

THE LICENSING ACT 2003 - REPRESENTATION FROM RESPONSIBLE AUTHORITY

LANCASHIRE COUNTY COUNCIL TRADING STANDARDS SERVICE

I am Lauren Manning, Senior Trading Standards Officer, employed by Lancashire County Council Trading Standards Service.

I have delegated authority to exercise the County Council's powers and duties under relevant Trading Standards related Acts of Parliament and in this capacity to provide written and oral representations on behalf of the Lancashire County Council Head of Service for Trading Standards.

I make this statement using facts and matters within my own knowledge. Any facts and matters that are not within my own knowledge are true to the best of my knowledge and belief.

Lancashire County Council Trading Standards Service wishes to make representations in support of the application from Lancashire Constabulary to review the premises licence at Ormskirk Superstore, 16 Aughton Street, Ormskirk L39 3BW. The licence holder and designated premises supervisor at the premises is Mr Farhad Salehi.

Trading Standards applied for a review of the premises licence for Ormskirk Superstore on 5th January 2022, following an illicit tobacco seizure and underage sales of cigarettes and e-cigarettes at the premises. Four additional licence conditions were added by the Committee at the hearing on 28th February 2022, including a requirement for all persons (including the DPS) involved in the sale of licensable products to undertake the Lancashire County Council Check 25 online training. I have checked our records from 1st March 2022 to 5th December 2022 and can confirm that Mr Farhad Salehi has not completed the online Check 25 training. No other members of staff at the shop have completed the training.

I have checked our Trading Standards databases for information relating to the premises since the review on 28th February 2022 and can confirm the following:

20th April 2022 – test purchase attempt for alcohol and e-cigarettes using two 16 year old volunteers. Sale refused.

23rd June 2022 – Trading Standards were notified of a Police operation involving Mr Farhad Salehi on 26th May 2022. Officers from Merseyside Police stopped Mr Salehi in his vehicle in Southport. Officers searched the vehicle and seized numerous packs of illicit tobacco and cigarettes, as well as approximately £10,000 in cash. Mr Salehi was arrested.

His home address in Southport was searched and numerous illicit tobacco products were seized. A large number of the cigarettes and tobacco have been confirmed to be counterfeit.

Mr Salehi answered 'no comment' to all questions when interviewed by Police.

30th June 2022 – complaint received from a member of the public alleging that the shop is selling e-cigarettes to underage children.

9th August 2022 – Inspection of premises carried out. Staff member present: Ms Raimonda Gerulienė. 208 packs of illicit tobacco products were discovered and seized. 3 of the packs were found open in the till, 2 packs were found on the shelf with alcohol, 24 packs were in a plastic bag behind the counter. The rest were found in the store room.

555 non compliant e-cigarettes were also seized which were on open display. The law prohibits the sale of e-cigarettes with a capacity greater than 2ml, the products must possess a UK name and address for traceability, and important safety warnings must be present.

7th September 2022 – The premises were visited by Michaela Murray from West Lancashire Borough Council Licensing Department and Lancashire Police. A short time later I arrived at the premises with a colleague. Upon arrival I was informed by one of the officers from Lancashire Police that the member of staff, Raimonda Gerulienė, had disappeared several times into the store room at the back of the shop for a long period of time when officers first arrived. PCSO Gornall and I then reviewed the CCTV footage at the premises, which showed Ms Gerulienė and a male who I know to be the Director of Ormskirk Superstore Ltd, Mr Star Khalid Baiz, exiting the rear of the premises with a number of boxes. Ms Gerulienė hastily stacked the boxes outside the back door, and Mr Baiz was collecting them and moving them away from the area. He was believed to be putting them inside a vehicle, only part of which was in view of the camera.

The vehicle moved away, and approximately 8 minutes later Ms Gerulienė can be seen on the CCTV taking a phone call at the shop counter. She is then seen to remove a black bin bag out of the back door, and place it between the bins at the back of the shop.

Upon viewing this CCTV I went outside via the back door of the shop, and retrieved the black bin bag which I seized. This bag contained the following illicit tobacco products: 10 packs of Richmond cigarettes, 10 packs of Marlboro Gold, 70 packs of Milano capsules, 10 non compliant Elux e-cigarettes. It is believed that the boxes that were removed from the premises also contained illicit tobacco products.

12th September 2022 – complaint received from a member of the public who purchased an Elux Legend e-cigarette from Ormskirk Superstore on 15th August 2022. She was asked if it was ok for them to remove the packaging before providing it to her, which she agreed to and the staff member put it in a paper bag. The complainant stated that the e-cigarette exploded, and she took it back to the shop to complain a couple of days later. She said that the member of staff called to three men who were outside the shop, who approached the complainant and were very aggressive. They stated they would not give a refund and threatened to drag her out of the shop if she did not leave. She was left feeling shaken and upset by the incident.

23rd September 2022 – inspection of premises carried out by Trading Standards and Lancashire Police. Mr Star Khalid Baiz present. 17 packets of illicit Rothmans cigarettes were found concealed inside a hoover in the storeroom, plus 1 packet of Rothmans seized from inside the till.

Approximately 200 non compliant e-cigarettes were seized from under the counter – all of the e-cigarettes on open display were legal and compliant. Given the fact that e-cigarettes had previously been seized from these premises I would suggest that concealing them under the counter was a deliberate action. I noted a large number of empty boxes of these non compliant e-cigarettes in the bin behind the counter, suggesting that staff were removing the boxes of the products before handing them to customers, which I would suggest is being done so that customers are not seen leaving the shop carrying illegal products. Further e-cigarettes were seized from the back room.

Investigations are ongoing.

RELEVANT INFORMATION

- Supplying (including possessing for supply) tobacco products bearing trademarks without the consent of the proprietor of the mark (counterfeit) is an offence contrary to the Trade Marks Act 1994;
- Supplying (including possessing for supply) tobacco products which are not in plain packaging is an offence, contrary to the Standardised Packaging of Tobacco Products Regulations 2015;
- Supplying (including possessing for supply) tobacco products that do not display compliant health warnings is an offence, contrary to the Tobacco and Related Products Regulations 2016;
- Improperly marked tobacco products deny consumers valuable information about the dangers of smoking. Counterfeit tobacco is normally sold much cheaper than its genuine counterparts – typically half the price – which undermines price-based strategies to prevent smoking by making it more accessible to adults and children. Cut price tobacco presents unfair competition to legitimate retailers in the area and typically deprives the taxman of £6.17 for cigarettes and £11.30 for hand rolling tobacco, in terms of lost duty and VAT. In the case of counterfeit products there is a further risk in that, unlike their genuine counterparts, there are no controls over what goes into making them or on the levels of harmful substances they might contain. These products have also been found not to comply with requirements to self extinguish if left unattended.

Paragraphs 11.27 & 11.28 of the statutory guidance issued under Section 182 of The Licensing Act 2003 (Home Office April 2018) states that:

'There is certain criminal activity that may arise in connection with licensed premises that should be treated particularly seriously. These are the use of the licensed premises

...for the sale or storage of smuggled alcohol and tobacco.

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

During the previous hearing that took place on 28th February 2022, Mr Salehi stated that he was not aware of illegal cigarettes being sold from the shop and that he would ensure that incidents that had occurred at the premises were not repeated. The Sub-Committee concluded that there was no evidence to substantiate that Mr Salehi was complicit in the illegal activity.

Since the previous hearing there have been 3 seizures of illegal tobacco from the shop, in addition to seizures of illicit tobacco from Mr Salehi's vehicle and his home address. The evidence now indicates that Mr Salehi is personally heavily involved in the illegal sale and supply of illicit tobacco. He can no longer place the blame on members of staff and claim to be tackling the issues by sacking those staff members.

In the opinion of Lancashire County Council Trading Standards Service the information presented is clear evidence that the licensing objective of the prevention of crime and disorder has been disregarded at these premises.

Lancashire County Council Trading Standards respectfully requests that the Committee considers whether revocation of the premises licence for Ormskirk Superstore would be an appropriate finding in the circumstances.

I believe the contents of this statement to be true.

Signed: 

Date: 06/12/2022

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