | 06:30 |

4. Conditions

4.1 Mandatory Conditions

Mandatory conditions attached to the licence.

| Objective | Condition | | |
|-----------|--|--|--|
| N/A | No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended. | | |
| N/A | Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who hold a personal licence. | | |
| N/A | Each individual assigned to carrying out a security activity must be licensed by the Security Industry Agency. | | |
| N/A | The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film. | | |

4.2 Operating Conditions

Operating conditions attached to the licence and classified by objective:

General

General conditions consistent with the operating schedule.

Crime

Conditions consistent with, and to promote the prevention of crime and disorder.

Safety

Conditions consistent with, and to promote public safety.

Nuisance

Conditions consistent with, and to promote the prevention of public nuisance. Child

Conditions consistent with, and to promote the protection of children from harm.

| Objective | CCTV to be installed and maintained to the satisfaction of West Midlands Police. The CCTV system to be in full working order at all times when the premises are open for | | |
|-----------|--|--|--|
| GENERAL | | | |
| GENERAL | The premises will risk assess its standard operating procedures covering seven days a week, included in this risk assessment will be any security provisions. A copy or risk assessments to be made available to West Midland Police Licensing Department (Steelhouse Lane). | | |
| CRIME | The use of the premises for licensable activities betwee 0400 and 0600 hours is subject to 7 days notice (28 day notice in respect of "risk" events) by any means to the West Midlands Police Licensing Department at Steelhouse Lane Police Station, or such other officer or Police Station as shall have been notified to the Designated Premises Supervisor in writing. A "risk" ever is defined as a music event attracting a defined or speci interest audience. In such case the Police shall have the right to veto the use of the premises for that event during those hours by giving notice within 3 days of notification | | |
| CRIME | External Promoted Events: If the premises has any late night external promoter event which is not part of the standard operating procedure, then a separate risk assessment will be completed and forwarded to the Licensing Department at Steelhouse Lane Police Statio at least 28 days, or such other time as agreed with Wes Midlands Police Licensing Department, before the even Any additional conditions (in writing) required by West Midlands Police will become a condition of the premises licence for the purposes of that event. | | |
| CRIME | The premises will implement and put in practice a drugs policy and an incident log book will be kept and maintained on the premises, and will be made available for inspection by West Midlands Police and resposible authorities. | | |

| Objective | Condition | | |
|-----------|---|--|--|
| CRIME | The Premises License Holder shall ensure members of staff will receive regular training in their responsibilities under the Licensing Act 2003, to include use of the proof of age scheme adopted by the premises. Such training to be documented and records shall be retained at the premises and produced to responsible authorities upon reasonable request. | | |
| CRIME | The Premises licence holder will ensure that the Designated Premises Supervisor, or such other member of staff as may be nominated by him/her, attends local Pubwatch (or such other similar scheme). | | |
| SAFETY | SIA registered door supervisors will be engaged at the premises in accordance with the standard operating procedures risk assessment. Door staff profiles will be retained for all staff that are working in the premises or have been working at the premises in the last 3 months. Profiles are to be proof of identity (photocopy of driving licence or passport) and proof of address (utility bill or bank statement). Proof of address is not required when proof of identity is a new photo drivinig licence. Profiles are to be available for inspection on request by a responsible authority. | | |
| SAFETY | The Premises License Holder shall ensure when door supervisors are engaged at the premises they shall wear Hi-Vis armbands at all times. | | |
| NUISANCE | There shall be adequate supervision of the external area, and security provision will be assessed within the standard operating procedure risk assessment (see above). | | |
| NUISANCE | The licence holder or designated premises supervisor will ensure that music sound levels are monitored, and that regular patrols are carried out by designated members of staff, internally and externally, to limit any noise pollution during regulated entertainment in the premises. | | |
| NUISANCE | The premises License Holder shall ensure notices are displayed on the premises asking customers to respect local residents when leaving the premises. | | |
| CHILD | The premises will implement a Challenge 25 proof of age scheme. | | |
| CHILD | If the premises wishes to hold an under 18 event, 28 days notice will be provided to the Licensing Department at Steelhouse Lane Police Station, together with a risk assessment for the event. | | |

4.3 Committee Conditions

Conditions attached to the licence after a hearing by the licensing authority and classified by objective:

General

General conditions consistent with the operating schedule.

Crime

Conditions consistent with, and to promote the prevention of crime and disorder.

Safety

Conditions consistent with, and to promote public safety.

Nuisance

Conditions consistent with, and to promote the prevention of public nuisance.

Child

Conditions consistent with, and to promote the protection of children from harm.

| Objective | Condition | | | |
|-----------|--|--|--|--|
| GENERAL | Conditions as stated below under the appropriate licensing objective. | | | |
| CRIME | N/A | | | |
| SAFETY | N/A | | | |
| NUISANCE | Doors and windows: The applicant shall ensure that all doors and windows are shut during the provision of regulated entertainment save for access or egress. | | | |
| NUISANCE | Noise limiter: The applicant shall install a noise limiter at the premises to be calibrated at a level set by Environmental Health. | | | |
| CHILD | N/A | | | |

5. Licence History

The history of variation and transfer applications since the intial application for grant or conversion.

No Information available

6. Designated Premises Supervisor History

A list of all Designated Premises Supervisors that have been responsible for sale of alcohol from the premises.

No Information available

7. Events

Other significant events recorded for this licence.

| Date | Reference | Event Name |
|------------|-----------|-------------------------------------|
| 21/12/2013 | 83973 | Issue |
| 20/11/2013 | 83973 | Licence Approval |
| 20/11/2013 | 83973 | Committee Decision |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |

| Date | Reference | Event Name |
|------------|-----------|--|
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
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| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Licensable Activities Added/Changed |
| 23/09/2013 | 83973 | Application Received (New Application) |

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Tel: 0121 303 9896 Email: licensing@birmingham.gov.uk

Top

Date: 17.06.2016



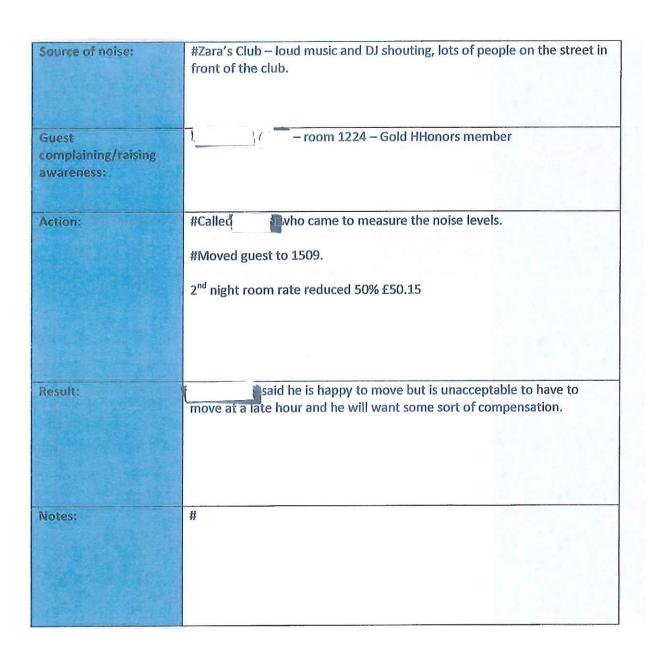
| Source of noise: | #Zara's Club, Broad Street noise, public nuisance | | | |
|--------------------------------------|---|--|--|--|
| Guest complaining/raising awareness: | 1 1 ()om 803 | | | |
| Action: | #Moved to 1218 but still not satisfied, moved back to 803, will want to discuss compensation in the morning. £62.10 room rate. | | | |
| Result: | eemed really stressed due to the lack of sleep and constant noise. We explained to him that we are trying our best to get the club to lower their noise levels. | | | |
| Notes: | #As our rates are higher during weekends and close to being fully booked, the refunds for the noise complaints are pretty high. | | | |

Date: 18.06.2016



| Source of noise: | #Zara's Club – loud music, loud entertainers, loud crowd |
|--|--|
| Guest complaining/raising awareness: | - room 621 |
| Action: | #Asked the guest if they want to change the room but requested ear plugs instead, which we offered complimentary. Room rate £62.10 #Apologized and offered complimentary drinks. £14.50. |
| Result: | #Guests understood the situation but said they will give a bad review. |
| Notes: | # |

Date: 19.06.2016



Date: 02.07.2016



| Source of noise: | #Zara's Club |
|--------------------------------------|--|
| Guest complaining/raising awareness: | t – room 1723 |
| Action: | #Moved to room 804 #Called |
| Result: | seemed happy with the move, as he wanted a good night sleep #The level of the noise went a bit down after the conversation with Vicky |
| Notes: | #Apart from the noise the club makes, there is the public noise, the nuisance and the promoters from eating places like Food Republic, Peri Peri and so on, as well as groups of people just standing, eating, etc. in front of the hotel. #Waiting for the Warden's readings from two weeks ago. |

Date: 30.07.2016



| Source of noise: | #Zara's Club — it was unbearable, the MC was shouting louder than ever |
|--|--|
| Guest complaining/raising awareness: | room 924 |
| Action: | #Called Wayne and let him know the club is making too much noise. He let me know he will try and do something about it. He came with his colleagues and measured the levels again. #Apologized to the guests and informed them that we are currently gathering evidence so that we can really get the club to stop with the noise and nuisance, and that their comfort is and it will always be our priority. |
| Result: | #Guests understood the situation and admitted that it isn't out fault, but they also think we should do something about Zara's. |
| Notes: | #The level of the noise was high well into the morning, there were several fights as well, lots of police involved, ambulances, and big crowds outside the club. |

Date: 31.07.2016



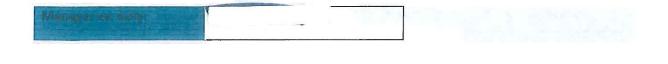
| Source of noise: | #Zara's Club – loud music, loud speakers, entertainers are shouting beyond reason |
|--------------------------------------|---|
| Guest complaining/raising awareness: | - room 1323 |
| Action: | #Moved guest to room 1404 #Discussed with the security team to make us aware of any public nuisance they witness and high noise levels from around the hotel in order to make note and put together the noise reports. |
| Result: | seemed happy with the move, but did not understand why they play their music so loud. |
| Notes: | #There are always big crowds in front of Zara's, also making noise, causing trouble and fights. |

Date: 07.08.2016



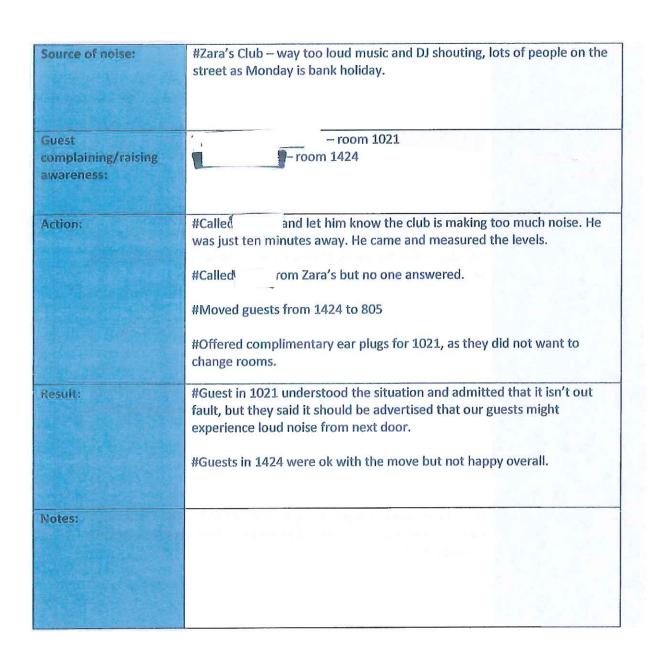
| Source of noise: | #Zara's Club — the music coming from the speakers outside was unbearable | | |
|--|--|--|--|
| Guest complaining/raising awareness: | - room 1521 | | |
| Action: | #Moved the guest to room 1104. #Called Warder d let him know the club is making too much noise and he came with his colleagues and measured the noise levels. #Tried to call com Zara's but could not get through. | | |
| Result: | #Guests was happy with the move but really upset he had to move at a very late hour. 5 night stay. 100% refund 1 night, plus furthered compliant to Hilton Guest Assistance. | | |
| Notes: | #The level of the noise was high until around 04:00 AM, we can understand why some guests have trouble sleeping. The late hours make it difficult even to move some guests to other rooms. | | |

Date: 10.08.2016

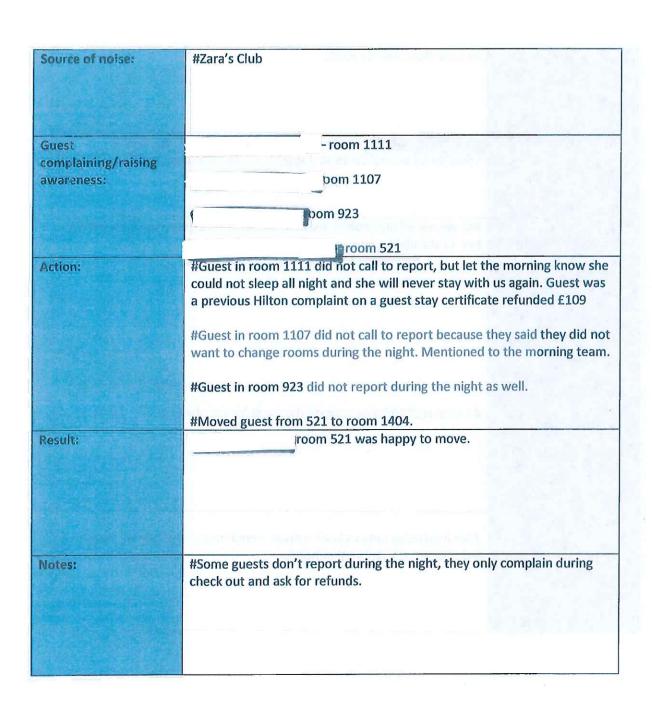


| Source of noise: | #Zara's Club | | | | | |
|--|---|--|--|--|--|--|
| Guest complaining/raising awareness: | t room 624 | | | | | |
| Action: | #Called om Zara's but no answer. #Apologized to the guest, offered them to change the room but they refused due to the late hour. | | | | | |
| Result: | #Guest was very angry and rude and without moving the room there wasn't much left to do. They asked for a refund in the morning £59.00. | | | | | |
| Notes: | #The room change being our only solution when the noise is unbearable puts us in the situation where when we are fully booked, the refund is the last resort. | | | | | |

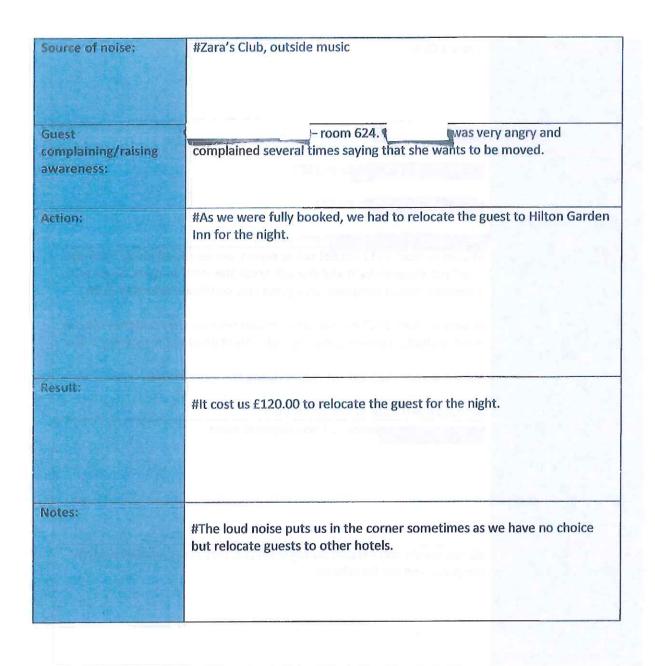
Date: 28.08.2016



Date: 11.09.2016



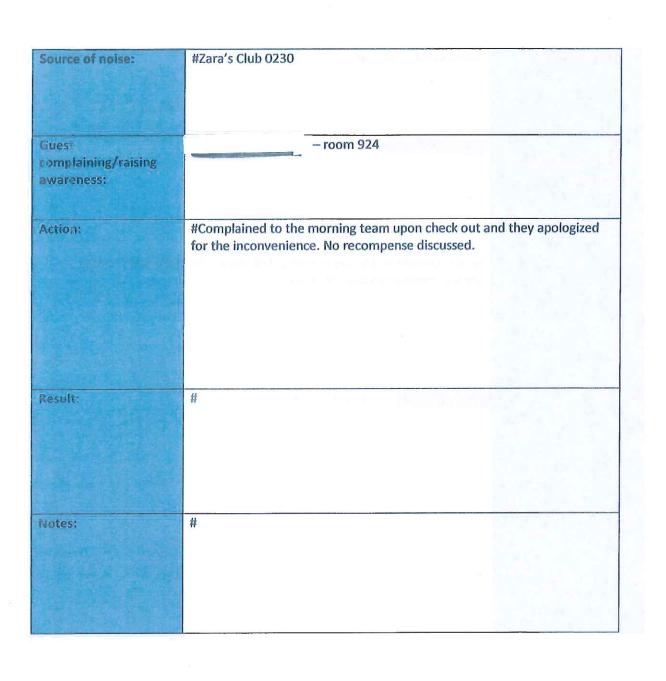
Date: 23.09.2016



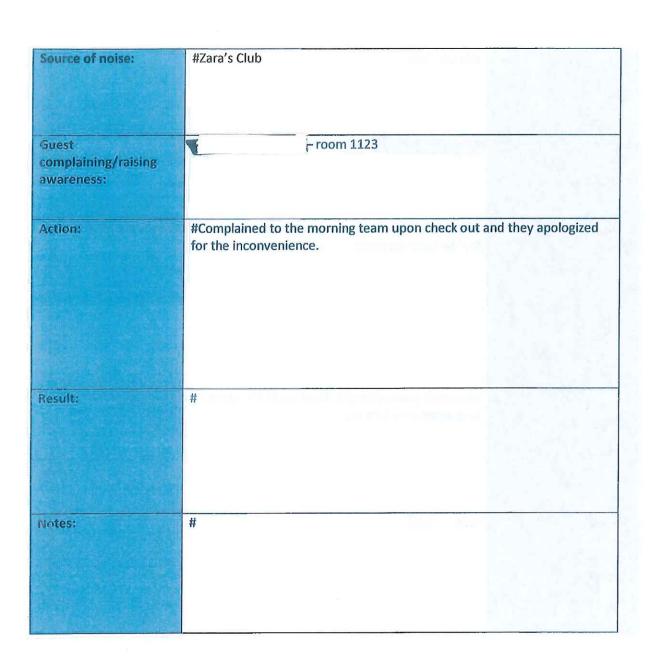
Date: 30.09.2016

| Source of noise: | #Zara's Club loud music |
|--|--|
| | |
| Guest complaining/raising awareness: | - room 624 |
| Action: | #Moved guest to room 1509 #Guest complained to the morning shift and as she had a week to stay she was moved to a quieter room. |
| Result: | as happy with the move. |
| | |
| Notes: | |

Date: 02.10.2016



Date: 08.10.2016

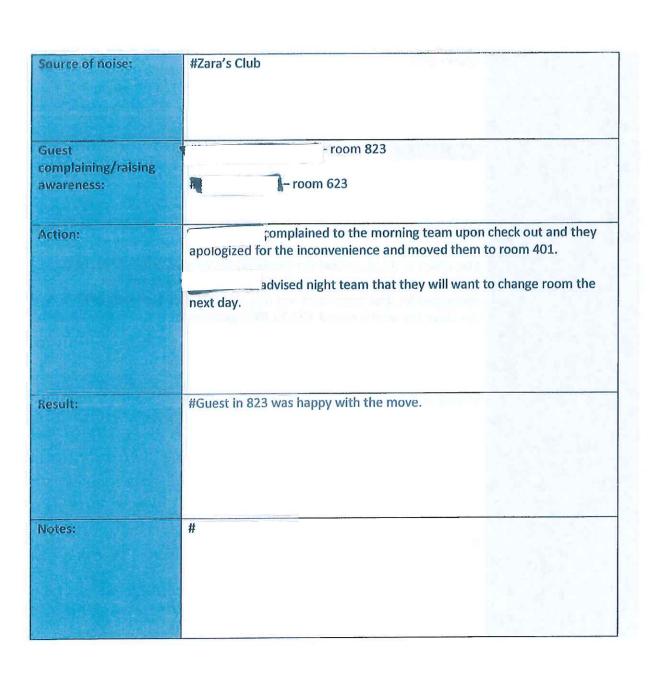


Date: 15.10.2016

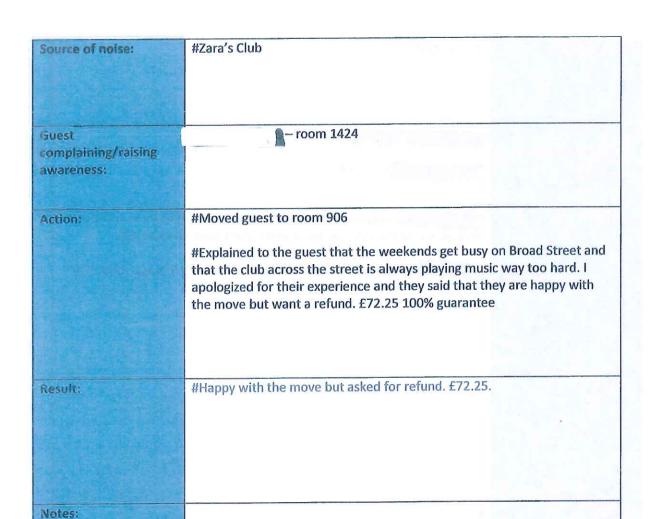


| Source of noise: | #Zara's Club |
|--|--|
| Guest complaining/raising awareness: | t – room 821 |
| Action: | #Complained to the morning team upon check out and they apologized for the inconvenience. |
| Result: | #Morning team apologized and made the guest aware that there is an investigation in process. |
| Notes: | #rate £76.50 |

Date: 22.10.2016



Date: 11.11.2016



Date: 13.11.2016

| Source of noise: | #Zara's Club – loud music coming from the outside speakers, entertainers are shouting |
|--------------------------------------|---|
| Guest complaining/raising awareness: | - room 1507 room 1523 |
| | |
| Action: | #Apologized and move the first to room 1510 #The morning team changed the room for them as they did not report |

Date: 14.11.2016



| Source of noise: | #Zara's Club |
|--|--|
| Guest complaining/raising awareness: | - room 1415 |
| Action: | #Reported in the morning. Morning team apologized and will follow up with the guest who requested a refund. £68.00 |
| Result: | # |
| Notes: | # |

Hampton by HILTON Noise level Sat 29-10-16 013040 Floor windows open 70 - MF 16TH - 62 15TH - 60 NUTH-13TH-44 INTH-11TH - 64 10th - 67 974 - 60 81h - 65 7th - 69 6th - 65 5th - 60 414 - 58 310 - 60 200 - 67 17 - 65



1035024



mayb





Patrick House, Gosforth Park Avenue, Gosforth Business Park, Newcastle upon Tyne, NE12 8EG
Telephone Office: 0191 216 0411 Fax: 0870 421 5857
Website: www.phoenixsecurityuk.co.uk Email: info@phoenix-security.co.uk

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Patrick House, Goslorth Park Avenue, Goslorth Business Perk, Newcastle upon Tyne, NE12 8EG
Telephone Office: 0191 216 0411 Fax: 0870 421 5857
Website: www.phoenixsecurityuk.co.uk Email: info@phoenix-security.co.uk

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Patrick House, Gosforth Park Avenue, Gosforth Business Park. Newcastle upon Tyne, NE12 8EG
Telephone Office: 0191 216 0411 Fax: 0870 421 5857
Website: www.phoenixsecurityuk.co.uk Email: info@phoenix-security.co.uk

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Website: www.phoenixsecurityuk.co.uk Email: info@phoenix-security.co.uk

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Yellow TORY Venue

QC No 36

Company registration number 636(16?

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Commerce restration number 83driver

Patrick House, Gosforth Park Avenue, Gosforth Business Park, Newcastle upon Tyne, NE12 8EG
Telephone Office: 0191 216 0411 Fax: 0870 421 5857
Website: www.phoeniysecurity.uk.co.uk Email: info@phoenix-security.co.uk

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Zara's Bar - 80 Broad Street, Birmingham

Proposed additional Conditions

- All staff at the premises to be trained to ensure the quiet departure of patrons from the premises.
- The Premises shall monitor recorded sound levels emanating from the Premises whenever regulated entertainment is taking place at hourly intervals, including outside the Hampton by Hilton, Broad Street, in order to prevent public nuisance. A record to be retained at the premises and to be produced immediately to an Environmental Health or other Authorised Officer upon demand.
- 3. All windows to be kept closed after 23.00 hours.
- 4. There shall be no consumption of beverages purchased from the premises in any external area of the premises after 23.00 hours.
- 5. There shall be a minimum of [] door supervisors who have been accredited by the Security Industry authority or any accreditation scheme recognised by the Licensing Authority, on duty in the external area of the premises at all times, when being operated, from 20.00 hours on Fridays, Saturdays, Sundays, and any other occasion when licensable activities are due to terminate at 02.00 or later, and who shall remain on duty until 30 minutes after the cessation of licensable activities.
- 6. When deployed at the premises all door staff will wear high visibility jackets, both when inside and outside the premises.
- 7. Except for access and egress all doors and windows shall be kept closed during periods of regulated entertainment.
- 8. No speakers will be placed in any external areas of the premises.
- 9. No music shall be played in any external areas of the premises.
- 10. The premises licence holder shall ensure that any bottles or glasses are removed from persons leaving the premises.
- 11. Noise from the premises, including noise arising from external providers equipment, shall be controlled so as not to cause noise levels to exceed NR20 L 10 (23:00-07.00) within any hotel bedroom within the Hampton by Hilton, Broad Street.
- 12. The premises licence holder or other competent person shall take appropriate measures to ensure that patrons using any external areas for smoking do so in a quiet and orderly fashion.
- 13. The Premises to operate with a dispersal policy which is to be agreed by a Senior Licensing Officer at the Licensing Authority.
- 14. The Premises to adopt a noise management policy which is to be agreed by a Senior Licensing Officer at the Licensing Authority.
- 15. Noise Limiting Device
 - (a) A noise limiting device shall be used in relation to all sound amplification equipment used in conjunction with the premises licence.
 - (b) The noise limiting device shall be calibrated at a level set by Environmental Health.
 - (c) The noise limiting device shall be properly secured so that it cannot be tampered with.
 - (d) Any external providers equipment will need to be run through the premises noise limiting device.