

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Tuesday, 25 October 2022

Dear Councillor

STATUTORY LICENSING SUB-COMMITTEE - TUESDAY, 25TH OCTOBER, 2022

I am now able to enclose, for consideration at next Tuesday, 25th October, 2022 meeting of the Statutory Licensing Sub-Committee, the following supplementary information that was unavailable when the agenda was printed.

Agenda No Item

- | | |
|---|---|
| 3 | <u>Licensing Act 2003 - Application for a Review of a Premises Licence in respect of The Newsagents, 49 School Street, Wolverhampton, WV1 4LR (Pages 3 - 14)</u> |
|---|---|

If you have any queries about this meeting, please contact the Democratic Services team:

Contact Jacob Stokes
Tel 01902 552873
Email Jacob.Stokes@wolverhampton.gov.uk
Address Democratic Services, Civic Centre, 1st floor, St Peter's Square,
Wolverhampton WV1 1RL

Encs

This page is intentionally left blank

STATEMENT OF WITNESS

**(Criminal Procedure Rules r16, Criminal Justice Act 1967 s 9,
Magistrates' Courts Act 1980 s 5A(3)(a) and 5B)** Agenda Item No: 3

STATEMENT OF *Debra CRANER*
AGE **Over 18 years**
OCCUPATION ***Section Leader – Licensing and Compliance***

This statement, consists of 4 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

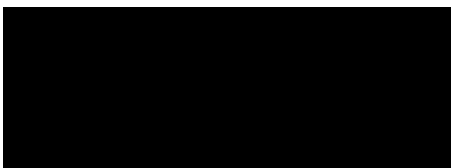
Date 20th October 2022

Signed 

-
1. I am employed by Wolverhampton City Council as a Section Leader – Licensing and Compliance Officer within the Council's Licensing Department, based at the Civic Centre, St Peter's Square, Wolverhampton, WV1 1SH. I have worked for this local authority in this position since April 2019.
 2. On 28 June 2022 concerns were raised with licensing from a local Neighbourhood Safety Coordinator who had had a meeting with a Sgt Sarah Smyth of West Midlands Police regarding street drinkers in School Street, Cleveland Street and Dudley Street within the city of Wolverhampton and named as areas that were entrenched with street drinkers.
 3. On 4 August 2022 City of Wolverhampton Council hosted the Commonwealth Games Cycling Time Trial. I was assigned to a group comprising of Officers

Signed

Date: 20th October 2022



from Licensing, Trading Standards and Environmental Health who were tasked with ensuring compliance of street traders/pedlars/food sellers within the Commonwealth areas, including a Commonwealth Festival site.

4. On route to the festival site, it was noticed that a group were congregated around the bus shelter directly in front of Newsagents, 47 School Street, Wolverhampton, WV1 4LR consuming super strength alcohol, outside of Newsagents and also sitting inside the bus shelter. I also noticed empty cans on the floor.
5. As I knew that this street was of concern to the police with regard to street drinkers, I asked my colleagues Elizabeth Gregg a Senior Licensing and Compliance Officer within the Licensing Section, my colleague Dianne Slack - Tobacco Control Officer in Trading Standards and Samuel Hoskins – Senior Officer – Food and Health and Safety to accompany me into Newsagents, 47 School Street, Wolverhampton.
6. We entered at 14:05 hours and I introduced myself and my colleagues to the person working behind the counter. He gave his name as [REDACTED] and said he was only working there to help out. The Premises Licence Holder/Designated Premises Supervisor, Baljit Singh BATIYA was not present.
7. Whilst inside the premises a customer who appeared to be intoxicated due to his physicality and mannerisms coming into the shop to purchase a single bottle of alcohol. Whilst the premises licence does not prevent this type of sale,

Signed [REDACTED]

Date: 20th October 2022

there is an offence under S41 Licensing Act 2003 which states that it is an offence if a person knowingly (a) sells alcohol to a person who is drunk and (b) allows alcohol to be sold to such a person. I advised [REDACTED] that he should not serve alcohol to an intoxicated person.

8. This particular sale was refused by the person behind the counter. The customer was clearly unhappy that he had been refused and also seemed confused and surprised.
9. The premises was becoming increasingly busy and so we all left and stood outside the premises. I noticed two gentlemen walking past and could see one was holding a bottle of alcohol in his hand. I asked Sam Hoskins if he would ask the police officers who were standing nearby to come and assist me. The two officers one male and one female came to me. I explained to the officers that there was a Public Space Protection Order (PSPO) in place within the City of Wolverhampton and pointed out the male who was close by still holding a bottle of alcohol. I asked if they would seize the alcohol as they had powers. They were very reluctant to do this as they said they didn't know about the PSPO and that they were not from this area and were only there for the Cycle Time Trial. I persuaded them that they had got within their powers to seize the alcohol. They followed the two males and did in fact take the alcohol away. Whilst waiting outside the premises Elizabeth Gregg stated to me that she had

Signed

[REDACTED]

Date: 20th October 2022

just witnessed a male street drinker purchasing a single beverage The Newsagents and had seen him place the drink inside his coat pocket.

10. Myself and my colleagues re-entered the premises, and I asked [REDACTED] if I could view the CCTV footage as a sale of alcohol to one of the street drinkers had just been observed by a colleague. He told me that the owner Mr Batiya was on his way.

11. Whilst waiting for the Baljit Singh Baiya, the Premises Licence Holder to arrive, Dianne Slack confirmed she would conduct a tobacco visit and proceeded with a Code B, statutory powers of entry, search and seizure.

12. The Premises Licence Holder arrived and I explained to him what had happened and asked to view his CCTV. He was cooperative and took both myself and Elizabeth Gregg up to the first floor to a store room where the CCTV could be viewed. The previous sale of alcohol to the street drinker that Elizabeth Gregg had just witnessed was seen on the footage. Mr Batyia also confirmed this.

13. We all left the premises at approximately 15:00 hours.

Signed

[REDACTED]

Date: 20th October 2022

STATEMENT OF WITNESS

(Criminal Procedure Rules r16, Criminal Justice Act 1967 s 9,
Magistrates' Courts Act 1980 s 5A(3)(a) and 5B)

STATEMENT OF *Elizabeth Gregg*
AGE Over 18 years
OCCUPATION *Senior Licensing & Compliance Officer*

This statement, consists of 4 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Date 24 October 2022

Signed



-
1. I am employed by Wolverhampton City Council as a Senior Licensing and Compliance Officer within the Council's Licensing Department, based at the Civic Centre, St Peter's Square, Wolverhampton, WV1 1SH. I have worked for this local authority in this position since April 2019 and previously had 5 years' experience in various officer positions within the local authority.
 2. On 7 November 2019 at 17:18 hours I attended Newsagents, 49 School Street, Wolverhampton, WV1 4LR with my colleague Kully Bains-Sabharwal, Licensing and Compliance Officer. The visit followed a complaint received regarding the premises selling alcohol to individuals who were intoxicated. The designated premises supervisor Baljit Singh Batiya was present during the visit and advice was provided. Mr Batiya had a refusal book available however had not recorded a refused sale since 2017. Due to the lack of conditions attached to this licence the licence holder was asked to observe the Licensing Act 2003 Mandatory Conditions.

Signed 

Date 24 October 2022

Continuation Sheet:

Statement of Elizabeth Gregg

3. On 28 June 2022 concerns were raised with licensing from Neighbourhood Safety regarding problematic street drinkers within the city centre, and the actions taken by officers. The information received identified several areas including school street as a concern.
4. On 4 August 2022 City of Wolverhampton Council hosted the start and finish of the Commonwealth Games Cycling Time Trial. Officers from Licensing, Trading Standards and Environmental Health were tasked with ensuring compliance of traders within the Commonwealth areas, including a Commonwealth Festival site.
5. On route to the festival site, it was noticed that a group were congregated around the bus shelter directly in front of Newsagents, 47 School Street, Wolverhampton, WV1 4LR consuming super strength alcohol, with empty alcohol cans discarded on the floor surrounding the bus shelter.
6. Debra Craner, Licensing Section Leader discussed entering the premises with the rest of the group also conducting Commonwealth Compliance, the group agreed to enter the shop at approximately 14:05. The group comprised of myself, Debra Craner, Dianne Slack – Tobacco Control Officer and Samuel Hoskins - Senior Officer - Food and Health and Safety.
7. Upon entry Debra Craner introduced herself and others to the person behind the counter who insisted he was only at the premises to help; the Premises Licence Holder/Designated Premises Supervisor was not present.
8. Whilst inside the premises several customers entered to purchase a single can/bottle of alcohol, the premises licence does not prevent this however the

Signed 

Date 24 October 2022

Continuation Sheet:

Statement of Elizabeth Gregg

Licensing Act 2003 confirms that a sale of alcohol to a person who is drunk is an offence. Debra Craner advised the person behind the counter that they should not serve alcohol to an individual if they are intoxicated.

9. A sale was refused by the person behind the counter, this customer was unhappy and made this known by making comments as exiting the premises.
10. The premises was becoming increasingly busy, officers requested the assistance of West Midlands Police. All officers left the premises. Whilst waiting outside the premises I witnessed a street drinker purchasing a single alcohol beverage and placing the item inside his coat pocket before leaving the premises.
11. Officers re-entered the premises, Debra Craner requested to view CCTV footage of the sale that had just taken place, the person working within the premises confirmed the Premises Licence Holder would be present shortly.
12. Whilst waiting within the premises I observed a female customer attempt to purchase a bong to which the person behind the counter refused the sale, the customer placed money on the counter and took the item with her. This shows the premises lack of control.
13. Whilst waiting for the Premises Licence Holder's arrival Dianne Slack confirmed she was going to conduct a visit and proceeded with a Code B, statutory powers of entry, search and seizure.
14. Whilst this search was conducted Debra and I visited the first floor with the Premises Licence Holder to view CCTV footage, footage confirmed the alcohol

Signed 

Date 24 October 2022

Continuation Sheet:

Statement of Elizabeth Gregg

sale to a street drinker had taken place whilst officers waited outside the premises.

15. We all left the premises at approximately 15:00 hours.

Signed 

Date 24 October 2022

STATEMENT OF WITNESS

(Criminal Procedure Rules r16, Criminal Justice Act 1967 s 9)

STATEMENT OF Dianne SLACK
AGE Over 18 years
OCCUPATION Tobacco Control OFFICER – Trading Standards

This statement, consists of 4 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Date 15 August 2022 **Signed**

1. I am employed by the City of Wolverhampton Council as a Tobacco Control Officer in Trading Standards. I hold an LLB (Hons) law degree and a Diploma in Consumer Affairs; I am a Chartered Trading Standards Practitioner and a full member of the Chartered Trading Standards Institute. I am an authorised officer for a variety of consumer protection and fair-trading legislation including powers under the Consumer Rights Act 2015 and I am aware of the provisions of the Tobacco and Related Product Regulations 2016 Part 6 regulations 31 to 40 that relate to electronic cigarettes.
2. On the 4 August 2022 at approximately 14:00 hours, I was asked by Mrs. Debra Craner, Section Leader within Licensing Services, to accompany her on a visit to a retail premises in Wolverhampton City Centre.
3. We entered the premises known as ‘Express & Star, 49 School Street, Wolverhampton, WV1 4LR, also known as Bagri News.

Signed

Date 2022

Continuation Sheet: _____

4. Mrs. Craner introduced us to a young Asian man standing behind the counter. He said he was just an assistant and identified himself as [REDACTED]. He was informed by Mrs. Craner that Licensing Services had received complaints that alcohol was continually being sold to people who were intoxicated and congregating in the bus shelter outside the shop. I heard her advise him to discontinue this activity. We left the premises.
5. Whilst we waited outside the shop to be joined by colleagues Elizabeth Gregg, Senior Licensing Officer and Sam Hoskins, Environmental Health Officer, both employed by the City of Wolverhampton Council, I observed a man who was tall, white, collar length hair and scruffily dressed come out of the shop after us. He went to the bus shelter where two other men were and pulled out a can of what appeared to be beer from his pocket and drink from it. I heard Miss Gregg say to Mrs. Craner that the man I observed, had just purchased the can in the shop after Mrs. Craner had spoken to the assistant.
6. We went back inside the shop. Mrs. Craner spoke to the sales assistant again about the alleged sale and asked to see the CCTV. Whilst she was talking, I became concerned about the legitimacy of electronic cigarettes, also known as e-cigarettes or vapes, that I could now see on the counter to my left.
7. Under the Consumer Rights Act 2015, Schedule 5, part 4 I have powers to enter and inspect retail premises. I introduced myself to the assistant and asked him if I could step behind the counter to have a closer look at the smoking products. He agreed. As I went behind the counter I immediately saw a large number of vapes known as ELUX LEGEND with a capacity of 3500

Signed

Date 2022

Continuation Sheet: _____

puffs and a VEND Vape stating it had a capacity of 5000 puffs on a shelf underneath the counter. I was aware these products were illegal in this country and indicated this to Mrs. Craner.

8. Regulation 36 of the Tobacco and Related Product Regulations 2016, to paraphrase, says that vapes must not be sold with a nicotine tank, exceeding 2 millilitres in volume. This applies to both disposable and refillable vapes. It allows for about 600 puffs per vape. As a general rule any vape stating it contains more than 650 'puffs' is likely to have a capacity that is too great.
9. Nicotine-containing liquid which is presented for retail sale in an electronic cigarette or refill container must not contain nicotine in excess of 20 milligrams per millilitre i.e., 2%.
10. Regulation 37 states that each unit packet and any container pack must carry a health warning consisting of the text: "This product contains nicotine which is a highly addictive substance". Some of the vapes under the counter used the wording 'This product contains nicotine. Nicotine is an addictive chemical'. This wording in my experience is applied to products for the American market.
11. The health warning must appear on both the front and back surfaces of the unit packet and any container pack, covering 30% of the area of each of those surfaces, be in black Helvetica bold type on a white background. Some of the vapes did not have this.
12. I was aware that any breaches of Regulations 31 to 40 of the Tobacco and Related Product Regulations 2016 could be criminal offences under Regulation 48. All nicotine-inhaling vapes must also be notified to the Medicines and

Signed

Date 2022

Continuation Sheet: _____

Healthcare products Regulatory Agency (MHRA) before they can be sold in the UK. Any nicotine-containing vapes will not pass the notification procedure if they have too large a tank or too much nicotine.

13. Before my inspection I started to complete a notice of Powers and Rights for [REDACTED] to sign. The owner of the shop Mr Baljit Singh Batiya subsequently turned up at the premises. I introduced myself to him, explained my concerns and he signed the notice himself at 14:25 hours.

14. I inspected the counter area and shelving. I discovered a total of 116 electronic nicotine devices that either were incorrectly labelled, incorrectly worded, or had tanks I believed to be in excess of the legal limit of 2 ml.

15. During this inspection I saw an Asian man put cash on the counter, walk to the chiller cabinet, pick up a bottle of beer and walk out of the shop to the bus shelter.

16. I explained and showed Mr Batiya why the vapes were illicit and what the Regulations state. He said he will not sell them again, he only had them because customers asked for the products. He said he was happy to voluntarily surrender them to me for destruction and signed a traders notice to that effect. Mr Hoskins and Miss Gregg then assisted me in bagging the illicit e-cigarettes in an evidence bag at 14:45.

17. We left the premises and Mr Hoskins and I took the e-cigarettes to our secure storage facility.

Signed

Date 2022