

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.

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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

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