

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 6th January 2011
at 9.30 am

PLEASE NOTE TIME OF MEETING

Committee Rooms 1/2 - Civic Centre

This meeting is open to the public
Members

Councillor Drake
Councillor Parnell
Councillor Thomas

Contacts

Democratic Support Officer
Sue Lawrence
Tel: 023 8083 3569
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Assistant Solicitor to the Council
Richard Ivory
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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act, 2003 and Gambling Act 2005, including:-

- Personal licences for the sale of liquor Licensing Act 2003;
- Premises licences, various permits, variations and reviews (Licensing Act 2003 and Gambling Act 2005);
- Club certificates, variations and reviews Licensing Act 2003;
- Registration and deregistration of designated premises supervisors Licensing Act 2003;
- Determination of police objections to temporary event notices Licensing Act 2003

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest.

When dealing with Licensing Act matters the Sub-Committee can only take into account the following statutory Licensing Objectives:-

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

Likewise, when dealing with Gambling Act matters the Sub Committee can only take into account the statutory Licensing Objectives below:-

- Preventing gambling being a source of crime
- That gambling is conducted in a fair and open way
- To protect children and other vulnerable children from harm

Southampton City Council's Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

Smoking policy

The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones –

Please turn off your mobile telephone whilst in the meeting.

Fire Procedure –

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access –

Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Potential Meetings: Municipal Year 2010/11

2010	4 NOVEMBER
20 MAY 2010	18 NOVEMBER
3 JUNE	2 DECEMBER
17 JUNE	16 DECEMBER
1 JULY	2011
15 JULY	6 JANUARY 2011
29 JULY	13 JANUARY
12 AUGUST	10 FEBRUARY
26 AUGUST	24 FEBRUARY
9 SEPTEMBER	10 MARCH
23 SEPTEMBER	24 MARCH
7 OCTOBER	7 APRIL
21 OCTOBER	21 APRIL

CONDUCT OF MEETING

Terms of Reference

The terms of reference are contained in the Council's Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Quorum 3

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

Disclosure of Interests

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are available via the Council's website.

1 ELECTION OF CHAIR

To appoint a Chair for the purposes of this meeting.

2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

3 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer prior to the commencement of this meeting.

4 STATEMENT FROM THE CHAIR

5 EXCLUSION OF THE PRESS AND PUBLIC

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

6 APPLICATION FOR REVIEW OF PREMISES LICENCE - DABS CASH AND CARRY, 19 ADDIS SQUARE, PORTSWOOD ROAD, SOUTHAMPTON, SO17 2NE

Report of the Solicitor to the Council detailing an application from the Trading Standards Service to review the premises licence in respect of Dabs Cash and Carry, 19 Addis Square, Portswood Road, Southampton, SO17 2NE, attached.

7 APPLICATION FOR REVIEW OF PREMISES LICENCE - POUND XTRA, 106 ST. MARYS ROAD, SOUTHAMPTON, SO14 0AN

Report of the Solicitor to the Council detailing an application from the Trading Standards Service to review the premises licence in respect of Pound Xtra, 106 St. Marys Road, Southampton, SO14 0AN, attached.

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Agenda Item 6



Reference: 2010/02175/01SRAP

Hearing:

6th January 2011

Application for Review of Premises Licence

Premises Name: Dabs Cash And Carry
 Premises Address: 19 Addis Square
 Portswood Road
 Southampton
 SO17 2NE

Application Date: 5th November 2010
 Application Received Date: 5th November 2010

Application Valid Date: 5th November 2010



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Representation From Responsible Authorities

Responsible Authority	Satisfactory?	Comments
Child Protection Services - Licensing	No response received	
Hampshire Fire And Rescue - Licensing	Yes	

Environmental Health - Licensing	No response received	
Planning & Sustainability - Building Control - Licensing	No response received	
Planning & Sustainability - Development Control - Licensing	No response received	
Hampshire Constabulary - Licensing	Yes	
Trading Standards - Licensing	No	

Other Representations

Name	Address	Contributor Type
None		

Legal Implications

1. Part 3 of the Licensing Act 2003 provides that a responsible authority of a resident or business in the vicinity (interested party) may apply for review of a premises licence.
2. The grounds of review applications must relate to one or more of the licensing objectives.
3. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the City Council and each of the responsible authorities.
4. On receipt of the application for review, the officers will consider its validity, under delegated powers. Reasons for rejection, in whole or in part, include:
 - that the grounds for review are not relevant to one of more of the licensing objectives and;
 - (in the case of an application not made by a responsible authority), that the application is frivolous, vexatious or repetitious.
5. The City Council must, within one day of receiving the application for review, display a prescribed notice of the review application on the outside or adjacent the premises; the notice must remain on display for 28 days and any interested party in the vicinity or the responsible authorities may make representations in that period.

6. Unless the applicant, licence holder, interested parties and responsible authorities agree that a hearing is unnecessary, the City Council is then required to hold a hearing to consider the review.
7. The sub-committee, in considering the application for review, must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.
8. The Licensing Act 2003 provides that, in determining an application for review, the sub-committee may take any (or none) of the following steps, as it considers necessary:
 - modify the conditions of the licence;
 - exclude a licensable activity from the scope of the licence;
 - remove the designated premises supervisor;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
9. The Licensing Act 2003 makes provision for appeal to the Southampton Magistrates' Court against the sub-committee's decision in relation to an application for review.
10. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
11. Copies of the application for review and the Police objection are annexed to this report.
12. The sub-committee must also have regard to:-
13. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
14. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

SOUTHAMPTON CITY COUNCIL

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Southampton City Council Trading Standards Service

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Dabs Cash & Carry, 19 Addis Square, Portswood Road, Southampton SO17 2NE	
Post town Southampton	Post code (if known) SO17 2NE

Name of premises licence holder or club holding club premises certificate (if known) Dabs Cash & Carry Ltd
--

Number of premises licence or club premises certificate (if known) 2010/01448/01SPRD
--

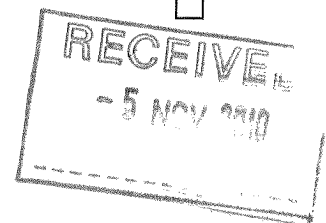
Part 2 - Applicant details

I am

1) an interested party (please complete (A) or (B) below)

Please tick yes

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises



- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) 02380 834930
E-mail address (optional) lucas.marshall@southampton.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

The Prevention of Crime and Disorder
The Prevention of Public Nuisance
The Protection of Children from Harm

Southampton Trading Standards Service carries out routine test purchasing exercises at off licensed premises within Southampton to ensure alcohol is not being sold to young people under the age of 18.

On 9th April 2010 a 15 year old boy acting under the instructions of an Inspector of Weights and Measures purchased alcohol from Andor News (the trading name of the business at the time of the sales), 19 Addis Square, Portswood Road, Southampton SO17 2NE

On 10th June 2010 a 15 year old girl acting under the instructions of an Inspector of Weights and Measures purchased alcohol from Andor News.

The test purchases were carried out in accordance with the LACoRS code of practice for alcohol test purchasing.

It is considered that the holder of the premises licence has not fulfilled the duty under the Licensing Act 2003 to prevent crime and disorder and public nuisance, and to protect children from harm. We are therefore applying to review the licence.

In the supporting information we give more details and state the conditions we would wish to see added to the licence in order to promote the above licensing objectives.

Please provide as much information as possible to support the application

(please read guidance note 2)

On 9th April 2010 a 15 year old boy acting under the instructions of an Inspector of Weights and Measures purchased alcohol, namely Strongbow Cider, from Andor News, 19 Addis Square, Portswood Road, Southampton SO17 2NE. The sale was witnessed by Trading Standards Officer Christine Hill. The seller, Jacek Klonica, accepted an £80 Penalty Notice for Disorder.

On 15th April 2010 David Ojo, who identified himself as the owner of the business, was interviewed regarding the sale. Verbal advice regarding due diligence procedures to prevent under age sales was given to Mr Ojo at that time.

On 20th May 2010 Mr Ojo accepted a Simple Caution for selling alcohol to a person under the age of 18, contrary to Section 146 of the Licensing Act 2003.

On 10th June 2010 a 15 year old girl acting under the instructions of an Inspector of Weights and Measures purchased alcohol, namely Zywiec Beer, from Andor News, 19 Addis Square, Portswood Road, Southampton SO17 2NE. The sale was witnessed by Fair Trading Officer Elaine Gibson. The seller was Karolina Czaja. She claimed not to be able to speak English. Staff were unable to produce a record of refused sales of under age sales.

At the time of the sales Fakhre Alam was recorded as the Premises Licence Holder and Designated Premises Supervisor (DPS) at the business, but was not the owner of the business.

Mr Ojo was interviewed regarding the alleged offence on 17th June 2010. He claimed that Andor News was a trading name for a company called DABS Cash & Carry Ltd, Registered Office 191 Shirley Road, Southampton, SO15 3FG, of which he was a director. During interview Mr Ojo stated that he and Fakhre Alam were responsible for training staff at the shop, however he did not keep any written records of the training. Mr Ojo produced a record of refused sales of age restricted products at the interview, which had only 2 entries since April 2010. Mr Ojo stated that he has CCTV in the shop however he does not check it to see whether staff are selling age restricted products to children. Mr Ojo claimed that Fakhre Alam is the manager of the store and works at Andor every day. Mr Alam has not, however, been present at the store when Trading Standards Staff have visited, Mr Ojo's staff did know who he was, and it is my belief that Mr Alam was not involved in the business at the time the sales were made. Fakhre Alam was invited to attend interview by letter. He did not respond to this invite. He was subsequently contacted by phone and agreed to come in for interview on two occasions, however he failed to attend. Following the second sale Mr Ojo transferred the Licence to DABS Cash & Carry Ltd, and Mr Ojo is now the Designated Premises Supervisor.

On 31st August 2010 Mr Ojo attended our office. He refused to accept a Simple Caution regarding the offence, and claimed that the under age sale had not occurred as he could not see it on his CCTV. He also claimed that he was a Sole Trader of the business at the time of the offence, rather than a Ltd company, as he had previously stated during interview.

Trading Standards Officers are not confident that reasonable precautions are being taken at Andor to prevent the sale of alcohol to persons under the age of 18 and would therefore request that the following conditions are imposed on the premises licence so as to assist the licence holder and the designated premises supervisor in the effective management of the premises, and to promote the licensing objectives:

- "The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Notices regarding the store's "Challenge 25" policy must be displayed"
- "All staff who sell alcohol will be trained to NCPLH (National Certificate of Personal Licence Holder) level. All sales of alcohol must be directly supervised and authorised by a Personal Licence Holder until such staff have achieved training to NCPLH level."
- "That staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records, signed and dated by the member of staff, are kept of this refresher training. Records of training will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other Responsible Authorities on request."
- "The holder of the premises licence shall keep a written record, namely a refusals book, of those incidents where a person who a member of staff believes to be under the age of 18, and is unable to produce acceptable means of identification proving that they are of 18 years or more, attempts to purchase alcohol and is refused. The record shall include details, in English, of the date, time, a brief description, including estimated age, of the person who attempted to purchase the alcohol, the type of alcohol and the name of the person who refused the sale. Staff shall be trained in the use of the refusals book and it should be kept in a readily accessible place known by all members of staff. The record will be regularly checked by the premises licence holder or the designated premises supervisor to ensure that all staff are completing records and, and this person will sign and date the record as evidence that they have checked it. The refusals book will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other relevant authorities on request."
- "The holder of the premises licence must ensure that all alcohol is marked in a way that will identify its place of purchase for a period to be agreed with the police and Trading Standards which shall not be less than 3 months."
- "A CCTV system shall be installed and maintained in the licensed premises to the satisfaction of the Licensing Authority, Hampshire Constabulary and Trading Standards. As a minimum, it shall enable surveillance of both external and internal areas of the premises including entrances and exits. Recordings from the system shall be of a quality acceptable as evidence in a court of law and shall be securely retained at the licensed premises for a minimum period of 30 days after the recording, and shall be surrendered to Hampshire Constabulary, the Licensing Authority, or Trading Standards immediately on request."
- I would also ask that the licence is suspended for a period of 3 months, both as a deterrent and to give the Premises Licence Holder a period of time in which to put the above conditions into effect.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 5th November 2010

.....

Capacity Trading Standards Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) Lucas Marshall Trading Standards Service Southampton City Council Civic Center Rd	
Post town Southampton	Post Code SO14 7LY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) lucas.marshall@southampton.gov.uk	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.
6. See separate guidance for responsible authorities' details.

TRADING STANDARDS SERVICE WITNESS STATEMENT

(C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2005 (Rule 27.1))

STATEMENT OF: **ELAINE GIBSON**
 AGE IF UNDER 18: **OVER 18**

This statement (consisting of 2 page(s) each 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.

Dated the 20th day of October 2010 Signature: ..

..... being unable to read the statement,
 I..... of ..
read it to him/her before he/she signed it.
 Dated the day of2010.. Signature: ..

A My name is Elaine Gibson. I am employed by Southampton City Council as a Fair Trading Officer. On 10th June 2010 I was involved in an underage sales operation in Southampton. The volunteer who we used for the operation was called Charlotte and was 15 years old. I produce a
 B sanitised copy of her passport as exhibit EG/1. I produce 2 photos of Charlotte as exhibits EG/2 and EG/3. In the photos she is wearing the same clothes as she wore for the exercise. I can confirm that these photos are an accurate representation of Charlotte and have not been
 C enhanced or amended in any way. At approximately 16:40 I entered Andor News, 19 Addis Square, Portswood Road, Southampton. Under age sales volunteer Charlotte entered a few minutes later. I had asked her to attempt to purchase alcohol. I did not announce myself to the
 D trader, and, acting as a customer I witnessed Charlotte take to the counter 1 can of Zywiec beer. The person behind the counter was a white female. She had dark straight hair and appeared to be in her early 20's. I witnessed the female sell the can of Zywiec beer to Charlotte. The female
 E offered Charlotte a bag, Charlotte hesitated then declined and turned and left the shop. I purchased a sundry item from the same female and left the shop. I produce the can of Zywiec

ST1(1)HQ Signature:



INVESTOR IN PEOPLE

PAGE NO: 2 CONTINUATION OF STATEMENT DATED:

BY: Elaine Gibson

A beer which Charlotte purchased as exhibit EG/4. At approximately 16:45 I returned to the shop with Police Officer Michael Sullivan. I announced myself to the female who had sold the alcohol to Charlotte and explained that she had sold alcohol to a person under 18 during a test purchase exercise. It appeared that the female did not fully understand English. I asked the female her name which was given as Karolina Czaja. I asked her whether she had had any training on under age sales, she nodded and said yes and that the owner had trained her. The owner details were given by Karolina as Mr David Ojo. I noted that there were no under age sales signs by the alcohol and only one sign regarding under age sales next to the tobacco. I asked a male behind the counter at Andor if he could show me the refusals book but he could not produce one. On the 11th June 2010 I wrote to Mr Ojo asking him to attend Southampton Trading Standards Service's office at 7 Civic Centre Road, Southampton, to carry out a tape recorded interview. On 15th June 2010 Mr Ojo phoned me and stated that he could not see the under age sale on his CCTV and therefore would not undertake a tape recorded interview. Mr Ojo asked for proof that we undertook the under age sale, and said that he could not understand why we had not issued a penalty notice for disorder to the seller. I explained to Mr Ojo that it appeared the seller did not understand English and that is why no penalty notice was issued. He subsequently agreed to attend Southampton Trading Standards Service's office on 17th June 2010. On the 17th June 2010 Mr Ojo attended our office. I showed him the photo of the volunteer used on 10th June 2010 to buy alcohol from Andor News, and the can of Zywiec beer which she purchased. After discussing the test purchase with Mr Ojo he agreed to a tape recorded interview. I interviewed Mr Ojo in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of Practice. I produce a transcript of the interview as Exhibit EG/5. Following the interview on 17th June 2010 I attempted to contact Mr Alam, whom Mr Ojo had identified as the Premises Licence Holder, by letter, however he did not respond. On 22nd July 2010 I sent a letter to Mr Ojo to offer a simple caution to dispense of the offence. On 31st

ST1(2)HQ

Signature: 

PAGE NO: 3 CONTINUATION OF STATEMENT DATED:

BY: Elaine Gibson

H August 2010 Mr Ojo attended the Southampton Trading Standards Service's office. I explained
to Mr Ojo that he must accept that the offence had occurred before a simple caution could be
issued. I also asked him to confirm whether it was DABS Cash and Carry Ltd trading as Andor
News at the time of the offence, as he had claimed during interview. Mr Ojo then stated that at
I the time of the offence Andor News was in his sole ownership. I amended the simple caution to
reflect this, however Mr Ojo then said that he would not accept the offence had been committed
because he could not see the sale of alcohol on his CCTV system at Andor News. I explained
to Mr Ojo that we had evidence to prove that an underage sale took place and that further action
J would be taken.

Signature: ..

K

L

M

N

ST1(3)HQ



WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN: | | |

Statement of: Michael Sullivan

Age if under 18: 'Over 18' (if over 18 insert 'over 18')

Occupation: Police Constable 2193

This statement (consisting of 4 page(s) each 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.

Signature:

Date: 13th September 2010

Michael Sullivan

Tick if witness evidence is visually recorded (supply witness details on rear)

I am Police Constable 2193 Michael Sullivan and am currently assigned to Southampton Police Licensing Unit.

On Thursday the 10th June 2010 I was on duty in uniform in company with Southampton City Council Trading Standards Officers conducting an Alcohol Test Purchase Operation involving the use of a 15 year old female test purchase operative.

At 1645 hours that day I went into a premises known as Andor News 19 Addis Square, Southampton in company with Elaine Gibson from Southampton Trading Standards.

Miss Gibson identified to me a female now known to me as Karrina Czaja b.11/09/1896 in Poland of 318 Pansy Road, as some one who had sold alcohol to the 15 year old female test purchase operator.

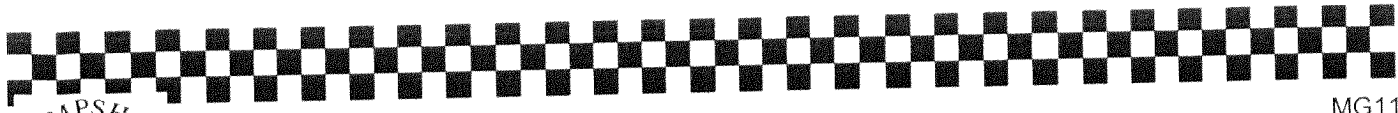
I spoke to Miss Czaja and I pointed out the offence and read her the caution at 1649 hours, I asked her if she understood and she said yes.

I asked her "Have you had any training in under age sales" she said "Who would do it?" I replied "The manager" she replied "Yes"

I told her I was reporting her for the offence and at 1651 hours I read the further caution to her and asked "Do you understand?" she replied "Yes".

Signature:

Signature witnessed by:



WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

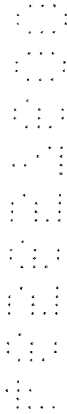
I then attempted to explain the procedure for issuing fixed penalty notices as an alternative to prosecution.

It was whilst doing this that I came to believe that Miss Czaja did not seem to comprehend what I had been saying to her and did not appear to fully understand what I was saying so as a result I did not issue her with a fixed penalty notice, but gave her a strong warning and advice about checking ID for all young persons in the future.

[Faint handwritten marks]

Signature: Signature witnessed by:





Authority/ Awdurdod/ Ughdarras/ Instanter/ Autorite/ Behorde/ Autoritat/ Nyrdigheid/ Uddaras/ Ekpouca Apyri/ Autoridade/ Autoritat/ Virramament/ Myndigheit/ Pas vydel/ Valiaandja/ Izdeveljastade/ Iddave/ Awrtorita/ Organ Wladecy/ Organ/ Urad/ Kiallifo hatosgy

Date of expiry/ Dyddiad ddiwedd/ Efrachdath gw/ De geldigheidsduur van dit paspoort eindigt op/ Date d'expiration/ Gültig bis/ Data di scadenza/ Gyldigt indtil/ As teidhm/ Huzpoqnyta Afscout/ Valido ate/ Este pasaporte expira el/ Yntainen voimassaolopäivä/ Gültig konn/ Píamost do/ Kehtiv kuni/ Derjanna termisj/ Galloja iki/ Data ta l'ghelug/ Data Wygasniecia Wznowsci/ Vefja do/ Datum platnosti/ Leptani ido

Holder's signature/ Llofnod y deliad/ Airm sgrïobhte an reach-saibhe/ Handtekening van de houder/ Signature du titulaire/ Unterschrift der Inhaberin (des Inhabers)/ Firma del titolare/ Indeheverens underskrift/ Sinji an lsealbhora/ Yrroypodenn tou kroyou/ Assinatura do titular/ Firma del titular/ Halijian ninkirifetus/ Pasimheverens nannackening/ Podpis držitele/ Ornamtu aillkiri/ Pilsora parafisi/ Saviniko parafasi/ Firma ter min inhanglu l-pasapoort/ Podpis posiadacza/ Podpis inehniha/ Podpis držitele/ A tulajdonos aláírása

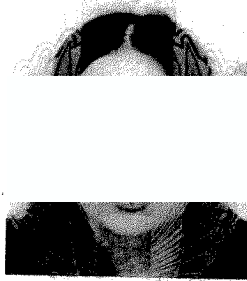
Observations page/ Sylwadau tudalen/ Fiosrachadh eile/ Opmerkingen bladje/ Page d'observations/ Vermeldte sêler/ Annotazioni/ Bemerkungen/ Seite/ Leathnach tagarti/ Troponnphoteis oekod/ Pagina para observações/ Pagina de observaciones/ Usamerkmak sivu/ Observationer sida/ Poznámky strana/ Markusud/ Pratsk azizmes/ Paschbos putalote/ Taghrif leho/ Adhocader/ Stran za opombe/ Prilomenky strana/ Mjegjegyzesek oldal

THIS PASSPORT CONTAINS 32 PAGES
Mae 32 tudalen yn y paspoort hwn/ This 32-dulleig aig a' dhead-suibhail seof/ Die paspoort bevat 32 bladzijden/ Ce paspoort contient 32 pages/ Dieser Pass enthält 32 Seiten/ Il presente passaporto contiene 32 pagine/ Dette pas består af 32 sider/ Ta 32 leathnach sa pas seof/ To nropow oonqertnpo nrekyer 32 orelbocy/ Este pasaporte contém 32 páginas/ Este pasaporte contiene 32 páginas/ Tämä passi sisältää 32 sivua/ Passet inneholder 32 sider/ Tento pas má 32 stran/ Selles pass on 32 lehtkülgel/ Sää päsiä 32 leppuseä/ Štarte pose yra 32 puslapiai/ Dan il-pasapoort fh 32 páigra/ Ten l-paspoort zawiera 32 strony/ Ta poort hi 32 stran/ Tento cestovní pas má 32 stran/ Et az utlevel 32 lapból áll

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

PASSPORT
PASSEPORT

Type/Type Code/Code



BRITISH CITIZEN

Date of birth/Date de naissance (4)

18 NOV /NOV 94

Sex/Sexe (5)

F

Place of birth/Lieu de naissance (6)

WINCHESTER

Date of issue/Date de délivrance (7)

26 APR /AVR 10

Date of expiry/Date d'expiration (8)

26 APR /AVR 15

Authority/Autorité (9)

IPS

Holder's signature/Signature du titulaire (10)

P<GBR

EH126 0710 22561

Name of p

GRAINE GRAINE

Illy identifying (block letters)

Signature

[Handwritten signature]

Illy identifying

[Handwritten signature]

Description of article

PHOTOCOPY OF CHARLOTTE'S PASSPORT

Exhibit reference

EG/1

Incident reference

10/01003/10/95



Trading Standards Service



Trading Standards Service

Incident reference

10/01003/WAS

Exhibit reference

EG/2

Description of article

PHOTO OF CHARLOTTE

Signature of person originally identifying

Name of person originally identifying (block letters)

ELAINE GIBSON

EH.126 07.10.22561





Trading Standards Service

Incident reference

10/01003/WAS

Exhibit reference

EG/3

Description of article

PHOTO OF CHARLOTTE

Signature of person originally identifying

Name of person originally identifying (block letters)

ELAINE GIBSON

EH.126 07.10.22561





Trading Standards Service

Incident reference

10/01003/495

Exhibit reference

EG/4

Description of article

CAN OF TYWICE BEER

Signature of person originally identifying

Name of person originally identifying (block letters)

ELAINE GIBSON



Trading Standards Service

Incident reference

10/01003/LAS

Exhibit reference

CG/S

Description of article

TRANSCRIPT OF TAPE
RECORDED INTERVIEW WITH
DAVID OTO

Signature of person originally identifying

A handwritten signature in cursive script, appearing to read "Elaine Gibson".

Name of person originally identifying (block letters)

ELAINE GIBSON

EH.126 07.10.22561

SOUTHAMPTON CITY COUNCIL TRADING STANDARDS SERVICE
RECORD OF TAPE RECORDED INTERVIEW

INTERVIEW OF: David Ojo

D.O.B.: 10 August 1980

ADDRESS:

INTERVIEW AT: Trading Standards Service, 7 Civic Centre Road, Southampton **DATE:** 17/6/2010

TIME COMMENCED: 10.20 **TIME CONCLUDED:** 10.45

DURATION OF INTERVIEW: **TAPE REFERENCE NUMBER(S):**

INTERVIEWING OFFICERS: Elaine Gibson

Lucas Marshall

OTHER PERSONS PRESENT:

Signature of Officer Preparing Record:

Tape Times PARTICULARS OF INTERVIEW:

.....

	EG	This interview is being tape recorded, I am Elaine Gibson at Southampton City Council Trading Standards Service, the other officer present is ...
	LM	Trading Standards Officer, Lucas Marshall
	EG	I am interviewing – if you could just say your name please
	DO	David Ojo
	EG	Of Andor News and Food. Please could you give your full name
0.30	DO	David Ojo
	LM	Have you got a middle name?
	DO	Olugbanga
	EG	And your date of birth is please?
	DO	10 August 1980
	EG	OK and your home address please
0.40	DO	78 Briarswood
	EG	OK and your National, do you have your National Insurance number at all
	DO	PW

Tape Times

EG	PW
DO	834180A
EG	Thank you
DO	A ... A for apple
1.00 EG	Thank you – A for apple. OK no other person is present, the date is 17 June 2010, the time is approximately 20 past 10. This interview is being conducted in the Interview room at 7 Civic Centre Road, Southampton. At the conclusion of the interview I will give you a notice explaining what, erm, what happens to the tapes and you can have a copy of those if you want to. So I'll just provide you with the form that you can use to ask for a copy of the tape. OK? The reason I
1.30	have asked you here today is to discuss the selling of alcohol, namely a can of Zywiec beer to a 15 year old girl at Andor News and Food on Thursday, 10 June 2010. This an offence under the Licensing Act 2003. You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence. Do you understand the caution?
2.00 DO	Yeah
EG	Yes. Can you positively ...
DO	Yeah
EG	Thank you. I have to tell you that you are not under arrest and you are free to leave at any time. If you do remain you may obtain legal advice if you wish. This includes the right to speak with a Solicitor on the phone and the interview can be delayed for this. Do you wish to speak with a Solicitor or ... obtain legal advice at all?
2.20 DO	No, no

Signature of Officer Preparing Record: _____

TR4a
L/25a/90
TRI ww2 (10/96)

Tape Times

EG	No. OK thank you. I am required to ask you to give any reasons for your decision not to seek legal advice. Is there any reason why you don't want to ?
2.30 DO	Because I haven't committed an offence.
EG	OK. Can you confirm we have not discussed this matter apart from briefly on Tuesday on the telephone and then today before the interview
DO	What?
EG	We have only discussed this matter on the phone on Tuesday
DO	Yeah
EG	And then previously, erm before this interview today?
DO	Yeah
2.50 EG	OK thank you. So on 10 June 2010 I witnessed Karolina Czaja sell a can of Zywiec beer to a 15 year old girl in Andor News and Food in Portswood. The Licensing Act 2003 creates an offence for selling alcohol to under 18s. the physical seller commits an offence, which is Karolina and the trader or company who owns the goods also commits the offence for selling alcohol. That's why it's important that we know who was trading as Andor News and Food at 19 Addis Square when the offence was committed. Can you confirm the shop's name please?
3.30 DO	Andor News
EG	Andor News, it's not Andor News and Food?
DO	No.
EG	OK. And the address is ...
DO	19 Addis Square, Portswood Road, Southampton.
3.40 EG	And do you know the postcode?

Signature of Officer Preparing Record: _____

Tape Times

DO	SO17 2NE
EG	Thank you. And can you confirm whether you are the sole proprietor of the store?
3.50 DO	Yes.
EG	And do you have any other businesses at the moment?
DO	Yes.
EG	And could you tell me the details of that business?
DO	Yes, London
EG	London
DO	Yes
EG	And what type of business is it?
DO	Off licence
EG	Do we want full details of it?
4.10 LM	If we could have details of that business please
DO	261 Brownhill Road
4.20 EG	Thank you and do you have the postcode?
DO	SE6,
EG	Yes
DO	SE, SE E not SA SE
EG	SE yes
DO	6 1AE
EG	1AE
	Thank you

Signature of Officer Preparing Record:

Tape Times

LM	What's the trading name of that business?
DO	Dabs Cash and Carry
4.40 EG	D A B
DO	Cash and Carry, DABS Cash and Carry Limited
LM	So you divide your time between those two shops do you?
DO	Why
LM	Andor and Dabs
EG	You work in both stores yourself?
DO	Yes I work in both stores. I have another supervisor at the premises that has personal licence in Andor News
LM	Sorry
DO	I have someone that holds personal licence that's a supervisor at Andor News.
LM	And who's that?
DO	Alam.
LM	Alam
DO	Alam Fakhre, Alam - you can check on your record is licence holder.
LM	OK
DO	I own the business.
5.20 LM	You own the business
DO	Yes, Alam is personal licence holder, that supervise the shop
LM	Did he used to work or own the business?
DO	He used to work, he owned the business before but now is working for me. We used to own the business together

Signature of Officer Preparing Record: _____

Tape Times

LM	Yes
DO	(inaudible) but now he is working for me.
LM	OK
5.40 EG	OK so is Andor News, is that a trading name under the limited company DABS
DO	Yes, yes
EG	Right OK. So are you the managing director?
5.50 DO	Yes
EG	OK. So you are authorized to speak on behalf of the business?
6.00 DO	It's my business.
EG	Yeah. OK. Is there any other managing directors at all?
DO	One in London
EG	Another director?
DO	yes
EG	Who's. What's their name?
6.10 DO	Mr Awonorin
EG	Can you spell that for me please?
DO	A W O N O R I N
6.20 EG	Thank you. How long have you owned the business, the limited company?
DO	This year. July this year.
EG	This year. July?
DO	January, January
EG	And how long have you owned Andor News?

Signature of Officer Preparing Record: _____

Tape Times

	DO	Since 2008
	EG	Do you have any other experience in retail before you owned these businesses?
6.50	DO	I used to work in Andor News a long time ago.
	EG	Do you know when you started?
	DO	Oh 2006 something like that.
	EG	OK
7.00	DO	And I do (inaudible)
	EG	Ok. And what about in age restricted sales products like alcohol and cigarettes, how long have you been working selling those?
7.10	DO	Since 2006
	EG	So what are your responsibilities at the business, do you do all of the training at the ...
	DO	I do training and Alam also do training.
7.30	EG	OK. And do you actually sell at the store as well. Do you go to Andor News
	DO	I work weekends in Southampton.
	EG	OK.
	DO	I work weekends in Southampton, Saturday and Sunday
7.40	EG	OK. So how many hours is the Andor News open for?
	DO	Monday to Sunday from 6 to 11
	EG	Every day?
	DO	Yeah
	EG	OK
	EG	And so you only work weekends in Andor News?

Signature of Officer Preparing Record: _____

Tape Times

8.00	DO	I work weekends on my own but I'm in shop sometimes if I want to
	EG	OK and other days sometimes
	DO	Yes like that day you came to the shop I was in Southampton. I just went to Cash and Carry
		and when I came back they say you had been in the shop
	EG	Right. And you are a personal licence holder, is that correct
	DO	Yes
	EG	Are you a premises licence holder at the Andor News or is that ...
8.20	DO	No I'm not
	EG	And who is it?
	DO	Alam.
	EG	And who is the DPS
	DO	Alam
	LM	Why are you not the premises licence holder and the DPS
8.30	DO	Because I'm the premises licence holder in DABS Cash and Carry.
	LM	OK.
	DO	I can't do both together
	LM	You could, but ...
8.40	DO	But Alam is there, Alam is my manager
	LM	OK
	DO	And we have been working together for like 5 years, 6 years.
	LM	Yeah. How often is Alam at the store
8.50	DO	Alam is at the store every day

Signature of Officer Preparing Record: _____

Tape Times

LM	Is he?
DO	You are there Alam will go, you are not there Alam will stay there
EG	So it's either you, but Mr Alam wasn't there when I visited the shop on that day was he? Because you were there.
DO	Yeah, yeah because I am there, Alam is not there and me I went to Cash and Carry
EG	Right.
DO	To get some things.
EG	OK. OK. So what sort of training do you carry out, I mean do you know what type of training currently ...
9.30 DO	Well you see when first time when I spoke to the lady I said OK (inaudible) coming back to show you attention.
LM	Till prompt
DO	Yes till prompt
DO	Yeah, yeah, I have these two for a long time ago, everybody knows about the book
LM	Yeah, this is a refusals book you are referring to for the purposes of the tape.
9.50 DO	Yeah yeah if you sell underage or you ask for ID I know normally they didn't used to do before because nobody know what to put down, even asked on Friday I can't ask that name I can't ask them to do that.
LM	No.
10.00 DO	But now when I came back to Southampton and I spoke to Alam and I came to help him and he said to me you don't need to put their name
LM	No
10.10 DO	You don't need to put everything, just put white no ID, white male, black male, (inaudible) just put it

Signature of Officer Preparing Record: _____

TR4a
L/25a/90
TRI ww2 (10/96)

Tape Times

	down, that's it and since then we doing it. .
10.20 LM	Yes can we have a look at that record. We'll take a photocopy of that as well following the,
	following the interview.
EG	OK
LM	Hmm it's not been used very much has it? There's two entries there since April.
10.30 DO	Since when that happened.
LM	Yeah but it's not been used very frequently, I would have expected maybe a few more kids trying to buy alcohol or cigarettes, age restricted products.
10.40 DO	Yeah it's not every time they have to put it down. Even if someone (inaudible) suspicious put it down
LM	Yeah.
EG	Yeah. Everytime you refuse to sell you need to put it down to show us that you are taking action to stop underage sales.
DO	But if someone comes in every day, and he ask like 10 times I have to put it down?
EG	Yeah, yeah
LM	Put it down it's all good evidence that you are routinely refusing people, so yeah.
EG	It will show us that you know you are using it and that you are stopping sales.
11.10 DO	I only said today look which one came, I know it's underage put it down no ID. It's not every time if someone comes like put 24 years old
LM	Yeah
DO	Or 50 years old I know the difference it's not sustained, I can't put it down
LM	If they haven't got ID and you've
11.30 DO	If they come into my shop now I can't put it down

Signature of Officer Preparing Record: _____

TR4a
L/25a/90
TRi ww2 (10/96)

Tape Times

LM	It's, it's a refusals book and it's just a record to record all refused sales. It's as simple as that.
DO	OK.
11.40 LM	So. While we're on the subject of training have you got records of the training that you have given to Staff? Have you recorded that you have trained them on such and such a date?
EG	Have you kept a file?
DO	No
11.50 LM	No, OK. I would recommend that you do because I mean all we have got is your word basically that you have trained staff
DO	What I have to write it down that I have trained them
LM	Yeah. On such and such a date and they sign it as well.
12.00 DO	OK. (inaudible) They can't deny. They have said to me if there is any problem they can come to court. I have said no, this is what we are doing, this is what we are doing. We ask for ID. They are ready to (inaudible) come to interview. I said it's not necessary. They want to come to interview with me, I said it's not necessary
12.20 LM	How many employees have you got for the store.
DO	Three
LM	Three, are they all Polish?
DO	Erm, yes, two Polish, three Polish and Alam is English
LM	OK
EG	And how is their English?
12.30 DO	They have been to school like two years, three. They know what they are doing.
EG	They can speak English, to ask, they can ask for ID?
DO	Yeah

Signature of Officer Preparing Record: _____

Tape Times

EG	They can say that.
DO	Yeah
LM	And you are able to train them?
12.40 DO	Yeah.
LM	Yeah.
DO	I have trained them before. I have trained them. The only thing is I don't write it down but I have trained them. When someone comes to the shop you should ask for ID and when they scan it will pop on the table.
13.00 LM	Do you use any training material at all, any sort of written material or, I know we have provided information to you before.
DO	I have before that, the one before that that is, I give to them they read everything
LM	Yeah.
DO	Training material like what?
13.10 LM	Oh we've got a CD Rom which has been provided.
DO	Yeah, yeah I have seen in the shop, yeah.
LM	Yeah. But is that used for your staff for training?
DO	Yeah, they check it. I put on my computer, I put on my computer in the shop and they check it and I give to Alam. Alam show them. Alam show them.
13.20 EG	So does Alam train them as well?
DO	Yeah Alam train them as well.
EG	OK
DO	I never have any problem, even if I am not around they have to call Alam first.

Signature of Officer Preparing Record: _____

Tape Times

EG	Right OK, so when does the training take place? Is it regular or ...
13.40 DO	No I only train them like twice, I can't train them every day.
LM	No. we don't, there is no expectations to train them every day. I mean that would be too much, but I mean it is a good idea to sort of you know just retrain them maybe every six months
13.50 DO	When you came to my shop that day, the second day I train them again I show them look this happen again I don't want to close my shop. You want me to close my shop I close it I take myself and go to London. Because Southampton I don't like, it's too much headache for me, it's too much headache. Every single day people come into my shop, every single day they saying sorry, that's why I'm very, very annoyed, I'm very, very annoyed. If they don't want me to do business in Southampton any more I close the door, fair enough I take myself to London.
14.30 EG	Well if you train them every few months just to remind them and then it keeps it fresh in their minds.
DO	But I haven't ... in London Trading Standards come once not every day
LM	We don't come every day as I have already explained to you
DO	In London Trading Standards come my shop once and they check everything, they can even check cctv. And the girl she said she told you to check cctv but she don't want to do that. She told you to check cctv that day. She told the policeman and you to check cctv but nobody want to check it. In London if Trading Standards came to my shop OK you sell something to underage can you check the cctv To prove it what I .. straightaway they would do it on the spot
15.00	check the cctv To prove it what I .. straightaway they would do it on the spot
LM	Yeah
15.10 DO	But in Southampton just, I think everybody is backward that's what it probably is. I have to ... every single day people go to shop in Southampton I don't know why, what are they they're either jealous
LM	Well we certainly don't

Signature of Officer Preparing Record: _____

Tape Times

15.20 DO	I know you don't, I know you don't, I know you don't. I even ask my friend, you know I have like two friends in Portswood Road, nobody go to that shop.
LM	We, as I say we do visit all the shops that sell alcohol and age restricted products and we did make 10, er 8, 16 test purchases on that evening.
15.40 DO	That's why I'm now I'm changing I'm changing my shop to Londis
LM	Yeah
DO	I'll tell you why (inaudible) I'm changing to proper shop, (inaudible) proper name where everybody be scared to come
15.50 EG	It will still, we will still do test purchases.
LM	Oh yeah, yeah. If it's still the same ownership, I mean that's what concerns us that we've
DO	I'm changing the name
16.00 LM	Well changing the name doesn't, makes no difference at all does it?
DO	I'm changing the name. No, I'm joining Londis, Londis is a proper company
LM	You'll still be a sole owner though won't you, you'll just be trading as Londis
DO	Yeah, yeah I'm still a sole owner, yes
LM	Yeah so it's no different not really
DO	I can get rid of the staff (inaudible) apply for another licence, because if Londis take over, Londis would take over everything that's what they said to me, they would take over everything I don't
	A need to do any headache any more.
16.30 LM	OK, OK.
DO	And I'm doing that next month
16.40 EG	OK, so do you have the policy in place at all for checking their ID, I mean what age do you say?
DO	I have 21 for alcohol and I have 18 for cigarette

Signature of Officer Preparing Record: _____

Tape Times

16.50 LM	Sorry, Challenge 21 is that?
DO	I have Challenge 25 on my door
EG	Right
DO	18 for cigarette
EG	Right
17.00 LM	OK so can you explain your policy regarding, do you have a Challenge, what we call a Challenge
	25 policy, that's where anyone who looks under the age of 25 ...
DO	25 yes, ask for ID, yes
LM	... you ask for ID
DO	Yes
LM	You mention 21 for alcohol though
17.10 DO	No, no that's London sorry. That's London in Southampton it's 25, because my area is a student
	area
EG	Yeah
DO	So I have Challenge 25 for alcohol and 18 for cigarettes
17.20 LM	Yeah
EG	OK and what sort of ID do you check? Do you check ...
DO	Driving licences and passport
EG	OK
DO	They have to take driving licences and passport. Any other ID I don't take it.
17.30 LM	Yes, good.
EG	OK and notices, I didn't see any, have you got any notices up? There was only one on the cigarettes...

Signature of Officer Preparing Record: _____

Tape Times

DO	Yes by the door
EG	On the door
DO	Challenge 21 is there from day one
EG	OK
DO	And by the one on top of the cigarette
EG	Oh yes
DO	And by the one in front of the counter
17.50 EG	Right. And what about the cctv where is that positioned
DO	The cctv does, you can never know
EG	No but I mean what can it see when you look
18.00 DO	Everybody you can see everybody in the shop
EG	Every part of the shop you can see?
DO	I see where you come in, I see where you caught Karolina. I see where you go back, at back of the shop
EG	The counter?
DO	The counter, everything
EG	Yeah
18.10 DO	I saw where you come in, I saw the policeman, I saw where you take Karolina, you take her to back of the shop
EG	Yes out of the way
DO	I saw everything, I saw where the policeman stand like this on the note. The cctv cover every single corner of the shop

Signature of Officer Preparing Record: _____

Tape Times

EG	OK. So you say you trained again, just Karolina did you train again?
----	--

18.30 DO	All of them – Karolina, Jack and Martin.
LM	You are only at the shop at the weekends so you say.
DO	No, no I work weekends
LM	OK
DO	In Southampton if I want like since that day I don't go back to London (inaudible) Southampton.
LM	Yes. Do you ever, while you have been away, do you ever check the cctv when you get back?
18.50 DO	I only check the cctv every weekends
LM	Just to see that staff are doing what they should be doing, you know refusing sales to kids, that kind of thing. Do you ever check it for that?
DO	I check cctv whenever they start nicking my money
19.00 LM	Oh right so you want to check whether staff are, so it sounds like you don't particularly trust your Staff. Is that the case?
DO	I trust them, I don't say I didn't trust them but I have to check cctv to see what's going on
LM	Ok so that's your main sort of ...
DO	They have been working for me for almost a year and a half now and that's nothing's happened.
LM	Yeah
DO	I check cctv whenever I am working or when something's gone missing, something like that.
LM	OK I understand. Do you every use it though for sort of checking whether they are sort of refusing kids or selling alcohol to kids.
19.30 DO	No, no
LM	No, OK

Signature of Officer Preparing Record: _____

Tape Times

DO	No no I don't check like that.
LM	OK. With the refusals register do you ever check that to see that sort of staff are regularly using it?

DO	Yes
19.40 LM	Because they haven't been regularly using it I mean if ...
DO	I used it once you see a lot of people.
LM	Yeah. Oh that's you David there is it yeah.
DO	I work like about until last Saturday when the football before football starts
19.50 LM	Yeah.
DO	Before football starts last one so I (inaudible)
LM	OK because there's two entries here, one for 22 April which is signed by Jack, that's one of your Polish ...
20.00 DO	Yes Jack, yes Jack work in the morning.
LM	OK and one which is signed by yourself, that's relating to alcohol that's on 3 June so I think you mentioned it's a student area and that means that you are going to be challenging a lot of people regarding their age.
DO	(inaudible) there are a lot under age.
20.20 LM	Occasionally they are not going to have their ID so I would expect maybe a sort of few more well a lot more in
DO	I tell her every day you refuse put in the book
EG	Every day you refuse put it in.
20.30 LM	And I would also say that when, well Elaine is probably better speaking about this than me but when you looked after the refusals book the staff didn't know what you were talking about so
EG	No they didn't know, no. I did ask for a refusals book.

Signature of Officer Preparing Record: _____

Tape Times

DO	Because she's annoyed.
----	------------------------

EG	Well that's ...
LM	Sorry
DO	Because she's annoyed.
LM	She's annoyed?
DO	Yeah
EG	She didn't look annoyed, she looked upset.
DO	Yeah she's upset, that's what I'm saying she's upset.
LM	Yeah.
20.50 DO	Because she don't want to speak to, because what she haven't done because they accuse her for what she haven't done.
LM	Yeah.
DO	That's why she upset for.
LM	Yeah but there were other staff there as well weren't there?
EG	There was about five people around the counter
LM	Yeah
DO	Well Martin and Karolina, they are allowed friends. The other people they are friends.
EG	Right so they weren't staff?
DO	No, no they're not staff.
EG	OK
DO	I saw them.
LM	Was she the only member of ... sorry

Signature of Officer Preparing Record: _____

Tape Times

EG	One of the, there was one male
DO	One male is the only ...

21.10 EG	Behind the counter
DO	Yes that's Martin
EG	Is he an employee?
DO	Yeah, yeah that's Martin
EG	Yes OK
LM	But he wouldn't know where the, he didn't know where the refusals book was
EG	He didn't know where the refusals book was either
DO	Because you didn't ask him?
21.20 EG	We did yes
DO	You asked Martin?
EG	We asked Martin yes. We went up to the counter after speaking to Karolina, erm because we didn't think she understood so we asked behind the counter which was Martin and erm he said ...
21.30 DO	And when I came back they said they are very, very upset and annoyed, because they are accused for what they haven't done
LM	What they have done
EG	They have done.
DO	That's why, that's why she didn't want to take the ticket.
LM	Yeah
21.50 EG	I explained that I witnessed it and she still didn't seem to understand so that was the reason for not issuing a PND.

Signature of Officer Preparing Record: _____

Tape Times

LM	You said that she can sort of .. what's the name of that seller
DO	Karolina
EG	The seller, Karolina

22.00 LM	Karolina – that she can speak English. Is that what you said?
DO	She's in college in Southampton. She's at (inaudible)
LM	What's she studying?
DO	She's studying English.
LM	She's studying English, OK so she was pretending basically that she couldn't because she didn't want the £80 on the spot fine?
DO	Because she was upset, because she was upset. Yeah because she was upset.
LM	I mean you have already mentioned that you checked the cctv to see if they're stealing. They've obviously lied, well this lady's lied to us that she can't speak English. Are they the kind of staff that you can trust to do the job properly do you think?
DO	There is some that are Polish, Jack and Karolina.
22.30 LM	Yeah.
DO	The girl and the other boy but Jack works only in the morning
LM	Yeah.
DO	And Karolina and Martin work in here every day
LM	You say you can trust Karolina even though she is clearly a liar?
DO	100%, 100%. She doesn't lie
LM	Well she has to us hasn't she?
DO	Like what?
LM	Well she said she didn't speak English

Signature of Officer Preparing Record: _____

Tape Times

22.50 DO	She didn't speak English, she didn't say that
EG	She didn't say that no, she didn't say anything.

DO	She only pretend because she was upset
23.00 EG	She said that she didn't know about the refusals book. She definitely said that
DO	The refusals book is in front of the like counter
LM	Right OK
23.10 DO	By the counter like this you know when they (inaudible) the refusals book is there.
EG	I think the male, the male behind seemed to understand because he said yeah we'll use it next time. he said so ... he knew.
DO	What I am upset about is, I don't upset about Trading Standards, what I am upset about is that people came to my shop every day, they say that we are taking you for selling cigarettes for under age (inaudible) cigarettes, cigarettes, cigarettes, cigarettes and they are not Trading Standards, that's why I am very, very upset about. Why my shop, why?
23.50 LM	We can't answer that because it's not us. We only come to your shop because we have had problems with it, we see it as a risk regarding the sale of alcohol to children and quite rightly we visit the shop
24.00 DO	But why, (inaudible) why there's nobody of that age, 15 years old who came to my shop with confident to buy alcohol if we didn't follow that
24.10 LM	Sorry
DO	Nobody would come to that shop and he she know she is 15 years old and feels confident to go get alcohol from my shop, nobody.
EG	But that doesn't matter ...

Signature of Officer Preparing Record: _____

Tape Times

24.20 DO	Because you give them confidence to inside the shop to buy the alcohol
EG	And you should then be able to refuse that sale ..
LM	Yeah

EG	.. that's why we do it
24.30 LM	That's all we ask most of the shops as I have already told you, 16 shops we visited, only 2 sold yourself and another one. Most of the shops obviously were, er realized that she was under the age, she was only 15. There's no way that 15 year olds should be sold alcohol. You've got a Challenge 25 Policy, a Challenge 21 Policy. She certainly doesn't look 21 so obviously that policy is
25.00	not being put into practice is it? By your staff. I mean you are looking at the photo there of the volunteer erm, what were your impressions of her in terms of appearance whether she looks old enough to buy alcohol or not.
DO	Yes
LM	You think she does look old enough to buy alcohol?
DO	Yes
LM	Well that concerns me even more because we've had
DO	Yes she looks old, she doesn't look older. I'd ask for ID
25.20 EG	Well you've got the 25 policy in place?
DO	Yeah I only ask for ID
LM	You would ask for ID
DO	(inaudible) ... well I would ask for it I would only ask for ID because I know it's student area
25.30 LM	Yeah
DO	I don't trust anybody

Signature of Officer Preparing Record: _____

Tape Times

LM	Yeah
DO	I don't trust every single customer came to my shop because mostly they are student
LM	Yeah

25.40 DO	I would only ask them for their ID. If they show me ID fair enough. If she looked 25, if she looked 10, if she looked 50 I always ask for ID that's my own
LM	Do you think she should have been er...
DO	If she come to, if you are in front of me I will ask her for ID
25.50 LM	Yeah
DO	If she was in front of me I would ask her for ID
LM	Yeah but do you think it right for your member of staff Karolina whatever her name was to sell alcohol to her
26.00 DO	I don't say it's right, it's up to her.
LM	It's up to her?
EG	But it's your business at risk, she's put your business at risk.
26.10 DO	Yeah that mean she doesn't get, she can't get done for it , she gonna get done for it on my own site. Because when I go back to the shop now I say look Karolina if I consider a picture, if I consider this picture on my cctv I have told her if I can find that picture on my cctv she will be out of the door.
LM	OK
DO	She know that
LM	Yeah
26.30 DO	Because I have told them before when this thing happened in first place, if it happen again SSSSS The person does it out of my door because I don't want to lose my licence
LM	Yeah

Signature of Officer Preparing Record: _____

Tape Times

DO	If I can't find the cctv, the picture on my cctv today they are waiting for me in the shop now to come back from interview she will be out of my door.
----	--

LM	OK what have you done to prevent this happening in future?
26.50 DO	I have done it I have do this scan, they have to scan the beer when they scan the beer will show the age restriction
EG	Is that new?
DO	Yeah that's new, the tills new
27.00 LM	OK, does that work on alcohol and cigarettes
DO	Alcohol and cigarettes only
LM	All age restricted products
DO	And the official book now I would tell them they have to put in every day the official one (inaudible) very important
LM	I wouldn't say every day, I mean I don't want them to make up entries but just routinely use it
27.20 DO	No, no not making up I just tell them when you see someone please, please can you put it in the book
LM	And check it, check that they are doing that.
DO	Yeah, yeah
27.30 LM	OK
EG	OK do you want anything to be clarified, do you understand everything we have gone through?
DO	Yes
EG	OK. And do you want to say anything else?
27.40 DO	No

Signature of Officer Preparing Record: _____

Tape Times

EG	OK, I now give you a notice that explains the tape recording procedure, together with a form that
27.50	I would ask you to complete regarding the supply of the copies of the tapes. The time is 10.45
	And I am now turning off the tape.

Signature of Officer Preparing Record:

TR4a
L/25a/90
TRI ww2 (10/96)

Agenda Item 7



Reference: 2010/02212/01SRAP

Hearing:

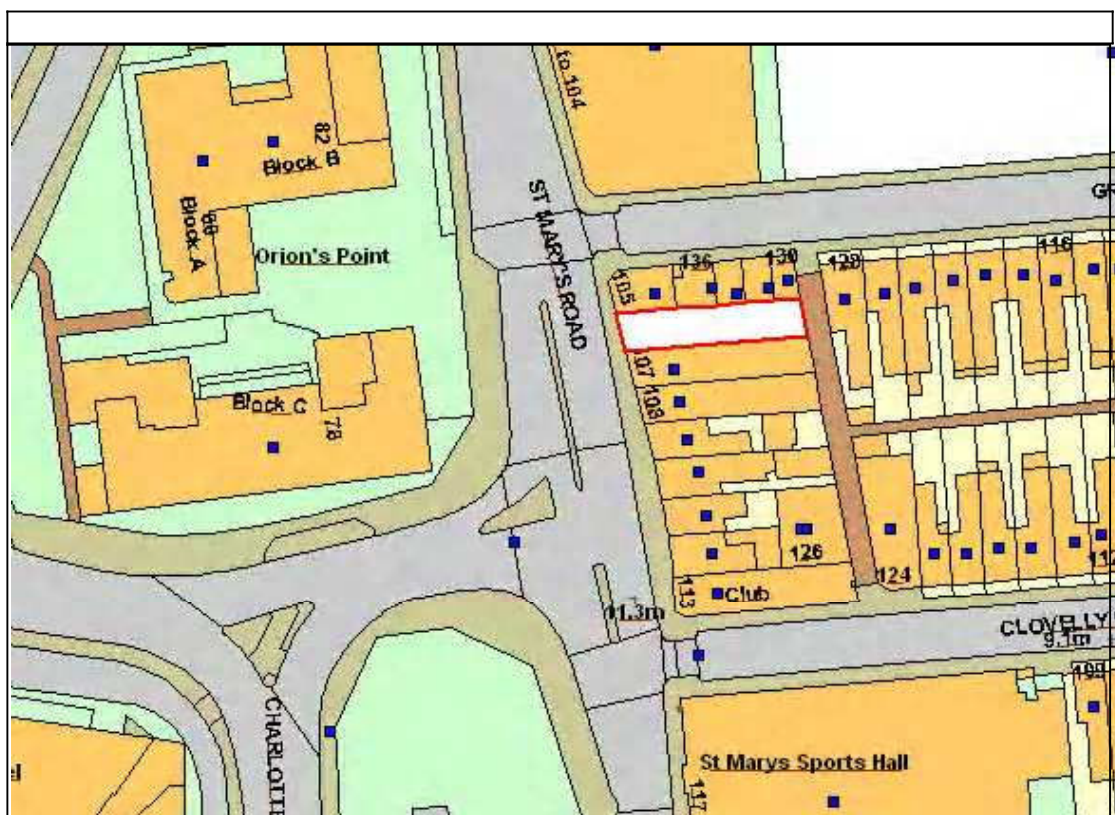
6th January 2011

Application for Review of Premises Licence

Premises Name: Pound Xtra
 Premises Address: 106 St. Marys Road
 Southampton
 SO14 0AN

Application Date: 12th November 2010
 Application Received Date: 12th November 2010

Application Valid Date: 12th November 2010



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Representation From Responsible Authorities

Responsible Authority	Satisfactory?	Comments
Child Protection Services - Licensing	No Response Received	

Hampshire Fire And Rescue - Licensing	No Response Received	
Environmental Health - Licensing	No Response Received	
Planning & Sustainability - Building Control - Licensing	No Response Received	
Planning & Sustainability - Development Control - Licensing	No Response Received	
Hampshire Constabulary - Licensing	No Response Received	
Trading Standards - Licensing	No	

Other Representations

Name	Address	Contributor Type
None		

Legal Implications

1. The Licensing Act 2003 specifically restricts the grounds on which the Council, as Licensing Authority (LA), may refuse an application for a new Premises Licence, or impose conditions. Where relevant representations are made, the LA may refuse on the grounds that the licensing objectives are not met or the operating schedule is inadequate. Equally, conditions may be imposed where relevant and necessary. The LA may also refuse an application in part and thereby only permit some of the licensable activities sought.
2. The decision making committee, in considering an application, must have regard to the adopted Statement of Licensing Policy and any relevant representations made by those directly affected.
3. An applicant for a new Premises Licence whose application has been refused, or who is aggrieved by conditions imposed, may appeal against the decision to the Magistrates' Court.
4. In considering this application the committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the committee must make its

The committee must also have regard to:-

5. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

6. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another persons Human Rights must be taken having regard to the principle of Proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

SOUTHAMPTON CITY COUNCIL

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Southampton City Council Trading Standards Service

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Pound Xtra, 106 St. Marys Road, Southampton, SO14 0AN	
Post town Southampton	Post code (if known) SO14 0AN

Name of premises licence holder or club holding club premises certificate (if known) Sara Desta Woldemichael
--

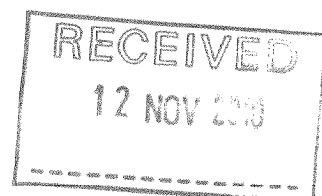
Number of premises licence or club premises certificate (if known) 2009/00141/01SPRN
--

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises



- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) 02380 834930
E-mail address (optional) lucas.marshall@southampton.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The Prevention of Crime and Disorder
Public Safety
Protection of children from harm

On 27th July 2010 a complaint was received by Southampton City Council Trading Standards Service alleging that counterfeit Smirnoff Vodka was being sold at Pound Xtra, 106 St Marys Rd, Southampton. The complainant claimed that the Smirnoff Vodka which he had purchased from Pound Xtra had made him ill.

Counterfeit vodka has increasingly been found by Trading Standards Officers around the UK. It is often produced from industrial alcohol which is imported into the country. It is diluted and packed in bottles which are copies of a variety of brands, including Smirnoff. Clearly controls over the quality of the product are not as strict as would be found at a distillery producing the genuine product, and issues have been reported regarding excessive levels of methanol being present, which is poisonous.

On 27th July 2010 an inspection of Pound Xtra was made by a Trading Standards Officer, and samples of Smirnoff Vodka and Marlboro cigarettes were taken from the premises. These were later examined and confirmed as being counterfeit.

Paragraph 11.26 of the October 2010 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 states that "there is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously." Which includes "the use of the licensed premises for the sale of smuggled tobacco and alcohol". Counterfeit cigarettes usually originate in China, and are smuggled into the UK. It is also highly unlikely that duty would have been paid on the Smirnoff vodka.

It is considered that the holder of the premises licence has not fulfilled the duty under the Licensing Act 2003 to prevent crime and to protect public safety. We are therefore applying to review the licence.

In the supporting information we give more details and state the conditions we would wish to see added to the licence in order to promote the above licensing objectives.

Please provide as much information as possible to support the application

(please read guidance note 2)

On 27th July 2010 a Mr Joseph Kelly contacted Southampton Trading Service regarding Pound Xtra, 106 St Marys Road, Southampton. He claimed that he had purchased a 70cl bottle of Smirnoff Vodka there on the 26th July 2010. He drank a quantity of the vodka that evening, which had caused symptoms including vomiting and blurred vision, which he said that he would not usually suffer, and he believed that the vodka was counterfeit (see statement of Joseph Kelly).

On 27th July I visited Pound Xtra. I spoke to Aklilu Alem. He is a partner in the business with his wife Sara Desta Woldemichael, who is the Premise Licence Holder and the Designated Premises Supervisor. Mr Alem claimed that his wife is only at the store a couple of times a week, as she looks after their child. Mr Alem is usually present at the store.

Using guidance produced by Diageo, the manufacturer of Smirnoff Vodka, I examined Smirnoff which was displayed for sale behind the counter and identified some which was likely to be counterfeit. I took samples which included 4 x 70cl bottles of Smirnoff Vodka (sample ref 012085 and exhibit LM/1). Mr Alem claimed that he had obtained the Smirnoff and other vodka from a man who had visited his premises in a van, and whom he had no previous dealings with. Mr Alem said he believed the man was from London. He said that he had not paid for the delivery and that the man had told him that he would return to receive payment. He produced a delivery note (exhibit LM/2) which he claimed was for the Smirnoff, however Smirnoff is not one of the products listed on the note.

Whilst searching behind the counter in the store I found a black bin bag containing 72 packs of 20 Marlboro Cigarettes (exhibits LM/3 and LM/4). The packaging didn't look genuine, so I seized them. Mr Alem claimed that the cigarettes were not intended for sale: he said that he was given them to store by a man who he knows as Harvey on the previous evening. I requested to see the CCTV footage of Harvey delivering the cigarettes, and Harvey's telephone number, on this and subsequent occasions, however, despite stating that he would do so, Mr Alem has not provided this information.

On 28th July 2010 I revisited Pound Xtra and found another 70cl bottle of Smirnoff Vodka which appeared to be counterfeit. I took this as a sample (exhibit LM/5). I also visited the complainant, Mr Kelly, and took the remainder of his vodka as a sample (reference CS009275).

Sample reference 012085 and the complainant's sample were submitted to Hampshire Scientific Services, the Public Analyst, and confirmed as being counterfeit (Certificates of Analysis exhibits LM/6 and LM/7). The markings on the 3 remaining bottles (exhibits LM/1 and LM/5) indicate that these are also counterfeit.

A sample of the Marlboro Cigarettes (LM/4) was submitted to Robert Fenton, Security Liaison Manager at the Tobacco Manufacturers Association. He confirmed that they were counterfeit (see statement of Robert Fenton).

Incidents of poisoning following consumption of counterfeit vodka have been reported occurring across the UK. It is not acceptable that a premises licenced by this Authority should become a market place for counterfeit goods. I would therefore request that the following conditions are imposed on the premises licence to promote the licensing objectives:

- "A CCTV system shall be installed and maintained in the licensed premises to the satisfaction of the Licensing Authority, Hampshire Constabulary and Trading Standards. As a minimum, it shall enable surveillance of both external and internal areas of the premises including entrances and exits. Recordings from the system shall be of a quality acceptable as evidence in a court of law and shall be securely retained at the licensed premises for a minimum period of 30 days after the recording, and shall be surrendered to Hampshire Constabulary, the Licensing Authority, or Trading Standards immediately on request. The Premises Licence Holder and staff must be capable of operating the CCTV system".

- "The Premises Licence Holder must keep complete records, such as invoices, receipts and delivery notes, relating to alcohol and cigarettes obtained by him for sale from his shop. Records must include the name, address and telephone number of the supplier, the date of supply, the products supplied, and their prices. Where items have been delivered to his shop from a vehicle details of the vehicle registration, the name of the delivery person and contact details including the name, address and telephone number for the business must be kept. These details must be available on request to Responsible Authorities within 24 hours. The Premises Licence Holder must be able to identify who supplied alcohol and cigarettes present at his premises "

Mr Alem has previously received a Simple Caution regarding the sale of alcohol to a 15 year old girl which occurred at Pound Xtra on 19th January 2010 so I would also request that the following conditions are imposed on the premises licence so as to assist the licence holder and designated premises supervisor in the effective management of the premises and to promote the licensing objectives.

- "The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Notices regarding the store's "Challenge 25" policy must be displayed"

- "All staff who sell alcohol will be trained to NCPLH (National Certificate of Personal Licence Holder) level. All sales of alcohol must be directly supervised and authorised by a Personal Licence Holder until such staff have achieved training to NCPLH level."

- "That staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records, signed and dated by the member of staff, are kept of this refresher training. Records of training will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other Responsible Authorities on request."

- "The holder of the premises licence shall keep a written record, namely a refusals book, of those incidents where a person who a member of staff believes to be under the age of 18, and is unable to produce acceptable means of identification proving that they are of 18 years or more, attempts to purchase alcohol and is refused. The record shall include details, in English, of the date, time, a brief description, including estimated age, of the person who attempted to purchase the alcohol, the type of alcohol and the name of the person who refused the sale. Staff shall be trained in the use of the refusals book and it should be kept in a readily accessible place known by all members of staff. The record will be regularly checked by the premises licence holder or the designated premises supervisor to ensure that all staff are completing records and, and this person will sign and date the record as evidence that they have

checked it. The refusals book will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other relevant authorities on request."

- I would also ask that the licence is suspended for a period of 3 months, both as a deterrent and to give the Premises Licence Holder a period of time in which to put the above conditions into effect.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

..... 12/11/10

Capacity Trading Standards Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Rd	
Post town Southampton	Post Code SO14 7LY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) lucas.marshall@southampton.gov.uk	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.
6. See separate guidance for responsible authorities' details.

TRADING STANDARDS SERVICE WITNESS STATEMENT

(C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2005 (Rule 27.1(1))

STATEMENT OF: **LUCAS MARSHALL**

AGE IF UNDER 18: **OVER 18**

This statement (consisting of 2 page(s) each 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.

Dated the 5 day of Nov 2010

Signature:

..... being unable to read the statement,

I of

.....read it to him/her before he/she signed it.

Dated the day of

Signature:

A My name is Lucas Marshall. I am employed by Southampton City Council as a Trading
Standards Officer. On 27 July 2010 I received a complaint from a member of the public, namely
B Joseph Kelly, alleging that he had purchased Smirnoff Vodka which he believed to be
counterfeit, from Pound Xtra, 106 St Marys Road, Southampton. That day, at approximately
10.05 am, I visited the store. I spoke to a person who I know as one of the partners in the
C business, Aklilu Alem, and told him about the complaint. I examined bottles of Smirnoff Vodka,
which were displayed for sale behind the shop counter. Referring to a document produced by
Diageo, the manufacturer Smirnoff, four 70 cl bottles of Smirnoff appeared to be counterfeit. I
D took one of these bottles as a sample, reference 012085 and seized the remaining 3 bottles,
which I produce as Exhibit LM/1. At approximately 10:26 I cautioned Aklilu Alem. I asked him
where he had got the Smirnoff Vodka from. Mr Alem claimed that he had obtained the Smirnoff
and other vodka from a man who had visited his premises in a van, and whom he had no
E previous dealings with. Mr Alem said he believed the man was from London. He said that he
had not paid for the delivery and that the man had told him that he would return to receive

ST1(1)HQ

Signature:



INVESTOR IN PEOPLE

PAGE NO: 2 CONTINUATION OF STATEMENT DATED: 5th November 2010

BY: LUCAS MARSHALL

A payment. He produced a receipt which he claimed was for the Smirnoff. I seized the receipt and produce it as Exhibit LM/2. Whilst searching behind the counter in the shop I found a black bin bag containing 72 packs of 20 Marlboro cigarettes. The packaging didn't look genuine, so I seized them. I produce 71 packs of the cigarettes as Exhibit LM/3 and one packet of 20
B Marlboro cigarettes as Exhibits LM/4, the latter of which was sealed in a plastic bag using a seal numbered BA50402 and subsequently submitted to Robert Fenton, Security Liaison Manager at the Tobacco Manufacturers Association, for examination. Mr Alem claimed that the cigarettes were not intended for sale: he said that he was given them to store by a man who he knows as
C Harvey on the previous evening. I requested to see the CCTV footage of Harvey delivering the cigarettes, and Harvey's telephone number, on this and subsequent occasions, however, despite stating that he would do so, Mr Alem has not yet provided this information. On 28 July
D 2010 I revisited Pound Xtra and found another 70 cl bottle of Smirnoff Vodka which appeared to be counterfeit. I seized the bottle and produce this as Exhibit LM/5. That day I also visited the complainant, Mr Kelly and took the remainder of his vodka as a sample, reference CS009275. On 30 July 2010 I submitted the sample, reference 012085, the 70 cl bottle of Smirnoff Vodka and the complainant's sample, reference CS009275, to Hampshire Scientific Services, the
E Public Analyst. On 27 September 2010 I received the results of analysis from the Public Analyst, which confirmed that samples 012085 and CS009275 were not genuine Smirnoff Vodka. I produce the Certificates of Analysis as Exhibits LM/6 and LM/7. The markings on the remaining bottles, Exhibits LM/1 and LM/5 indicated that these were also counterfeit.

F Signature:
.....

G

ST1(2)HQ

TRADING STANDARDS SERVICE WITNESS STATEMENT

(C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2005 (Rule 27.1(1))

STATEMENT OF: **JOSEPH KELLY**

AGE IF UNDER 18: **OVER 18**

This statement (consisting of 1 page(s) each 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

Dated the 21st day of Oct 2010 Sig

..... being unable to read the statement,
I of
..... read it to him/her before he/she signed it.

Dated the day of Signature:

- A My name is Joseph Kelly. On the evening of 26 July 2010 I went to Pound Xtra, a shop at 106 St Marys Road, Southampton. Behind the counter, displayed for sale, were 70 cl bottles of Smirnoff Vodka. They were priced at £11.99. The person working behind the counter was
- B black, tall and appeared to be about 30 years old. I asked him for a bottle of the Smirnoff vodka. He gave one to me, but let me have it for £10. That evening I drank about a quarter of the bottle of vodka. I would not normally have suffered any ill effects from drinking this much vodka,
- C however later that evening I started vomiting and I felt hot, restless and shaky and my vision was blurred. I put the remaining vodka in my fridge and the next day I contacted Southampton Trading Standards, as I believed that the vodka may be counterfeit. On 28 July Trading
- D Standards Officer, Lucas Marshall visited me and took my remaining vodka as a sample.

Signature:


E

ST1(1)HQ



INVESTOR IN PEOPLE

Witness Statement

(CJ Act 1967, s.9 MC Act 1980, s.s.5A (3a) and 5B MC Rules 1981, r.70)

Statement of **Robert Fenton QGM**

Age if under 18 **Over** (if over 18 insert "over 18"). Occupation **Security Liaison Mngare**

This statement (consisting of **1** page(s) each 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.

Dated the **30th day of July 2010**

Tick if witness evidence is visually recorded
(supply witness details on rear)

Sig: _____

I am employed by the Tobacco Manufactures@ Association as The Security Liaison Manager and have been so since November 1997. Part of my work is to act as the liaison point for the various enforcement agencies on tobacco related matters and to assist them identify tobacco products. Today I received in the post a pack of Marlboro Gold cigarettes. They were sealed in a tamper proof bag seal number BA50402. I have examined the packet on an electronic reader and it shown them to be not recognised. I have also opened up the packet and discovered that they were in fact hand packed probably from China. I also note that the tear strip on the packet said that they were Exclusive for Duty Free sale and yet the packet itself showed the UK fiscal mark as a duty paid product. There is absolutely no doubt that they are a counterfeit product. The brand owners are Phillip Morris International. After examination I resealed them together with the original seal and bag in a tamper proof bag with seal number BA50147

Signature

Signature witnessed by



Trading Standards Service

Incident reference
10/01328/FOODST

Exhibit reference
LM/1

Description of article
3 x 70cl SMIRNOFF
BOTTLES

Signature of person originally identifying

Name of person originally identifying (block letters)
LUCAS MARSHALL

EH.126 07.10.22561

SUN. CASH CARY
 WEST LOTHIAN
 EMSY 7.00
~~XXXXXXXXXX~~
 DELIVERY NOTE
 16 06 2010
 POUND XTRA
 106 ST MART ROAD
 SO 14 OAN
 SOUTHAMPTON

Date	Description	Amount
4	CASE AROS VOTEK 3999 197.50 VAT.	159 96 27 98
<div style="border: 1px solid black; width: 100%; height: 100%; transform: rotate(45deg); position: relative;"> <div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; display: flex; align-items: center; justify-content: center;"> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">NO. PAID PROPO INVOICE COMING AFTER PAID. 2</p> </div> </div>		
Total		187 94



Trading Standards Service

Incident reference
 10/01328/FOODIT

Exhibit reference
 LM/2

Description of article
 RECEIPT DELIVERY NOTE

Signature of person originally identifying

Name of person originally identifying (block letters)
 LUCAS MARSHALL



Trading Standards Service

Incident reference

10/01328/FOODS

Exhibit reference

LM/3

Description of article

71 X PACKS OF
20 MARLBORO CIGARETTES

Signature of person originally identifying

—

Name of person originally identifying (block letters)

LUCAS MARSHALL

EH.126 07.10.22561



Trading Standards Service

Incident reference

10/01328/F005T

Exhibit reference

LM/4

Description of article

1 X PACKET OF 20
MARLBORO CIGARETTES

Signature of person originally identifying

Name of person originally identifying (block letters)

LUCAS MARSHALL

EH.126 07.10.22561



Trading Standards Service

Incident reference

10/01328/FOODST

Exhibit reference

LM/5

Description of article

1 X 70cl BOTTLE OF

SMIRNOFF VODKA

Signature of person originally identifying

Name of person originally identifying (block letters)

LUCAS MARSHALL



RECEIVED 01 OCT 2010

FOOD SAFETY ACT 1990

CERTIFICATE OF ANALYSIS OR EXAMINATION CARRIED OUT UNDER FOOD SAFETY (SAMPLING AND QUALIFICATIONS) REGULATIONS 1990

To: L Marshall
Southampton City Council, Civic Centre,
Southampton, Hampshire, SO14 7LY

I, the undersigned, Public Analyst for Southampton City Council, certify that on 30/07/2010 the sample marked:

<u>Date sample taken</u>	<u>Reference number, description etc.</u>	<u>Weight/measure</u>
27/07/2010	012085	710ml
1120	1 X 70CL BOTTLE SMIRNOFF VODKA 1L 37.5%	

Place of Sampling: POUND XTRA, 106 ST MARYS RD, SOUTHAMPTON

was received by me from you (the person named above)

I certify that the sample was analysed by me or under my direction and the results are as follows:-

Alcohol % v/v	:	38.9
Fructose mg/l	:	< 2.0
Glucose mg/l	:	538
Sucrose mg/l	:	64.0
Methanol g/100L alc	:	0.00

My opinion and observations are:-

The declared alcoholic strength was 37.5 % volume.

The uncertainty of measurement is 0.4% alcohol by volume.

The difference between the amount of alcohol found and the amount declared taking into account the uncertainty of measurement was 1% by volume. This difference is outside the permitted tolerance of 0.3% alcohol by volume prescribed in The Food Labelling Regulations 1996 for vodka.

The sample had an alcohol content of 0.7% volume more than the maximum permitted.

In my opinion, "Smirnoff" brand vodka contains the sugars fructose, glucose and sucrose (typically 30 mg/l fructose, 30 mg/l glucose, 45 mg/l sucrose).


These sugars were not detected at these levels in the sample and I am therefore of the opinion that the sample was not genuine "Smirnoff" brand vodka as retailed in the United Kingdom.

The UK duty stamp on a Smirnoff brand vodka label fluoresces at a wavelength of 365nm.

The UK duty stamp did not fluoresce.

I further certify that the sample had undergone no change which would affect my results, opinion or observations.

Certified by me this 24th day of September 2010, at Southsea

Signature: 

Name: SHAYNE DYER
PUBLIC ANALYST

Official address/Telephone No: As Letterhead

Unless you request otherwise this specimen will be disposed of 28 days from the date of this report.



Trading Standards Service

Incident reference

10/01328/FOODST

Exhibit reference

LM/6

Description of article

CERTIFICATE OF ANALYSIS
FOR SAMPLE 012085

Signature of person originally identifying

A handwritten signature in black ink, appearing to be "Lucas Marihan".

Name of person originally identifying (block letters)

LUCAS MARIHAN



Trading Standards Service

Incident reference

10/01328/FOODST

Exhibit reference

LM/7

Description of article

REPORT OF ANALYSIS
FOR SAMPLE CS009275

Signature of person originally identifying

Name of person originally identifying (block letters)

LUCAS MARSHALL

EH.126 07.10.22561



Trading Standards Department
Southampton City Council
Civic Centre
Southampton
Hampshire
SO14 7LY

Lab ref: 161486
Client Ref: CS009275
Date: 24/09/2010
Opinion Unsatisfactory
Reported by Shayne Dyer

REPORT OF ANALYSIS

Labelled as: 1 X BOTTLE SMIRNOFF 70CL 37.5%

Location: JOE KELLY, 110 GRAHAM RD, SOTON
Sampled by: L Marshall
Date taken: 28/07/2010
Date submitted: 30/07/2010

Observations:

The complainant stated that after consuming some of the vodka he noticed a chemical taste and smell. He further claimed that the vodka caused vomiting, blurred vision, dizziness and that he felt hot and shaky.

The specimen consisted of the remains of a bottle of vodka containing 260ml of liquid. The specimen was received in a clear plastic bag sealed with a white tag bearing the number BA50121.

In my opinion, "Smirnoff" brand vodka contains the sugars fructose, glucose and sucrose (typically 30 mg/l fructose, 30 mg/l glucose, 45 mg/l sucrose).

These sugars were not detected at these levels in this specimen and I am therefore of the opinion that the specimen was not genuine "Smirnoff" brand vodka as retailed in the United Kingdom.

No methanol was detected in the sample.

The analysis performed gave no indication as to the cause of the symptom alleged by the complainant.

Determination	Result	Method
Alcohol % v/v	37.7	05.109
Fructose mg/l	< 2.0	75.005
Glucose mg/l	588	75.005
Sucrose mg/l	64.9	75.005
Methanol g/100L alc	0.00	55.009