



Please reply to:

Contact: Christeen Abee
Service: Committee Services
Direct line: 01784 444229
E-mail: c.abee@spelthorne.gov.uk
Date: 25 March 2022

Notice of meeting

Licensing Sub-Committee

Date: Monday, 4 April 2022

Time: 10.00 am

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Licensing Sub-Committee

Councillors:

R.W. Sider BEM (Chairman)

C.L. Barratt

S.M. Doran

Note: In the event of one of the aforementioned Licensing Committee Members being unable to attend or serve on this Sub-Committee another Member of the Licensing Committee will be called to serve in their place.

Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk Telephone 01784 451499

AGENDA

Page nos.

1. Disclosures of Interest

To receive any disclosures of interest from members in accordance with the Members' Code of Conduct.

2. To consider an application for review of the Premises Licence at Sunbury Food and Wine, 13 The Parade, Staines Road West, Sunbury-on-Thames TW16 7AB

3 - 180

The Report of the Deputy Chief Executive is attached.

A procedure note which explains what happens at a Licensing Sub-Committee, follows.

Licensing Act 2003

Hearing procedure for Licensing Sub-Committee – Premises Licence Review

	Introductions
1.	The Chairman will open the meeting, introduce members of the Sub-Committee and officers present and explain the nature of the decision to be taken and the procedure to be followed.
2.	All persons present to introduce themselves to the Sub-Committee. <i>*NOTE*</i> the Applicant for a <u>review</u> is either a Responsible Authority or an Other Person. The Premises Licence Holder is a “respondent”.
	Summary of Application and Representations
3.	The Council's Licensing Manager will outline the application, any relevant representations and highlight any points relevant to the Licensing Authority's Statement of Licensing Policy and statutory guidance. OR summarise the salient points of the report on the agenda.
4.	The Applicant for the review or their representative may ask relevant questions of the Council's solicitor/Licensing Manager.
5.	The Responsible Authorities may ask relevant questions of the Council's Licensing Manager if necessary.
6.	Any Other Persons who have submitted representations about the application may ask relevant questions of the Council's Licensing Manager if necessary.
7.	The Premises Licence Holder may ask the Licensing Manager QUESTIONS arising from what he/she has said or relating to the application. (The Applicant will have the opportunity to state his/her case later).
8.	The members of the Sub-Committee may ask relevant questions of the Council's Licensing Manager.
9.	The Council's Licensing Manager may respond to any new issues raised.
	The Applicant's Case
10.	The Responsible Authorities or Other Persons applying for the review presents their case (may include evidence of witnesses if appropriate).
11.	The Responsible Authorities who have submitted representations about the application may ask any relevant questions of the applicant for the review if necessary.

12.	Any Other Persons who have submitted representations about the application may ask any relevant questions of the applicant for the review if necessary.
13.	The Premises Licence Holder asks questions of the Applicant for the review if necessary.
14.	The members of the Sub-Committee may ask relevant questions of the Applicant for the review.
15.	The Applicant for Review may respond to any new issues raised.
	The Responsible Authorities case
16.	The Responsible Authorities who have submitted representations about the application will present their case (may include evidence of witnesses if appropriate).
17.	The Applicant for the review or their representative may ask relevant questions of the Responsible Authorities.
18.	Any Other Persons who have submitted representations about the application may ask relevant questions of the Responsible Authorities.
19.	The Premises Licence Holder may ask relevant questions of the Responsible Authorities who have submitted representations about the application.
20.	The members of the Sub-Committee may ask relevant questions of the Responsible Authorities.
21.	The Responsible Authorities may respond to any new issues raised.
	The Other Persons Case
22.	Any Other Persons who have submitted representations about the application will present their case (may include evidence of witnesses if appropriate).
23.	The Applicant for Review or their representative may ask relevant questions of the Other Persons.
24.	The Responsible Authorities who have submitted representations about the application may ask relevant questions of the Other Persons who have submitted representations about the application.
25.	The Premises Licence Holder may ask relevant questions of the Other Persons who have submitted representations about the application.
26.	The members of the Sub-Committee may ask relevant questions of the Other Persons who have submitted representations about the application.
27.	The Other Persons may respond to any new issues raised.

	The Premises Licence Holder Case
28.	The Premises Licence Holder will present their case (may include evidence of witnesses if appropriate).
29.	The Applicant for the review or their representative may ask any relevant questions of the Premises Licence Holder.
30.	The Responsible Authorities who have submitted representations about the application may ask relevant questions of the Premises Licence Holder.
31.	Any Other Persons who have submitted representations about the application may ask relevant questions of the Premises Licence Holder.
32.	The members of the Sub-Committee may ask relevant questions of the Premises Licence Holder.
33.	The Premises Licence Holder may respond to any new issues raised.
	Summing Up
34.	The Chairman will invite the Licensing Enforcement Officer to clarify any technical points.
35.	The Chairman will invite any Other Persons who have submitted representations about the application to briefly summarise their case if they so wish.
36.	The Chairman will invite any Responsible Authorities who have submitted representations about the application to briefly summarise their case if they so wish.
37.	The Chairman will invite the Applicant for the review to briefly summarise their case if they so wish.
38.	The Chairman will invite the Premises Licence Holder to briefly summarise their case if they so wish.
39.	The Chairman will then ask all parties if they are satisfied they have said all they wish to. (NOTE – The Premises Licence Holder to have the last word.)

	Decision
40.	The members of the Sub-Committee will retire to reach a decision in private, accompanied by the Council's legal officer and Committee Manager.
41.	Members of the Sub-Committee return. The Chairman will announce the decision of the Sub-Committee with reasons (summary or full) for the decision.

42.	Meeting closed.
43.	The Council's legal officer will remain in the room to assist all parties should they require clarification of the decision and/or next steps.

GUIDANCE NOTES

*The Licensing Authority will allow the parties an equal maximum period of time in which to address the Sub-Committee, but request that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency. However, the overriding principle for the Licensing Authority will be to ensure that all parties receive a fair hearing.

- (a) Cross examination of parties is at the discretion of the Sub-Committee.
- (b) When the Premises Licence Holder questions the Licensing Manager or any other party he/she should not go into the merits of his/her case as he/she will have an opportunity to present it at Stage 28. He/she should only ask questions relating to what the Licensing Manager or other person has said or relating to the application as a whole.
- (c) The Applicant or any other party may be represented by a friend or a professional person to speak on his/her behalf who will follow the same procedure as described above and who may call the Applicant as a witness.
- (d) The order or proceedings may be varied by the Chairman if he/she thinks that it is necessary to do so in the interests of affording the Applicant a fair hearing or in order to take into account all relevant considerations.
- (e) If, after the Sub-Committee has withdrawn to make their decision, they decide that they need to ask a question of any of the parties involved in the proceedings or to clarify any matter then they shall do so in the presence of all parties.
- (f) Members of the Sub-Committee must be present throughout the hearing and must not communicate with any party involved in the proceedings except for when they are in the presence of all of the parties and the remainder of the Sub-Committee.

Licensing Sub-Committee

04/04/2022



Subject	Application for a review of the Premises Licence at Sunbury Food and Wine		
Purpose	For determination		
Report of	Deputy Chief Executive	Ward	Sunbury Common
Contact	Lucy Catlyn (Principal Licensing Officer) (01784 444295)		

Description and Location	<p>A Newsagent in a local shopping parade with residential flats above it.</p> <p>On 14th February 2022, Trading Standards, a Responsible Authority under the Licensing Act 2003 applied to the Licensing Authority to review the premises licence.</p> <p>Plan at Appendix A</p>
The Application	<p>The application is to review the Premises Licence under the Licensing Objectives of the prevention of crime and disorder and the protection of children from harm. The application was made by Amanda Poole, Assistant Head of Trading Standards. The Applicant for Review requests the revocation of the Premises Licence.</p> <p>The current licence is attached at Appendix B and the current plan is attached at Appendix C. The review application is attached at Appendix D.</p>
Representations	<p>Relevant representations in support of the review have been received from Surrey Police a Responsible Authority under the Licensing Act 2003.</p> <p>Letters of representation are attached at Appendix E.</p>
Options	<p>1. Having had regard to the representations, the Sub-Committee must decide on one or more of the following options as it considers appropriate for the promotion of the licensing objectives:</p> <ul style="list-style-type: none">• Modify the conditions• Exclude a licensable activity• Remove the Designated Premises Supervisor• Suspend the licence for up to 3 months• Revoke the licence

	<ul style="list-style-type: none"> • No action required <p>and for this purpose, the conditions of the Premises Licence are modified if any of them is altered or omitted or any new condition is added.</p>
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1. Background

- 1.1 The licence holder and the Designated Premises Supervisor is Mandeep Singh Soni.
- 1.2 Sunbury food and wine was first granted a premises licence 07 March 2006. An application to transfer the licence and change the Designated Premises Supervisor (DPS) was made on 10 November 2010 to Mr Mandeep Singh Soni.
- 1.3 The current premises licence in respect of Sunbury Food and Wine allows the sale by retail of alcohol on weekdays 09.00 to 22.00 and on Sundays 10.00 to 22.00 for the consumption off the premises. The opening hours of the premises are the same.

2. Review Application

- 2.1 The Sub-Committee is asked to consider and determine an application submitted on 14 February 2022 from Trading Standards for the review of a Premise Licence for Sunbury Food and Wine held by Mr Mandeep Singh Soni. The application for the review of the Premises Licence is attached is at **Appendix D**.
- 2.2 The Application for the Review of the Premise Licence is made on the of prevention of crime and disorder and protection of children from harm.
- 2.3 The Applicant for a Review is required to forward copies of the application to the Responsible Authorities with a view to any of these Responsible Authorities making a supporting representation if deemed appropriate.
- 2.4 Trading Standards served the Application for Review on the Premises Licence Holder in accordance with the Licensing Act 2003.
- 2.5 The Notice of Review was displayed at the licensed premises between 15th February 2022 and 14th March 2022 and in the reception area of the Council Offices and the notice board outside the Civic offices as well as the Council's website. Several checks have been made by Licensing Officers at the premises to ensure the required notice is on display at all times.

2.6 Chronology of grounds given for review

On the 19 September 2020 Trading Standards and Surrey police carried out a test purchasing operation.

- Two test purchasers, both under the age of 18 years, were sold a box of NOS cannisters and balloons and charged £21.99.
- A search and behind the counter revealed various counterfeit tobacco and alcohol which was seized.

- On the 23 September 2020 Mr Soni voluntarily attended interview.
- On the 19 January 2022 Mr Soni was sentenced, following pleading guilty to six counts including one count under the Psychoactive Substances Act 2016, two counts under the Trademarks Act 1994, two counts under the Tobacco and Related Products Regulations 2016 and one count under the Standardised Packaging of Tobacco Products Regulations 2015.
- The Magistrates considered the offence under the Psychoactive Substances Act to be the most serious and looked at the offending in its totality when considering sentence. Mr Soni was sentenced as follows: Individual Community order for 12 months to complete a period of unpaid work for 160 hours — this covers all the counts. Victim surcharge £95. And also faced mirror charges for his company, GIM Enterprises Limited to which all guilty pleas were also entered. Company — Fine -£100 (reduced because of limited operating profit of the company) | Victim surcharge £34.

3. Promotion of the Licensing Objectives

4. Representations

4.1 i) Representations from Responsible Authorities

A Relevant representation in support of the review has been received from Surrey Police and is attached at **Appendix E**. The representation comprises an expert witness statement from Emma Gower.

No further representations have been received from any other Responsible Authorities or Other Persons.

5. Licensing Policy

5.1 The following sections of the Council's Licensing Policy are relevant. These are attached at **Appendix F**.

- 3.0 Licensing Objectives and Licensable Activities
- 8.0 Conditions
- 9.0 Administration and Decision Making
- 19.0 The Review Process
- 25.0 Crime and Disorder & 25.1 Reviews
- 25.8 Protection of Children from Harm, 25.8.3 Reviews in connection with protection of children from harm

6. National Guidance

6.1 The relevant section from the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 on determination of a Review is attached at **Appendix G**.

7. Legal Comments

7.1 Following receipt of a review application the Licensing Authority must hold a hearing to consider it and any relevant representations. At the hearing, the Sub-committee must, having regard to the application and any relevant representations, take such of the steps following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- 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; and/or
- revoke the licence

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

7.2 The Sub-Committee must also have regard to Spelthorne Borough Council's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive but are not binding on the Licensing Sub-Committee. The Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy and or Guidance if it considers there are clear and justifiable reasons to do so. Full reasons must be given if this is the case.

7.3 The Sub-Committee can only consider matters within the application or that have been raised through relevant representations from and each application will be decided on a case-to-case basis.

7.4 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In deciding what remedial action, if any, it should take the Sub-Committee must direct its mind to the causes or concerns which the application and representations identify. The remedial action should generally be directed at these causes or concerns and should always ensure that any response is necessary and proportionate.

7.5 Members are referred to the Secretary of State's Guidance on conditions, specifically paragraph 1.16 and chapter 10 which state that licensing conditions should be practical and enforceable, tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

7.6 The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

7.7 Where the Sub-Committee determines an application for review it must provide written notice and reasons for its decision.

7.8 The licence holder, Applicant for Review or any party that made relevant representations have the right to appeal the decision of the Licensing Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified in writing by the Licensing Authority of its decision.

Appendices:

Appendix A – Location Plan

Appendix B – Current Licence

Appendix C – Current Plan

Appendix D – Review Application with statements and exhibits

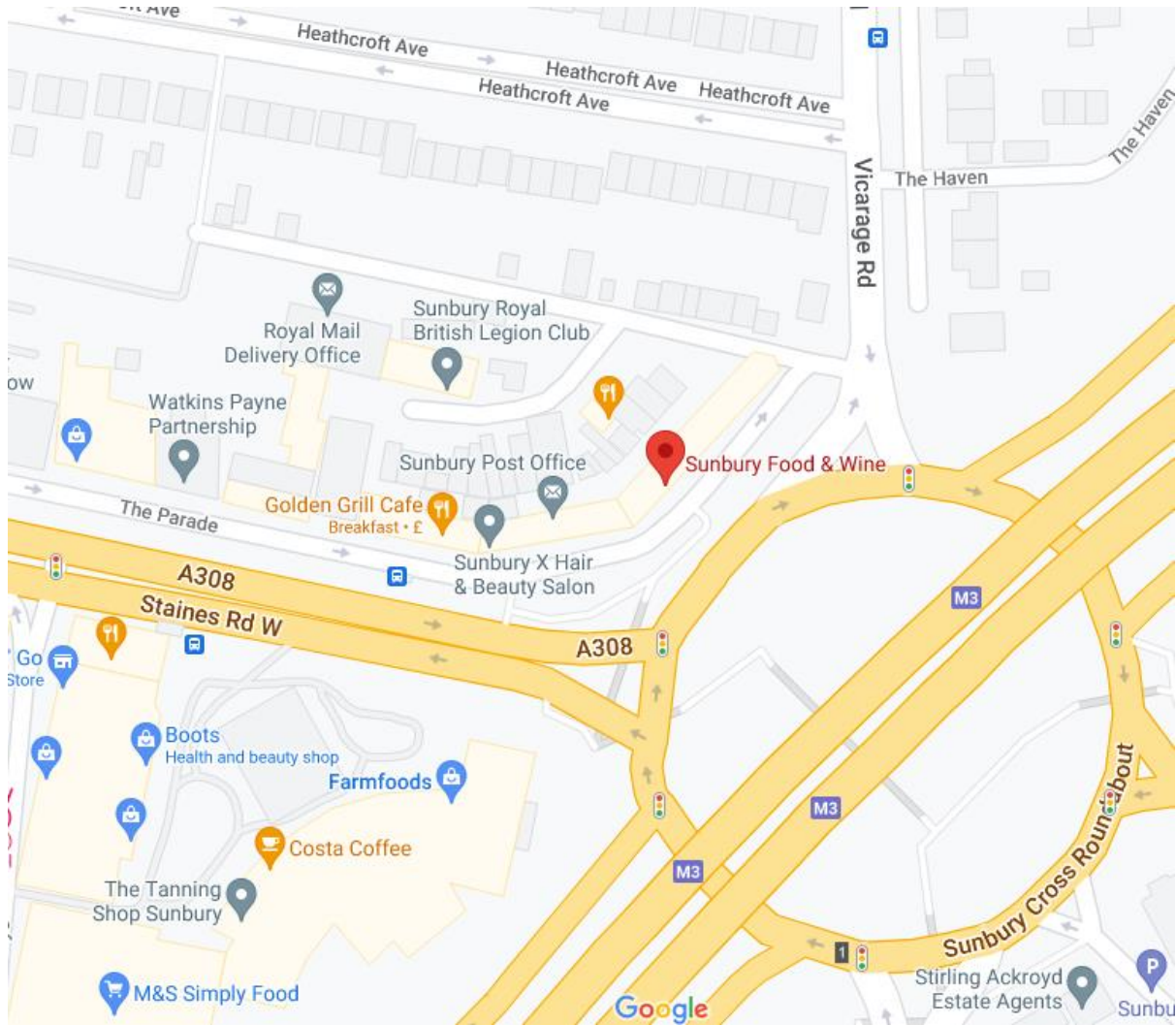
Appendix E – Representations from responsible authorities

Appendix F – Extracts from Council’s Statement of Licensing Policy

Appendix G – Extract from National Guidance on Reviews

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Appendix A – Location Plan



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SPELTHORNE BOROUGH COUNCIL
Council Offices, Knowle Green, Staines, TW18 1XB

PREMISES LICENCE

Premises licence number 06/00060/LAPRE
Issue Date 07 March 2006
Latest Revision Date 10 November 2010

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description			
Sunbury Food & Wine 13 The Parade Staines Road West			
Post town	Sunbury	Post code	TW16 7AB
Telephone number	01932 258405		

Where the licence is time limited the dates

Licensable activities authorised by the licence
Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities
a. On weekdays 09.00 to 22.00 b. On Sundays 10.00 to 22.00

The opening hours of the premises
a. On weekdays 09.00 to 22.00 b. On Sundays 10.00 to 22.00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies
For consumption off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Mandeep Singh Soni

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mandeep Singh Soni

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

Signed _____

Head of Environmental Health & Building Control Services

Dated 29 November 2010

Annex 1 - Mandatory conditions

Mandatory Condition: where a premises licence authorises the supply of alcohol:

1. No supply of alcohol may be made under the Premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Annex 2 - Conditions consistent with the Operating Schedule

The Prevention of Crime and Disorder

- An accredited Proof of Age Schemes to be in place.
- CCTV to be installed and working to the satisfaction of the Police and Licensing Authority.
- No consumption of alcohol on the premises to be allowed.
- Limited number of customers to be allowed in shop at any one time.

Public Safety

- Fire Exit signs to be on display, fire extinguishers and fire alarm to be maintained and available for instant use on the premises.
- Fire Exits are not to be obstructed in any way.

The Prevention of Public Nuisance

- Any unnecessary noise from inside the premises to be prevented.
- Litter to be controlled outside the premises.

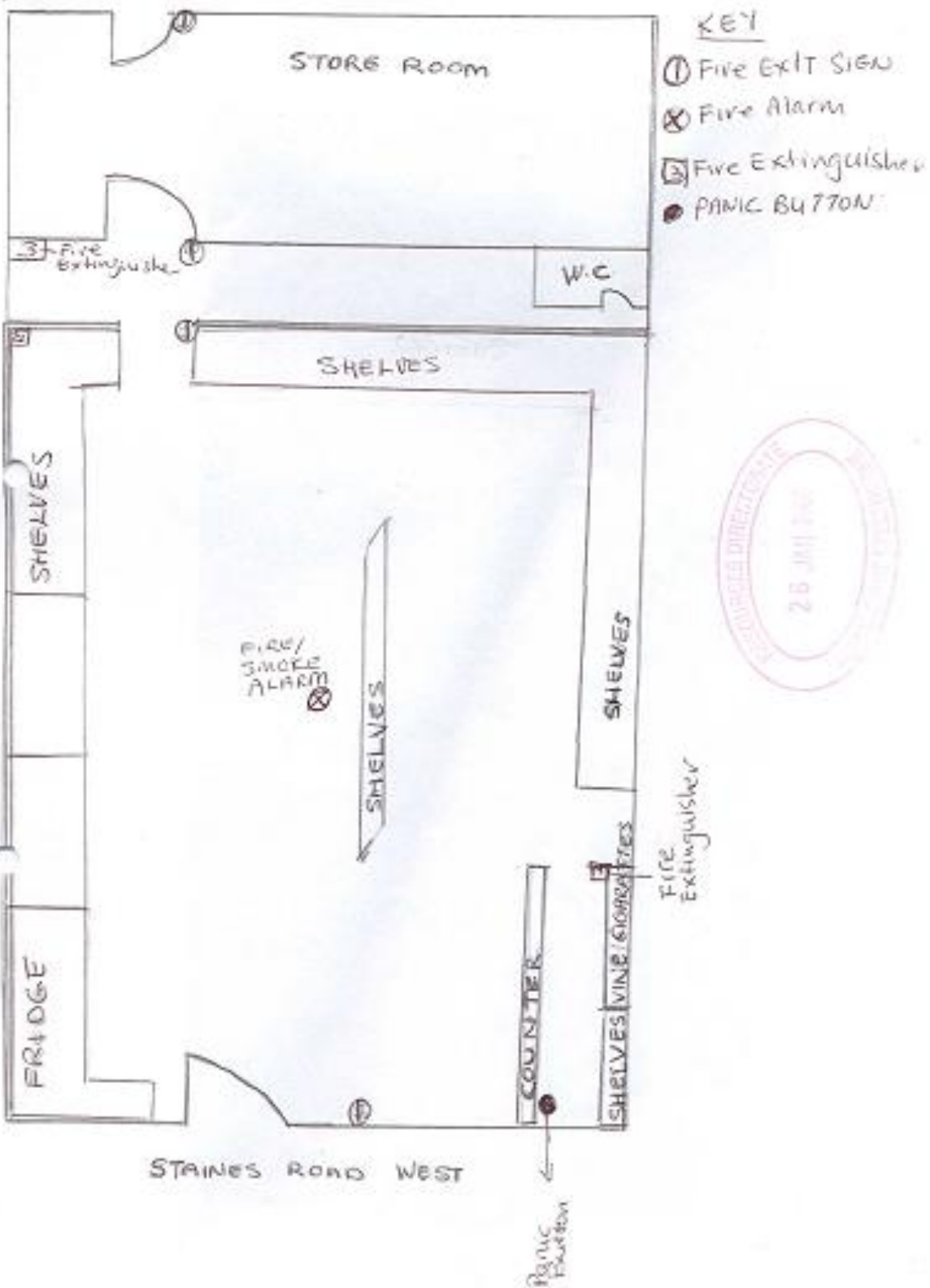
The Protection of Children from Harm

- An accredited Proof of Age scheme to be in place.

Annex 3 - Conditions attached after a hearing by the licensing authority

None

Annex 4 – Plans



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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 Amanda Poole
(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 Sunbury Food and Wine 13 The Parade Staines Road West	
Post town Sunbury	Post code (if known) TW16 7AB

Name of premises licence holder or club holding club premises certificate (if known) Mandeep Singh Soni

Number of premises licence or club premises certificate (if known) One
--

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 Amanda Poole Assistant Head of Trading Stanadards Buckinghamshire and Surrey Trading Standards Service Walton Street Offices Aylesbury Buckinghamshire HP20 1UP
Telephone number (if any) 07984458679
E-mail address (optional) amanda.poole@surreycc.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

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

NZ brand cigarettes, which are not legitimately available for sale in the UK, were found behind the till area in the premises. The cigarettes were not presented in packaging required by UK law and no indication of that duty had been paid was present on the packaging. This type of cigarette are commonly smuggled. Benson and Hedges cigarettes that were concealed in boxes purporting to contain an inflatable boxing tower were confirmed to be counterfiet by the brand owner upon examination. These items are also likely to have been smuggled in the boxes used for concealment and have no duty paid. The business owner has confirmed that the cigarettes in question were in his posession for sale. Possession of smuggled goods on licensed premises is in contravention of the Licensing Act 2003, Section 144 - Keeping of Smuggled goods on premises.

Businesses selling smuggled products at prices lower than those that can be offered by legitimate businesses disadvantages legitimate business practice.

Cannisters containing Nitrous Oxide together with balloons were sold two test purchasers, both 17 years of age, for Psychoactive purposes. The action of the shop keeper indicates a disregard for the welfare of young customers.

It is requested that a revocation of the premises licence from Mandeep Singh Soni be considered in this instance .

Please provide as much information as possible to support the application

(please read guidance note 2)

On the 19th September 2020, police carried out a test purchasing operation accompanied by Trading Standards Officers with the intention of ascertaining whether identified premises in the Sunbury area would sell Nitrous Oxide (NOS). As part of this exercise, two test purchases, both under the age of 18 years, visited the premises of Sunbury Food and Wine and was sold a box of NOS canisters and balloons and charged £21.99.

The police and Trading Standards Officers then entered the shop premises and conducted a search and behind the counter various counterfeit tobacco and alcohol was found and seized:

- 17 boxes of Mosa brand NOS canisters
 - 24 loose canisters
 - A large quantity of rubber balloons
 - NOS canister openers
 - 80 packets of 20 Benson and Hedges cigarettes concealed in inflatable 'Boxing Tower' boxes.
 - 29 packets of 20 NZ Black brand cigarettes.
- Plus 5 packets of Benson and Hedges cigarettes also believed to be counterfeit all together in a yellow bag which was suspended next to the serving area at the counter.
- Twenty-one 35cl bottles of Glen's vodka believed to be counterfeit.

On the 23rd September 2020 Mr Soni voluntarily attended interview where he was legally represented. Mr Soni said that he kept the NOS under the counter and not on display as kids try to steal it. He did not question the test purchaser's intended use of the NOS as he thought they were making a cake or having a party. Mr Soni could not account for why he thought kids would try to steal NOS and also alleges that he was not aware that the sale of this substance is illegal if it's intended use is for its psychoactive effects.

In relation to the illicit tobacco and the vodka, Mr Soni says that different suppliers came to his shop and offered him the cigarettes and vodka for a cheap price. He asked the supplier if they were genuine and was told they were.

On the 19th January 2022 at High Wycombe Magistrates Court Mr Soni was sentenced, following pleading guilty to six counts including one count under the Psychoactive Substances Act 2016, two counts under the Trade Marks Act 1994, two counts under the Tobacco and Related Products Regulations 2016 and one count under the Standardised Packaging of Tobacco Products Regulations 2015.

The Magistrates considered the offence under the Psychoactive Substances Act to be the most serious and looked at the offending in it's totality when considering sentence. They took into account his early guilty plea and the fact that Mr Soni had no previous convictions. With this in mind he was sentenced as follows:

Individual - Community order for 12 months to complete a period of unpaid work for 160 hours – this covers all the counts. Victim surcharge £95.

Mr Soni also faced mirror charges for his company, GIM Enterprises Limited to which all guilty pleas were also entered.

Company – Fine - £100 (reduced because of limited operating profit of the company) / Victim surcharge £34

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

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

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

[Redacted Signature]

Date

14/04/2022

Capacity

Supervisor Regulation Aylesbury

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

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.

STATEMENT OF WITNESS

(Criminal Procedure Rules, r.16.2; Criminal Justice Act 1967, s.9)

Statement of: Ian Smith**Age of Witness:** Over 18

(If over 18, enter "Over 18")

This statement (consisting of 5 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: _____

15th JUNE 2021

Signature: _____

I am employed by Surrey County Council as Supervisor for the Trading Standards Regulation Team based at County Hall, Walton Street, Aylesbury HP20 1UP and I am authorised for the purposes of the Trade Marks Act 1994 and Food Safety Act 1990. On Saturday 19th September 2020 I joined PS2484 Dunlop, PC40786 Sadler, PCSO Bushnell, Emma Gower – North Surrey Drug Liaison Officer together with two test purchasers both under the age of 18 years on a test purchasing exercise for Nitrous Oxide. During the course of the exercise Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames. TW16 7AB was visited and a purchase of Nitrous Oxide and balloons made by the two test purchasers. Following the test purchase together with Emma Gower and PS Dunlop I entered the premises and introduced myself and the other officers to an Asian male who appeared to be the only person tending the premises who I now know to be Mandeep Singh Soni. I explained to Mr Soni that a test purchase exercise had just been carried out at his premises in relation to the sale of Nitrous Oxide and that he had failed in that he had supplied Nitrous Oxide

Signature: _____

Signature witnessed by: _____

canisters and balloons to two young test purchasers. I also informed Mr Soni that I intended to carry out an inspection of his shop premises and asked that I be allowed access behind the counter area, to which he agreed. I went behind the counter and found a small yellow bag hanging to the side of where a person serving at the counter would have stood. Inside the bag I found 29 x Packets of NZ Black brand cigarettes and 5 x Packets of Benson and Hedges cigarettes. The colour of the packets of NZ brand cigarettes were not of the required colour nor did they display the required warnings I was of the opinion that these were smuggled cigarettes. The Benson and Hedges cigarettes had the appearance of genuine cigarettes sold in the UK but upon examination had some slight differences to that which may be expected with genuine Benson & Hedges cigarettes and I was of the opinion that they were likely to be counterfeit. I seized the yellow bag and the packets of cigarettes that it contained and produce these as exhibit IS/4/SFW. On the floor behind the counter near to the area the yellow bag had been hung was a large cardboard box that looked new and indicated that it contained an inflatable 'Boxing Tower' punch bag. Upon looking inside this box I found that it contained 3 x cartons of 10 x packets of 20 Benson and Hedges cigarettes that appeared to be identical to those I had found in the yellow bag. The dimensions of the box perfectly fitted the dimensions of the cartons of cigarettes. Also behind the counter, but near to where the area behind the counter was accessed was a step up to the raised counter area. I looked under this step and saw that, apparently hidden, under it was a further 'Boxing Tower' box. I pulled this out and noted that it was still sealed with shrink wrap. I broke the seal and opened the box. This box contained 5 cartons of 10 x packets of 20 Benson and Hedges cigarettes and perfectly fitted the space in the

Signature:

Signature witnessed by: _____

box. I produce as exhibit IS/2/SFW the two 'Boxing Tower' boxes containing Benson and Hedges cigarettes that I found. To the side of the entrance to the area behind the counter I noted a Glen's branded box that contained 19 x 35cl bottles of Glen's brand vodka. I examined the bottles of vodka in the box and noted some differences with what would be expected to be found with genuine Glen's brand vodka. I was of the opinion that these were also counterfeit. I checked the shelves behind the counter and amongst other, apparently genuine bottles of Glen's Vodka, I found a further 2 x 35cl bottles of that I believed to be counterfeit. The shelf with the 35cl bottles of Glen's vodka had a price marker indicating that they were offered for sale at £7.99. I seized the box of 19 bottles of Glen's vodka which I produce as exhibit IS/3/SFW and the 2 from the shelves behind the counter which I produce as exhibit IS/1/SFW. Near to the box of Glen's vodka I found a package containing 8 x 30g Pouches of Pueblo brand hand rolling tobacco, I examined these and considered that they may be counterfeit so seized them for further examination and identified them as exhibit IS/5/SFW. While I was looked behind the counter I found a number of boxes of Nitrous Oxide bottles often placed in dark coloured plastic bags. These had been placed in various areas behind the counter and behind other boxes on the floor beneath the shelves. I passed these to Emma Gower when I found them. I conducted an inspection of the rest of the premises and found in the storeroom at the rear of the premises a cardboard box that contained 64 DVDs but consisted of apparently only 2 different titles, the covers for which indicated that they were pornographic films. I noted that the packaging of the DVDs did not include the required classification markings and seized the DVDs for that reason and identified them as exhibit IS/6/SFW. At the conclusion of my inspection I asked Mr Soni

Signature:

Signature witnessed by: _____

whether he could produce invoices showing his purchase of cigarettes, Glen's vodka and the hand rolling tobacco. Mr Soni indicated that he kept them in a cardboard box behind the till and showed me the box. The box contained a considerable number of printed invoices and receipts. I informed Mr Soni that I would seized the box of papers for further examination which I did and identified these as exhibit IS/7/SFW. I made out a record of the items that I had sized, a copy of which I handed to Mr Soni. I produce a copy of the record of items seized as exhibit IS/8/SFW. I also made out a visit form that gave the reason I had seized the items listed and gave a copy to Mr Soni. I produce a copy of the visit form as exhibit IS/9/SFW. I also completed a notice of Powers and Rights form and handed a copy of this to Mr Soni. I have noted that the date that I filled in on the forms, namely 20/9/20, is incorrect and should read 19/9/20 The items that had been seized were then removed from the shop premises and taken to Sunbury Police Station where they were placed into secure storage. The items seized by myself were then subsequently transported to County Hall, Aylesbury where they were also placed into secure storage. On the 23rd September 2020 I attended Sunbury Police Station where, together with PC 40786 Sadler, I conducted an interview under the provisions of the Police and Criminal Evidence Act 1984 with Mr Mandeep Singh Soni in the presence of his solicitor Ian Wilson. I produce as exhibit IS/10/SFW a transcript of the interview. On the 1st October 2020 I posted to Euan Birrell, Group Governance Manager, Catrine Bonded Warehouse, 7 Lagh Road, Catrine, Ayresshire, Scotland examples of the 35cl bottles of Glen's vodka that I had seized from Sunbury Food and Wine for examination for authenticity. The examples I sent to Euan Birrell for examination comprised of 4x bottles, namely both bottles identified as IS/1/SFW

Signature:

Signature witnessed by: _____

and two bottles from the box containing 19 bottles which I identified as exhibits IS/3/SFW/A and IS/3/SFW/B. With regard to the Benson and Hedges cigarettes that I had seized I asked my colleague Giuseppe Venniri to send some examples to the brand owner for examination which he agreed to do. I produce as exhibit IS/11/SFW photographs I have taken of an example of the NZ black cigarettes which were included in exhibit IS/4/SFW and examples the Benson and Hedges cigarettes concealed in the Boxing Tower Boxes included in exhibit IS/2/SFW. The NZ black cigarettes shown as pictures a – d inclusive in exhibit IS/11/SFW do not comply with the requirements of The Standardised Packaging of Tobacco Products Regulations 2015, Regulation 3 as the colour of the external packaging is not of Pantone 448C with a Matt finish as required. The NZ black cigarettes also do not comply with the Tobacco and Related Products Regulations 2016, Regulations 5 and 11 as the text and picture used for the combined warning is not in English or one of those listed in Annexes I or II of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

Signature: _____ Signature witnessed by: _____

STATEMENT OF WITNESS

(Criminal Procedure Rules, r.16.2; Criminal Justice Act 1967, s.9)

Statement of: Ian Smith**Age of Witness:** Over 18

(If over 18, enter "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: 17th September 2021

Signature: _____

I am employed by Surrey County Council as Supervisor for the Trading Standards Regulation Team based at County Hall, Walton Street, Aylesbury HP20 1UP and I am authorised for the purposes of the Trade Marks Act 1994 and Food Safety Act 1990. Further to my statement of the 15th June 2021 I produce as exhibit IS/12/SFW three photographs that I have taken of counterfeit Glen's Vodka seized from the premises of Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames.

Signature: _____ Signature witnessed by: _____

STATEMENT OF WITNESS

(Criminal Procedure Rules, r.16.2; Criminal Justice Act 1967, s.9)

Statement of: Giuseppe Venniri

Age of Witness: Over 18
(If over 18, enter "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: _____ 27 May 2021 _____

Signature: _____

On the 28th September 2020 I opened evidence bag P00612377 Exhibit IS/4/SFW which contained Benson and Hedges Cigarettes which had been seized from Sunbury Food & Wine. I selected 2 x 20 Benson and Hedges Cigarettes from the sealed exhibit and sent them off for authenticity checks to their brand holder Japan Tobacco International trading as Gallaher Limited. The samples were sealed in evidence bag M06650660 which I exhibit as GV/01.

Once the authenticity checks had been completed the remaining cigarettes were returned under seal number 0593733 and placed in the secure property store at County Hall, Walton Street, Aylesbury, HP20 1UP.

Signature: _____

Signature witnessed by: _____

WITNESS STATEMENT**Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9**

URN

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Statement of: Richard SAUERAge if under 18: over 18 (if over 18 insert 'over 18')Occupation: Police officer

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.

Signature: (witness)Date: 14/03/2021PC 40786

On SATURDAY 19th September 2020 I was on duty in plain clothes, in company with PCSO 16904 BUSHNELL.

I had cause to attend SUNBURY FOOD AND WINE as a test purchasing operation was being conducted at the location targeting age related items and the sale of NOS gas.

PCSO BUSHNELL and I were both in plain clothes and entered the shop. Shortly after we entered two other persons walked in and started to browse. The persons who entered after us were under the age of 18 and were going to attempt to purchase some NOS cannisters in company with some balloons. The two test purchasers who had entered the store were male and female, both of which entered at the same time.

After browsing the store for a short while I observed both test purchasers walk up to the counter and ask the cashier if he sold NOS canisters. The cashier, who I now know to be Mandeep SINGH, appeared to look around the store briefly and then produced an item from underneath the counter. This item was a red and white box of NOS cannisters. After this item was placed on the counter the test purchasers asked if he sold any balloons also. SINGH produced some party balloons, again from underneath the counter.

The items were processed through the till and placed into a carrier bag. Money was paid for the items by the test purchasers to SINGH and they left the store together.

A short time after leaving the store, I re-entered the location with PS 2484 DUNLOP, Ian Smith from trading Standards and Emma Gower, a Police drugs liaison officer. It was brought to SINGH's attention that he had just been subject to a test purchase and that he had failed having made the transaction described above.

Whilst at the location and on top of the the countertop, there was some pots of cookies which were branded as containing cannabis. Also located near to the counter was some lollipops branded cannabis lollies. These items were clearly for sale as they were stored in an area to which the public have access.

Whilst at the location I seized the following items

- RS/01 - Balloons, Sealed in bag P20133542
- RS/02 - 2x Boxes of NOS chargers, Sealed in bag P07806599
- RS/03 - 2x Pots of a green herbal substance, Sealed in bag N04829984
- RS/04 - Tub of cannabis lollies, Sealed in bag P20133543
- RS/05 - Multiple boxes of NOS canisters, Sealed in bag P20133546

All items seized were placed into the property store at Staines Police Station

Signature:

PC 40786

WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

Occurrence Number: 45200099815

Statement of: RICHARD SADLER

Age if under 18: Over 18

(if over 18 insert 'over 18')

Occupation:

Police Officer.

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.

Signature:  #P4540786 SADLER, R.

Date: 03/08/2021 08:14

Tick if witness evidence is visually recorded'

Further to my statement of the 14th March 2021 I can confirm that I arranged for the exhibits RS/03 2x Pots of green herbal substance, RS/04 tub of cannabis lollies and RS/05 multiple boxes of NOS canisters to be submitted to Eurofins Forensic Services for examination. I produce as exhibit RS/06 a copy of the 'Submission of Work for Scientific Examination' form that I completed in order for the examination to be carried out. I subsequently received a report dated 10th March 2021 completed by John Elvis Wilfer concerning the exhibits I had arranged to be examined.

I can also confirm that following the test purchase of the Nitrous Oxide (NOS) canisters from the premises of Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames on the 19th September 2020 I was handed the NOS canisters that had been test purchased together with the receipt recording the sale by one of the test purchasers once I had left the shop premises. I produce as exhibit RS/07 a copy of the receipt. The receipt records the purchase of two items, one for £20 which I believe is for the NOS canisters and the other item for £1.99 which I believe was for the balloons purchased at the same time.

On the 15th July 2021, the NOS canisters that had been seized from Sunbury Food and Wine on the 19th September 2020, exhibit Nos RS/02 and RS/05 were passed to Mike Curless of Buckinghamshire and Surrey Trading Standards Service.

I can confirm that the boxes of NOS canisters purchased and sold at the time of the test purchase were incorporated into Exhibit RS/05, which has subsequently been tested as above and confirmed to contain Nitros Oxide.



WITNESS STATEMENT

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9)

URN

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Statement of: **Emma Gower**Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Drugs Expert Witness**

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.

Signature:

Date **21/09/2020**Tick if witness evidence is visually recorded (supply witness details on rear)

On Saturday 19th September 2020 I attended Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames as part of a test purchase operation along with colleagues from Surrey Police and Surrey Trading Standards.

Whilst at the premises I took a number of photographs of items which were located in and around the till and counter area and in the store room at the back of the store.

I hereby produce these photographs as Photo Album Exhibit EG/01 "Photographs taken at Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames 19/09/2020."

Signature:

Signature Witnessed by:

STATEMENT OF WITNESS
(Criminal Procedure Rules, r.16.2; Criminal Justice Act 1967, s.9)

Statement of: Euan Barclay Buchanan Birrell

Occupation: Group Governance Manager

Age of Witness: over 18
(If over 18, enter "Over 18")

This statement (consisting of 4 pages, 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: 26/11/2020

Signature: _____

Signature: _____ Date: 26/11/20

My name is Euan Barclay Buchanan Birrell, I am employed by Loch Lomond Group and am authorised to make this statement on the company's behalf. My Job title is Group Governance Manager and I am responsible for Quality and Food Safety within the Loch Lomond Group. I have been employed by the Loch Lomond Group for 4 years and I am familiar with the Glen's Vodka brand manufactured by the Loch Lomond Group and sold in the UK. My duties include the identification of infringing versions of this product often referred to as counterfeit.

I received a parcel containing a sample of four bottles bearing the Glen's brand from Ian Smith of Buckinghamshire and Surrey Trading Standards. I was asked to inspect them which I subsequently did. I inspected the following bottles:

Sample Number – 014723 Evidence Bag No P00612378

Signature: _____ Signature witnessed by: _____

Continuing Witness Statement of: Euan Barclay Buchanan Birrell

Page 2

Glens Vodka 35cl

Spirit quality, strength out with tolerance (41.03%), colour within tolerance and nose/odour fail, this spirit is counterfeit

In regards to the dry goods of this bottle-

- lotcode, the bottle does not have a traceability lotcode
- closure, this closure is a counterfeit glens closure, evident from incorrect colour & poor position of graphics
- labels, the front and rear labels are counterfeit, evident from incorrect colour, font, text and graphics

This bottle is counterfeit, it is not a Genuine Loch Lomond Group Glens Vodka 35cl – I am confident to make this statement because of the investigation details above.

Sample Number – 014723 Evidence Bag No P00612378

Glens Vodka 35cl

Spirit quality, strength out with tolerance (40.96%), colour within tolerance and nose/odour fail, this spirit is counterfeit

In regards to the dry goods of this bottle-

- lotcode, the bottle does not have a traceability lotcode
- closure, this closure is a counterfeit glens closure, evident from incorrect colour & poor position of graphics
- labels, the front and rear labels are counterfeit, evident from incorrect colour, font, text and graphics

This bottle is counterfeit, it is not a Genuine Loch Lomond Group Glens Vodka 35cl – I am confident to make this statement because of the investigation details above.

Signature: _

Signature witnessed by: _____

Continuing Witness Statement of: Euan Barclay Buchanan Birrell

Page 3

Sample Number – 014724 Evidence Bag No P00612372

Glens Vodka 35cl

Spirit quality, strength out with tolerance (41.02%), colour within tolerance and nose/odour fail, this spirit is counterfeit

In regards to the dry goods of this bottle-

- lotcode, the bottle does not have a traceability lotcode
- closure, this closure is a counterfeit glens closure, evident from incorrect colour & poor position of graphics
- labels, the front and rear labels are counterfeit, evident from incorrect colour, font, text and graphics

This bottle is counterfeit, it is not a Genuine Loch Lomond Group Glens Vodka 35cl – I am confident to make this statement because of the investigation details above.

Sample Number – 014698 Evidence Bag No P00612371

Glens Vodka 35cl

Spirit quality, strength out with tolerance (41.02%), colour within tolerance and nose/odour fail, this spirit is counterfeit

In regards to the dry goods of this bottle-

- lotcode, the bottle does not have a traceability lotcode
- closure, this closure is a counterfeit glens closure, evident from incorrect colour & poor position of graphics
- labels, the front and rear labels are counterfeit, evident from incorrect colour, font, text and graphics

This bottle is counterfeit, it is not a Genuine Loch Lomond Group Glens Vodka 35cl – I am confident to make this statement because of the investigation details above.

Signature: _

Signature witnessed by: _____

Furthermore the dry goods display the same faults / differences from a genuine Loch Lomond Group 35cl Glens Vodka that have been identified in other recent counterfeit investigations

I can confirm that Loch Lomond Group are responsible for the trade mark certificates for Glens Vodka (Cert No's UK00002324314 and EU003231107) and that GIM Enterprises Ltd trading as Sunbury Food and Wine, 13 Staines Road West, Sunbury on Thames, TW16 7AB does not have permission from Loch Lomond Group to apply these trade marks to goods or to sell or expose for sale or have in his possession the goods in question to which the trade marks have been applied. I produce as exhibits EBBB/1 and EBBB/2 printouts of the trade mark registrations as recorded on the Intellectual Property Office website

Signature: _

Signature witnessed by: _____

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

Statement of:Kathryn Sweeney.....

Age if under 18:over 18..... (if over 18 enter "over 18")

Occupation:Seizures and Analysis Manager.....

This statement (consisting of two pages 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..... 01/10/20

I am employed by Gallaher Limited, as a Seizures and Analysis Manager, at their office at Virginia House, Weston Road, Crewe, Cheshire CW1 6GH. Gallaher Limited is a member of the JT International group of companies. Part of my role as a Seizures and Analysis Manager includes identifying counterfeit and genuine tobacco products bearing trademarks owned by the JT International Group of companies, including JT International SA. As part of my employment responsibilities, my employer has directed me to assist regulatory and enforcement bodies, upon their request, in matters relating to the supply of tobacco products by Gallaher Limited and its affiliate companies by providing technical analysis of suspected counterfeit products. I liaise frequently with regulatory and enforcement bodies advising on how to identify counterfeit tobacco products.

From my experience as a Seizures and Analysis Manager, I am familiar with tobacco products produced by the JT International group of companies, including the methods of manufacture and packaging of those products and the trademarks that are applied to them. I am therefore able to examine and identify counterfeit tobacco products from genuine tobacco products manufactured by the JT International group of companies.

The JT International group of companies marks their products at the time of manufacture for commercial purposes.

I have been provided with a sample for examination by Giuseppe Venniri, Buckinghamshire and Surrey County Council. I received the sample on 29 September 2020.

..... (signature of Witness)

JTI UK

JTI's UK trading company is Gallaher Limited
Virginia House, Weston Road, Crewe, Cheshire, CW1 6GH, UK
Telephone +44(0)1270 504500
Registered in England: Number 01501573
Registered Office: Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, UK
Telephone +44(0)1932 372000

jti.com/uk

Page No.....2....of....2.....

Continuation of Statement of:Kathryn Sweeney.....

The sample was contained in evidence bag under seal number M06650660. The contents were as follows:

Evidence Bag Number: M06650660 Exhibit Number: GU/01
2 x 20 Benson & Hedges Gold Cigarettes

The sample was held in secure storage until I examined it on 29 September 2020.

Evidence Bag Number: M06650660 Exhibit: GU/01
2 x 20 Benson & Hedges Gold Cigarettes
Pack Code: BFG21C31

Based on my examination of the sample, I can confirm that the product in question was not manufactured by or with the authorisation of JT International SA or Gallaher Limited and that Gallaher Limited did not authorise its sale or importation into the United Kingdom.

Further, having conducted a number of examinations of the product, including a comparison of the construction of the cigarettes and packaging, I can confirm that these packs do not conform to genuine Benson & Hedges product.

The product in question is therefore counterfeit.

I can state that the Trade Mark **BENSON & HEDGES** for cigarettes and tobacco products is owned in the UK by JT International SA (a member of the JT International group of companies and an affiliate of Gallaher Limited) and used extensively in the UK by Gallaher Limited or its associated companies.

Extracts of the following UK Trade Mark Registrations: UK 1495096 and UK 2294714 are attached as exhibits 20/TS196/KS1 and 20/TS196/KS2.

In the process of analysing this sample I destroyed one Benson & Hedges Gold cigarette.

On completion of my examination, I returned the sample and opened evidence bag numbered M06650660 under seal number 0593733 by post to Giuseppe Venniri, Buckinghamshire and Surrey County Council on 1 October 2020.

(Signature of witness)

JTI UK

JTI's UK trading company is Gallaher Limited
Virginia House, Weston Road, Crewe, Cheshire, CW1 6GH, UK
Telephone +44(0)1270 504500
Registered in England: Number 01501573
Registered Office: Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, UK
Telephone +44(0)1932 372000

jti.com/uk

WITNESS STATEMENT

Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B

URN 45

Statement of: Allan Bushnell

Age if under 18: (if over 18 insert 'over 18') Occupation: Police Community Support Officer

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.

Signature: Allan Bushnell 16904 Date 20/10/2020

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

On 19/09/2020 I was on duty in plain clothes, I was in SUNBURY FOOD AND WINE with my colleague PC 40786. Whilst in the store 2 teenagers entered the store and wandered around looking for something for approximately 5 minutes before heading to the counter and asking for NOs Canisters. The person behind the counter then looked around the store as if to check that no one was watching them. He then handled something behind the counter but out of site. The two youths then asked for some 'BALLOONS', The person behind the counter then handed them a brown paper bag and took some money from the 2 youths.

Whilst outside the two youths showed myself and PC 40786 that the bag contained a box of NOs canisters and a handful of loose balloons.

16904

Signature: Allan Bushnell

16904

Signature Witnessed by: 40786

Exhibit – IS/1/SFW - 2 x 35 Cl Bottles of Glens Vodka seized from Shelf behind counter at Sunbury Food and Wine on 19th September 2020.

Exhibit – IS/2/SFW - 50 & 30 Packets of Benson and Hedges cigarettes hidden in 'Boxing Tower'
Boxes seized from Sunbury Food and Wine on 19th September 2020.

Exhibit – IS/3/SFW - Glens Vodka Box containing 19 35cl bottles of Glen's Vodka seized from Sunbury Food and Wine on 19th September 2020.

Exhibit – IS/4/SFW - Yellow bag containing 29 packets of NZ Black brand and 5 Packets of Benson and Hedges brand cigarettes seized from Sunbury Food and Wine on 19th September 2020.

Exhibit – IS/5/SFW - 8 x 30g pouches of Pueblo Hand Rolling Tobacco – returned as genuine.

Exhibit – IS/6/SFW - Box containing 64 pornographic DVDs. Surrendered for disposal by Mr Soni.

Exhibit – IS/7/SFW - Box containing invoices – invoices returned to Mr Soni.

Receipt for items seized - to be retained

Surrey Gun & Knife

Buckinghamshire & Surrey Trading Standards

Exhibit Number	Description of Item(s)	Date/Time seized	Seal number	Where item found/seized from
15/11/20	2 x Boxes of 21 Cal. Vodka.	20/9/20	RO0612576	High Wycombe London
15/12/20	Set of 30 Cartridges (Parker) for 207 Remington - 11mm Cartridges (Hornet) in Remington Boxes	20/9/20	RO0612577	on board motor vehicle in High Wycombe
15/11/20	Case containing 14 boxes of 25cl Crown's Vodka	20/9/20	RO06145372	on board motor vehicle vic of London
15/11/20	Knives from Linnings 24 for 26 Cartridges (Parker) - 8 (Hornet) - 16mm Remington	20/9/20	RO0612577	11 (Hornet) on board motor vehicle vic of London
15/11/20	8 x 207 Remington Cartridges (Hornet) in Cartridge Box	20/9/20	RO0612576	on board motor vehicle
15/11/20	Box containing 64 Remington Cartridges	20/9/20	RO06145375	on board motor vehicle
15/11/20	Box of 100 rounds	20/9/20	RO06145371	on board motor vehicle

Signature: [Redacted]

Officer signature: [Redacted]

Position: M. Williams

Date: 20/9/20



02198

Buckinghamshire & Surrey
trading standards

Trading Standards, County Hall, Walton Street, Aylesbury, Buckinghamshire HP20 1UA
Trading Standards, Consort House, 5-7 Queensway, Redhill, Surrey RH1 1YB
Telephone: 0300 123 2329 Fax: 01372 371704
Email: trading.standards@bucksandsurreytradingstandards.gov.uk
www.bucksandsurreytradingstandards.gov.uk

VISIT REPORT

Name of business SUNSHINE TOBACCO Date 20/10/20 Time 15.30 hrs
Alternative name Contact name
Address 15 STAINES ROAD WEST SUNSHINE TRADING TRILL 7AS
Website E-mail
Reason for visit Investigation - Unlawful Sale Tel. No. [REDACTED]

Best practice advice/comment

During My inspection today I have found - Several
A quantity of Green Tobacco, Tobacco - Vapes PDS
That I have known to be an illegal activity in
Surrey/Sussex or also not classified (NOR).
There are regulations on the Sale of Law - A lot of
which I have given to you.

Potential breaches identified

Tobacco Merch Act 1984
STAMPAING AND LABELING OF TOBACCO PRODUCTS 2015
TOBACCO AND TOBACCO PRODUCTS REGULATIONS 2016
VAPOR PRODUCTS ACT 1984

contrary to
and you are advised/required to take corrective action within days.

Officer (sign) [REDACTED] (print name Tom Smith) Contact
Received by (sign) [REDACTED] (print name) Position

Issue March 2016

Page of



BUCKINGHAMSHIRE and SURREY
TRADING STANDARDS

Record of DVD Recorded Interview

Person Interviewed	Mr Mandeep Singh SONI		
Date of birth			
Address			
Occupation			
Place of Interview	Staines Police Station		
Date of Interview	23/09/2020		
Report Number		DVD Ref number	
Time commenced	12.48	Time concluded	13.53
Interviewing Officer(s)	PC 40786 Ian Smith, Bucks & Surrey Trading Standards		
Other Persons Present	Ian Wilson, Howell Solicitors		
Company Name			
Address/Registered Office			
Position in Company		Authorised spokesperson?	
Time of Caution			
Exhibit ref	IS/10/SFW		

Initials of Speaker	Text
40786	This interview is being recorded , I'm PC40786 Richard Saddler attached to Staines Police Station. The date today is the 23 rd of September two thousand and twenty and the time by my clock is twelve forty-eight. This interview is being conducted at Staines Police Station – can you state your full name and date of birth please.
MSS	Mandeep Singh SONI. Date of birth is 1 _____
40786	Thankyou . And your legal representative, can you introduce yourself for the tape
IM	Yes, its Ian Wilson of Howell Solicitors in Uxbridge
40786	Thank you, and if you can introduce yourself for the tape, name and role
IS	I'm Ian Smith, I'm a Trading Standards Officer, I'm employed by Surrey County Council
40786	Thank you very much. Do you mind if I call you Mandeep?
MS	Yeah
40886	Mandeep, you are entitled to free and independent legal advice, have you had sufficient time to consult with Ian today?
MS	Yes
PC40786	You have.. It's an ongoing right so if you wish to speak to him again at any point during the interview just let me know , we'll pause the tapes or the disc, you can pop out have your chat and then we'll come back and we will resume exactly where we left off before alright
MS	OK
PC40786	So its ongoing so you can you know at any time. And again it is a voluntary interview so you are not under arrest, you don't have to remain here obviously you've spoken with your solicitor here as well alright? Other than those that have confirmed or introduced themselves for the tape, can you just confirm that there is nobody else in the room with us, it's just us lot who....
MS	Yeah OK yeah
PC40786	Have spoken...yeah?
MS	Yeah
PC40786	Lovely thank you, so we're potentially going to discuss some criminal offences so I'm going to caution so you do not have to say anything but it may harm your defence if you do not mention when questioned something that you later rely on in court and then anything you say day may be given in evidence . I'm just going to ask you some questions to make sure you understand what that means so in this interview today do you have to answer any of my questions
IW	In other words, are you obliged to answer?
IW	You don't have to do you?
MS	Well, I don't have to
PC40786	No, yeah so that's the first bit of the caution which says you basically do not have to say anything
MS	OK

PC40786	What do you think might happen if you don't answer today but the matter goes to court and then you choose to give them an answer then – what do you think might happen or they might think about that
IW	They might not believe you?
PC40786	Yeah they may be less willing to believe you because they'll say well you had the opportunity now...
MS	They might not believe me, I should have told them.
PC40786	Why didn't you say it then
MS	Yeah that's right
PC40786	Cool and then lastly how do they know what's going to be said in this interview
MS	Sorry say it again
PC40786	How do they know what's been said or how does anybody the courts, the Police or anyone know what's been said in this interview
MS	Recording, yes.
PC40786	Its recorded
MS	(talking over PC40786)
PC40786	Lovely. So the reason for the interview then is because obviously you and your shop were subject to a test purchase as we call it and some NOS cannisters were sold in conjunction with some balloons so we're going to ask you some questions about that and this your opportunity to give your account The first things I'm going to ask you is tell me everything you know about what's happened while you're here , while you're here- tell me everything you know, like what's happened
MS	Why we here
PC40786	Yeah why are we here – tell me everything you know about that happened at the shop
IM	It was on Saturday wasn't it
PC40786	Yeah , it was
MS	It was on the Saturday; it was on Saturday
PC40786	It was the nineteenth
MS	Which is Saturday
PC40786	Yeah – tell me everything that you know about that
MS	Well I was standing on my till as regular
PC40786	Yeah
MS	Randomly a customer come, there were four four four people
PC40786	Yeah
MS	They were looking about twenty-five, thirty years old. They were randomly browsing and one of them came and ask for NOS and do we know where they are. I couldn't understand what he say at first and then he said do you have NOS and I said yes
PC40786	Hmm mmm
MS	Can we have it

MS	I said yeah I charge him twenty pounds and they he asked for balloon as well and I said yeah one balloon as well which is one ninety-nine and he paid by debit, credit card
PC40786	OK
MS	That's it
PC40786	Yeah so you're right, so in relation to that there was a test purchase as we call it so we get two young people, the police get two young people typically under the age of eighteen and they go in to shops and they attempt to buy things which are restricted or age related, you know or things that cause harm to young people more commonly found in alcohol or cigarettes but NOS as well and we do that to test that the shops are adhering to the terms of their licence and challenging people and doing what they're meant to do in relation to the sale of those restricted goods. So that's why they came in, they came in to do that. Obviously you're right, the two young had come in , they'd browsed the shop first
MS	Yeah
PC40786	And looking for NOS
MS	But what , were they underage because they were looking about twenty-five to thirty years old
PC40786	OK
MS	They were tall and well-built and looked like twenty-five to thirty years old...I'm not sure.
PC40786	They could be any age, in relation to NOS they could be any age but in this scenario they were under the age of eighteen, so they've looked around the shop, they've tried to find some NOS, like cannisters, they couldn't find it so they've asked you
MS	Right
PC40786	And as you've quite rightly said they came up to the till they asked you for NOS and you produced it. Where did you, where was the NOS stored in your store, in your stop
MS	Underneath the counter
PC40786	OK
MS	In a black bag, put it in black bags
PC40786	Why is it under the counter and not on the shelf
MS	Because kids asked for it and we refuse the kids and they look very young, they try to steal, they have done to me twice
PC40786	OK
MS	So that's why I kept them under, they try to steal so, I hide them there
PC40786	Ok
MS	Yeah
PC40786	How many NOS cannisters or boxes did you have underneath the till
MS	I can't think the number exactly I think probably about thirteen fourteen approximately.
PC40786	Ok and that's underneath the till yeah?

MS	Yeah (VERY QUIETLY SPOKEN) In total I men there, there were some in the front some I put at the back hiding because
PC40786	Hmm mmm
MS	As I said kids they come and they try to take it and they went the back , oh you got it why don't you sell me, why don't you sell me and they threaten me.
PC40786	Why, and you don't usually sell them, you say kids
MS	Yeah because they kids I don't sell to kids ???
PC40786	OK. So that's the reason you don't put them on the shelf yeah?
MS	Yeah
PC40786	OK. What else was underneath, underneath the till with the NOS cannisters?
MS	Balloons... they were not on that, I mean they were I always keep them near the, where I put other stuff as well
PC40786	OK
MS	Which is underneath the shelf
PC40786	Hmm mmm
MS	End shelf there
PC40786	So underneath the till with the balloons, with the NOS was balloons
MS	Yeah
PC40786	Were they...
MS	Not with the, not with the boxes
PC40786	OK
MS	Separate, end of the , where I put all my whiskies I mean my
PC40786	Sure
MS	Shelf
PC40786	But they're underneath the till
MS	Yeah
PC40786	OK
MS	Yeah
PC40786	What else in under there
MS	That's it I think
PC40786	Is there any other devices or things used in relation to the NOS
MS	Cracker, Cracker
PC40786	Crackers, what's a cracker?
MS	I don't know , I just sell them I don't know what they use it for but I've not even have because I sell it at the, when I take from the supplier he told me it's for making cakes cream and then I thought it making, I just sell it what they do with it they asked for balloon and thought that they asking for balloon because they making cake and having party or something
PC40786	OK

MS	I just sell it. What they do with it I have no idea
PC40786	How many of those cracker things did you have underneath?
MS	I can't remember I think it was a half box?
PC40786	OK
MS	Half box
PC40786	OK do you know roughly how many?
MS	Probably about twelve thirteen
IW	What is cracker ?
PC40786	Crackers are basically as I know it or a charger
IW	Charger right
PC40786	Charger is a metal device which
IW	Right
PC40786	You can unscrew and then you put a NOS cannister inside
IW	Right
PC40786	And then you tighten it up again and inside the top of it is pin and it pierces through the top of the NOS cannister inside which then allows the gas or substance inside the
MS?	(INUADIBLE)
PC40786	Charger to be extracted from the pressurised cylinder
IW	Right ok yeah
PC40786	And there's a convenient sort of ridge around the top which allows the lip of a balloon to sit on
IW	Yeah
PC40786	So then it extracts the gas from one into the balloon
IW	You know them as crackers?
MS	Yeah
IW	Right ok that's fine then
PC40786	Yeah they can be referred to as crackers or chargers
IW	Yeah
PC40786	I don't know it as anything else....
IW	(INAUDIBLE)
PC40786	Other than that
IW	Ok
PC40786	So wave clarified then that underneath the till you've got various boxes of NOS cannisters, maybe thirteen or fourteen boxes under the till
MS	Not boxes, pieces
PC40786	What individual
MS	Individual pieces

PC40786	Ok fine
MS	There were, there were one box I think that in the box there were about twelve or thirteen pieces approximately not thirteen boxes
PC40786	OK
MS	Pieces pieces
PC40786	Alright
IM	Alright
PC40786	So you're saying that you had thirteen to fourteen individual cannisters?
MS	approximately
PC40786	Approximately OK cool. They were under the till , you don't put them on the shelf cos you can't sell them to children or that's your belief and people try and steal them and also near these cannisters or underneath the till you know in close to them is the balloons and the crackers or..
MS	Yeah
PC40786	To extract the gas, fine. The transaction then, obviously you've, they've come up to the till, they've asked for it, how much have you charged them
MS	Twenty pound.. for the, for the
PC40786	Twenty pounds exactly
MS	?? ??
PC40786	Twenty pounds exactly?
MS	Yeah and then one ninety-nine for the balloon
PC40786	OK
MS	Which is twenty-one ninety-nine, something like...
PC40786	Yeah, I've got a copy of the receipt here...he says in all my paperwork that's here... it's a small receipt, it's that one there I suppose if you want a photocopy of it
MS	(INAUDIBLE)
PC40786	Twenty-one ninety-nine, is that, so this receipt is that familiar to you, that comes from your shop?
MS	Yeah
PC40786	OK. So then obviously they've come up, they've bought the bits that's they wanted, that's the receipt for it they've then, they've then left the store, a short time later Police have come back in to the store along with Sergeant Dunlop, a Drugs Liaison Officer and Ian from Trading Standards.
MS	(QUIET-INAUDIBLE)
PC40786	And obviously we've spoken to you and said you know; you've been subject to a test purchase can you remember that?
MS	Yeah
PC40786	Yeah, when we came back into the store afterwards?
MS	Yeah I remember that
PC40786	Tell me everything that you remember about that, the Police coming back inside

MS	Yeah they just came back, they showed me their ID's and they said we just stand here can we have can we have check; can we check in I say yeah sure and we went inside they checked everything...
PC40786	OK
MS	They went out the back as well
PC40786	Yeah
MS	And the police officer he was writing my details
PC40786	OK
MS	That's all I can remember but other thing that because I'm a bit nervous as well so..
PC40786	Do you remember anything that you had said to
MS	I said sorry I won't do it again I just apologise because
PC40786	Yeah
MS	I'm naïve I don't know because
PC40786	So yeah I've got that you know you were apologetic saying sorry
MS	Hmmm
PC40786	You also used the words, can you let me off
MS	Yeah because
PC40786	This time...
MS	I did say that
PC40786	Do you remember saying that, as in can you let me off, give me a warning?
MS	Yeah
PC40786	OK. Obviously the sale had been done if that makes sense as sort of.. no
MS	Sorry
PC40786	The sale, as in this had already been done so that's that. You're right, so then we obviously found or were looking for evidence if that makes sense, evidence further evidence in relation to the crime or what had happened – the sale of what's gone on. So as a result of that we found, obviously, the NOS cannisters under the till
MS	Hmm mmm
PC40786	I'm going to disagree with you when you say there was twelve to thirteen individual cannisters cos in total eighteen boxes have been..
MS	Yes but (INAUDIBLE)
PC40786	Seized from underneath, yeah but you said individual cannisters, eighteen
MS	No... eighteen boxes.. oh cannister...no no, cracker, I said cracker individually thirteen
PC40786	Yeah
MS	And NOS...
PC40786	OK
MS	Boxes, fourteen boxes I said approximately I said
PC40786	OK fine

MS	Inside how many there are, well..
PC40786	Inside one box there's twenty-four
MS	Twenty-four OK
PC40786	And we found eighteen boxes
MS	Ok Yeah.
PC40786	I've got an exhibit here, its exhibit EG slash zero one, it's a photo album
MS	Cos we sell it buy a box , so I thought you were asking me about box
PC40786	Photos taken from Sunbury Food and Wine at thirteen Staines Road West, I'm gonna show you a couple of photos this obviously just relates to what's been found inside the store. I will just focus on the balloons as that's the first photo – it's a blue bag its full of multiple packs of balloons, latex balloons, that's another close-up of that, obviously it's a bag of balloons, yeah?
MS	OK
PC40786	We'll come to that in a second, that's the cream chargers that they're called
MS	I don't know what the whole box, thirteen or fourteen boxes
PC40786	Yeah ok
MS	(INAUDIBLE – TALKING OVER PC40786)
PC40786	There was eighteen of those seized so there was eighteen ...
MS	Eighteen
PC40786	.. of those boxes underneath your till each containing twenty-four. Again there's some more they weren't all together collected in one bag
MS	Yeah yeah yeah....separate
PC40786	They were all in the same location found to the right of the till but they in you know separate
MS	Separate yeah..
PC40786	Separate stacks, some in blacks bags
MS	Yeah
PC40786	Some not in black bags. There some more again there's a few more there.... Another pack of balloons, you know they're slightly different obviously to the pack that you got before but never less they're under the till more or less in the same location as that's that
MS	(INAUDIBLE)
PC40786	Hmmm
MS	So we kept everything separate...???
PC40786	This is what you are referring to in relation to charges then so this is the little device that
MS	Cracker yeah
PC40786	Obviously so that's the box of it but they look like that
MS	Oh the customer call it cracker, so I don't know what they use it for, we just ??
PC40786	Yeah sure they're like that inside

MS	Yeah yeah
PC40786	So there was one whole, there was two of these boxes seized
MS	Two, two boxes?
PC40786	Two boxes of these seized. One box was completely full as in all these holes were full up of these
MS	(INAUDIBLE)
PC40786	And then the second box, was that one there, that photo
MS	Yeah but I was talking to the police officer as well so I didn't know how much it was in the shop so...
PC40786	Ok, no that's fine but...
MS	(INAUDIBLE- TALKING OVER PC40786)
PC40786	You know they were there – these were found next to the you know the cannisters and the balloons
MS	OK
PC40786	So they were there next to it so again they're the photos. More of those chargers I think there were was about five or six different sort of carrier bags which was split and put in to one bag cos they are all the same. They were underneath – there's two of those chargers there or crackers as some of us have called them to extract the gas. All underneath – that box there was the one we've just seen in relation to the half full box – it's under the till. And there we go there's obviously the other box which is full. They were all under the till – so are you saying that you've got these items – the balloons, the crackers and the cannisters, you've got them under the till so you can sell them to people?
MS	Yeah
PC40786	So you've got them underneath the till so you can sell them to people who come in and ask for it. When customers come in and when you've sold them before how how, like what variation do you sell them in, like do you sell them individually or do you sell them together?
MS	Yeah if they ask for balloon I give them balloon...??? NOS.
PC40786	So when people come in do they buy you know the cannisters on their own? Or do they buy, do they buy these on their own? Or do they buy them with balloons?
MS	Not all of them
PC40786	Yeah
MS	Some of them buy just some people only buy balloons, some only buy crackers
PC40786	Hmm mmm
MS	Some of them only buy some of them buy all three of them so depends
PC40786	So the transaction that was made on the day with the two that came in
MS	Yeah they...
PC40786	They bought some of those, a box of those and some balloons
MS	Those, yeah.
PC40786	What did you think they were gonna do with those?
MS	Well I thought, my supplier told me it's for the cake

PC40786	Hmm mmm
MS	To be for the cakes so
PC40786	Yeah sure
MS	So it be used for cakes
PC40786	Your supplier did but what did you think they were gonna do with that?
MS	That's what I thought that as well, I thought that as well
PC40786	So with just those and a pack of balloons
MS	Yeah
PC40786	They were gonna make a cake with those
MS	No, a balloon, I thought they were having a party or something they're going to do with it.
PC40786	OK. Do people usually come in and buy one of those...
MS	Just..
PC40786	A pack of balloons and....
MS	Yeah just... one...
PC40786	And a cracker?
MS	Yes most of the people buy only cracker, only cracker and balloon, that's it
PC40786	OK
MS	Yeah some some people come only buy just er just er a box
PC40786	So when people come in to your...
MS	Very few people come buy three of them
PC40786	Do you know how, so when you whip cream
MS	Yeah
PC40786	Do you know how it works with these?
MS	No idea, I just sell them and I don't know what...
PC40786	Do you know how to whip cream with those?
MS	Me? No
PC40786	You basically cant whip cream with that unless you're willing to have a bucket of cream where you're gonna put both hands in and screw that together like this underneath the cream so that all the air comes out and a five second burst you'd have to use
MS	Oh I don't know about that...
PC40786	I don't know about ten boxes of the cannisters and those – its, basically you can't whip cream with that
MS	Is it? Oh I was naïve so I what they sell I just I'm sorry if I did a mistake I'm sorry, I do apologise sorry about that

PC40786	So we've discussed obviously the NOS cannisters were underneath, people come in cos you intend to sell them to people and obviously with the balloons and sometimes with that they sometimes buy it in different variations, balloons and the chargers or one of those and the cannisters and all different variations but you know that so they come in to do that and you purposely don't leave them out because people are gonna nick them . I'm just gonna refer to the Psychoactive Substances Act two thousand and Sixteen, so this is part five, section five of that its the supplying or offering to supply a psychoactive substance, I'm just gonna read out what that part of law is basically to make it clear. So a person commits an offence if the person intentionally supplies a substance to another person and the substance is psychoactive or a psychoactive substance and the person knows or suspects or ought to know or suspects that the substance is a psychoactive substance so the psychoactive substance is what's in those cannisters. At the end of the day it's a gas
MS	OK
PC40786	OK?
MS	Oh I didn't even know what is it so...
PC40786	And the person knows or is reckless as to whether the psychoactive substance is likely to be consumed by a person, you know to whom its supplied. It's the offence to supply that, these to somebody
MS	Hmm mmm
PC40786	Knowing or being reckless or you'd ought to know that it was going to be used for anything else other than making a cake if that makes sense
MS	Yeah
PC40786	Or whipping up cream and the fact that the transaction was made with a box of those and some balloons, you know they go hand in hand those two
MS	OK
PC40786	You know so do you know what reckless means? Reckless knowing there's a risk or knowing it may be used or done in a different way but going ahead and doing it anyway
MS	I I??? They told me for the cakes so I thought well didn't use for this but now you tell me as I said I was naïve I didn't knew...
IS	Can I just ask a couple of things in relation to that. You know that you said you have them all behind the till and whatever so that people couldn't steal them and obviously you have people coming in trying to steal these particular things
MS	Yeah yeah (QUIETLY)
IS	Why do you think they were trying to steal them?
MS	I don't know I I was, that's all I was wondering why would they steal it because when they under the counter have you got this charger for kids love parties isn't it and so maybe they taking ???
IS	It's an odd thing for kids to come in and just try to steal that's
MS	They have done it couple of times
IS	OK but you've got no idea why they want to steal those
MS	No no idea
IS	OK

MS	They've done it a couple of times- that's the time when I stopped them and they attacked me and they if you don't sell me and I'm gonna call the Police
IS	OK
MS	You don't sell me this.
IS	and just to follow on from that, the test purchasers who called in to see you, what made you think that they were going to bake a cake?
MS	That's what , that's what I said cream chargers that's what my supplier told me
IS	OK
MS	It's for the cake
IS	Did they tell you they were going to use it for that purpose?
MS	No they never told me
IS	OK
PC40786	So in the transaction like I say we've clarified that you only they, only bought some balloons
MS	Hmm
PC40786	And the chargers or the cannisters, let's not get confused, the cannisters, and the balloons. As Ian says you know there was, what made you think that they were going to make a cake – nothing else, they didn't buy any eggs, they didn't buy any flour, they didn't buy any cream to go with the cannisters or you the you know double cream or whipping cream or whatever to go with the cannisters or balloons to maybe whip it.
MS	I don't know I mean... I just sell them I what to do, I was only aware that it's for the cakes, so that's all I know...
PC40786	When the two
MS	And now you tell me it's illegal which I didn't knew it so...
PC40786	Hmmm
MS	So I won't do it next time
PC40786	But you would ought to know, having sold them, you should know
MS	But that's that's..
PC40786	You ought that you know that there could be some sort of restriction or offence around it or you know or something which you may need to do as the shopkeeper to either satisfy yourself that what you're selling is gonna be sold or used for its legitimate purpose
MS	Er I was naive, I didn't do it I'm sorry about that I do apologise
PC40786	It's like, this could be, its slightly off topic but it's like selling a bomb, you're selling a bomb knowing that's it's gonna be used for something
MS	Well of course if I knew I would never do it now I knew
PC40786	Exactly
MS	Now I knew it I would never do it

PC40786	The two people that purchased these and the balloons they described to me that when they went up to you and said have you got any NOS and balloons you've done a sort of double-take around the shop as in looked around and then produced them from under the counter
MS	Yeah the reason why , because some what it has happened to me before, they buy it , behind the kids come, tried..give me this , give me this... otherwise I'm gonna attack this shop
PC40786	Yeah
MS	So that's why I was a bit worried that they would do it again
PC40786	But, a second you would know, you knew that only four customers came into the shop
MS	No they come from behind sometimes, kids
PC40786	Two of which were the people trying to buy the NOS and the other two were me and my colleague
MS	It was you
PC40786	Yeah
MS	OK, OK it was you
PC40786	It was me in the shop-yeah
MS	OK... (INAUDIBLE- TALKING OVER)
PC40786	Not with this on, No, I looked slightly different
MS	OK (LAUGHTER IN BACKGROUND). I told you some body had made a checked
PC40786	Hmmm yeah,, so there was only four of us in the shop
MS	With out the uniform I couldn't recognise you yeah...
PC40786	so the two people have come up to you and...
MS	No four people, isn't it
PC40786	Got any NOS? yeah four people in total but two have come up and they've said got any NOS? and you've looked around the shop as in anyone else around and then you've taken them out from under the till
MS	Yeah yeah cos I was worried somebody might attack me again
PC40786	OK so you've done that in case someone was going to attack you
MS	Yeah
PC40786	Or steal it
MS	Yeah
PC40786	OK
MS	You look so fed up ??
PC40786	You see that's the trick, fine.
IW	???
PC40786	Obviously, they've bought it they've left – you've got these bits underneath, we've discussed the law if that makes sense as to you'd ought to know what its use is for, you say that it's to make cakes

MS	Now I know its..
PC40786	Or whip cream but you ought to know some of the other uses and I think you do know what the other uses are for because not only are you selling the chargers on their own and you are selling them next to the crackers or these as well as the balloons
MS	Yeah I never used to sell these balloons, balloons I used to sell for birthday parties and everything people used to buy, a customer told me to, we need this as well, I said well if you want it I bring it for you I never asked why you use it, they said with the cracker we needed that one as well, I said OK I'll give you
PC40786	Yeah
MS	I start buying them from the supplier
PC40786	But the balloons...
MS	You...
PC40786	Were next to these next to the cannisters and I think we can agree that all three go hand in hand and as we discussed you can't whip cream with that, you know you're an adult, you know if you wanted to whip cream you'd use a hand whisk or a hand electric whisk
MS	I being honest with you I didn't knew it but if you think I knew it well it's up to you if you want to believe me or not but I'm really really sorry I was naïve, I won't do it again, I do apologise
PC40786	When we came into the shop after the transaction was complete and we said you've been subject to a test purchase, you've sold NOS to a young person with some balloons, your first reaction was to say sorry. So if you didn't know that it was an offence to sell that to somebody why would you apologise?
MS	Because when the Police came I thought I did something wrong, I should apologise
PC40786	Yeah but you were saying sorry, it's almost like you
MS	Yeah that's...
PC40786	Knew you had done something wrong you were apologising and then you followed it up with saying can you let me off? We'll let you off of what?
MS	Yeah yeah because I was worried that you might
IW	Hes a human, he's done something wrong because the Police are there.
MS	As in...
PC40786	Yeah sure but had you have passed the test purchase; the Police still would have been there
MS	But when you see a Police...
PC40786	Yeah
MS	You get nervous, why is here, do I something wrong? I said sorry
PC40786	And we said and we said, yeah
MS	It's a natural, it's a human you know? Its natural..
PC40786	OK
MS	See a police just say sorry – did do something wrong? It's just a reaction I got, I

PC40786	The fact that again the balloons, these and the cannisters were all together underneath, it's the opinion of me and my colleagues that you know they are being sold together, the cannisters and the balloons were sold together, there's only one purpose for that and that's to inhale the gas and I think you were reckless as to whether you know I think you took the risk by selling it anyway having known that you shouldn't be or it was going to be inhaled by somebody. I think you know the true reason as to what these are used for...
MS	Well I didn't knew what the reasons they use it but if you think, what shall I say now...
PC40786	I'm gonna move on then
MS	I am naïve , I was naïve, I did a mistake I do apologise, I'm sorry about that...I won't do it again
PC40786	I'm going to move on to something else, that's fine – underneath the counter, where not only were these items found, there were some other concerning items found. I'm gonna start off with some lollies, they're lolly pops, so like sugar lolly pops but they're branded as cannabis. This is an empty box, a box that was found at the back of your store but the box that was found by Police had lolly pops sticking out of like holes in the lid which make it into like a lolly pop tree and there was also some lolly pops in there. Obviously there's a cannabis logo on the front..
MS	Yeah there's a Cannabis, you must have checked it... it's not..
PC40786	We haven't, we are, we haven't checked it yet (MS TALKING OVER)
MS	Sure, you can check it's not a real one, they just, why would I sell it, I mean if it says cannabis
PC40786	Yeah
MS	I can know it cannabis ??? it's not, why would I put it in front of the till because..
PC40786	But these were underneath
MS	No no, empty boxes underneath, I normally put it in the front, its always in the front.
PC40786	Yeah, no , this box here was at the back of the store
MS	Yeah because we sold it and then put it at the back and
PC40786	But the box that we've seized had lolly pops in it
MS	Yeah
PC40786	And that was underneath the counter
MS	Maybe I put it that time normally store this in the front
PC40786	Hmm mmm
MS	I I should...
PC40786	So these are branded cannabis – where did you get these from?
MS	The supplier came to my shop and gave it to me
PC40786	So a supplier – who is the supplier?
MS	Just a random guy – I don't know I mean
PC40786	A random guy...
MS	Yeah he keeps on coming every two months three months, it's been one month, two month I've been selling them

PC40786	So a random guy comes to your shop
MS	Yeah
PC40786	And has given you some cannabis branded lollies
MS	Yeah yeah
PC40786	And you can't tell me who this person is
MS	I did have his card I lost it, I, - let me check.... (PAUSE) I haven't got it with me but I need to check if I have found it my invoices box or something, I think you got my invoice boxes, it must be there somewhere
IS	I've got, I've got a box of invoices
MS	Yeah
IS	Sure
MS	It must be there
IS	So...
MS	Card for the supplier and they come and go and they just sell it and just disappear
PC40786	This box, the label on here, obviously it says cannabis, its cannabis there, can you read what it says at the bottom there?
MS	What does it says...
IW	I can't ... (LAUGHTER) can't expect an old man to read it can he
MS	Cannabis something? the white bit?
PC40786	Yeah so just at the bottom of the lolly pop, like the stick – can you read what that says?
IW	Can you read it?
MS	Oh...
PC40786	Otherwise I'll read it out but I can make out what it says
MS	What is says on the stick?
IW	With 'real' cannabis
MS	Oh, its says real
PC40786	With real cannabis – yeah
IW	With real cannabis
MS	Oh, is it?
PC40786	So it says on the sticker cannabis lollies with real cannabis
MS	??? I did not realise
PC40786	Were they underneath the till because you didn't want to put them on the top in case the Police came in
MS	No no I always put it on the top because..
PC40786	Yeah
MS	I thought it was safe to sell it so ...
PC40786	It's not safe to sell it if it's got real cannabis in it

MS	Ok well I don't know these things so...
PC40786	Do you know what cannabis is
MS	I don't even know what cannabis is no (LAUGHTER)
PC40786	Cannabis is a drug, it's a Class B drug
MS	A drug
PC40786	Yeah and there's a certain part of cannabis or THC which is obviously the drug part which is you know it comes in various different things , you can or different drugs you can find in cannabis, but the big one is THC and we suspect that these lollies have got THC in them which is where the real cannabis bit comes in
MS	What is it ok
PC40786	Do you know that cannabis is a Class B drug
MS	I don't know
PC40786	Do you understand that having in your possession a Class B drug or cannabis is an offence
MS	No I don't know that
PC40786	You see I think that the lolly pops that we've seized which clearly state as you know lan says have real cannabis in were underneath the counter to stop them from being detected or seen by Police or customers or Trading Standards or the Council
MS	No, no no trust me , I'll always put it in the front because I thought it something you can sell – maybe when he came maybe it was there
PC40786	A-ha
MS	All of it in the front, think ??? the thing here as well in the bottle I keep them both separate. I mean both in the same place, sorry they were in the front as well isn't it. This always I put in the front as well with that time it was underneath so... because in the morning when I do a bit cleaning maybe I put it there?
PC40786	OK and you said you'd been selling these for about one month?
MS	One and a half month approximately yeah, one and a half, two months
PC40786	OK. Also underneath the counter-not on top of the counter where all the other stuff is you know where all your cannabis grinders are and the you know where you mash it up and the bongs and the cones and the long Rizlers, you know you've got all the stuff there to sell it but also underneath the counter was two other pots
MS	Yeah..
PC40786	One was in a coffee jar type pot
MS	That's why what the same supplier for both things
PC40786	Yeah, one was in a coffee pot type jar which was glass with a lid in the top and the other was a plastic screw pot
MS	So that illegal as well?
PC40786	Both of them say on the label cannabis, It's got a green herbal substance inside which is consistent with cannabis and its, you know, it's exactly like this it's got cannabis on it
MS	Yeah same supplier gave me all of those
PC40786	Also inside the glass jar which is got what we suspect cannabis is like

MS	It was biscuits... and biscuits yeah yeah (TALKING OVER PC40786)
PC40786	Little biscuits or cookies
MS	That's like normal biscuit it doesn't matter it says... I ...just talking I don't know what I say
PC40786	Have you tried it before?
MS	Me no
PC40786	No, so it could be anything couldn't it or it could be what's written on the label – cannabis. So again the same question is, I suspect there is cannabis inside those pots as well – did you know there was cannabis inside them?
MS	Oh
PC40786	Did you know it's an offence to be in possession of cannabis i.e. in those pots or in them biscuits or cookies?
MS	No no no I knew it no I knew it ???
PC40786	What did you plan on doing with those lolly pops
MS	I definitely won't sell it again
PC40786	What did you plan on doing with those lolly pops or that jar
MS	Just sell them, just sell them that's all
PC40786	To sell them
MS	Yeah
PC40786	And from your memory cos it would help you, you don't know who this supplier is or this person is you says it's a random guy
MS	A random people, different people I can remember he was a white guy I mean , eastern European kind of guy so he just supply I say OK, keep on coming every day and new suppliers comes and we don't buy from everybody, thats something we think we can sell it and we take it
PC40786	What company is he from- is he from a company , a business?
MS	No he just came random in his van and came give it to me
PC40786	Hmm, OK.
MS	Yeah – he just give me a small invoice on a paper as well written just that amount and that's it – I kept it in a box in one of those boxes
IS	Can you tell me what the invoice looks like
MS	Sorry
IS	What does the invoice look like
MS	Just a normal paper-white paper
IS	OK, just handwritten white paper
MS	Yeah
IS	OK. And just actually almost on that sort of subject, is obviously you must have to pay him for these
MS	Sorry
IS	You must have to pay him for what you buy off him

MS	Yeah I pay him yeah
IS	How do you pay him
MS	He took cash, cash
IS	Cash
MS	He took cash.. yeah
IS	OK – is there any reason why you pay him cash?
MS	No he just came in, I was in the shop so I ,it didn't have to be by cash that's all because he was
IS	OK. Have you ever paid him by any other means?
MS	If you would have asked I would given, paid cheque I would he had taken cash
IS	OK
MS	If you would have tell me pay me by card I would have paid him by card, Obviously I couldn't have paid by card because he didn't have any cash machine with him
IS	So he's got no facility to take any other payment
MS	He told me give him cash I gave him cash – if he tell me give him cheque I would have give him cheque as well
IS	OK
MS	He just told me give me cash that's it.
IS	Is that the way you normally pay for things from your suppliers or
MS	No I pay by cash, I pay by cards as well, when I go to cash and carry like the ???, Bestways if I've got cash I give them cash if I've not got enough cash then I pay by card
IS	OK
PC40786	Last question in relation these lollies and cannabis pot things how much were you going to sell these lollies for
MS	Seventy-five p each
PC40786	OK and then the pots of cannabis by the till
MS	One ninety-nine
PC40786	Each
MS	Yeah
PC40786	OK I'm just going to summarise then so like I say you were standing at the till before all of this happened, two people came inside you believe them to be twenty five to thirty years old, one came in and asked for NOS - you didn't know what they said originally but they said NOS and they clarified and they asked for balloons as well. You charged them twenty-one pounds and ninety-nine pounds for it , twenty pounds for the NOS and one ninety-nine for the pack of balloons. The NOS was underneath the counter in a black bag, you put it underneath the counter black bag and not on the shelf because people try and steal it. You had, we've talked about the obviously how many boxes you had, you had eighteen boxes but originally you thought there was about thirteen to fourteen boxes
MS	Yeah

PC40786	Of cannisters under the till. And again they are there so that people don't nick em. And also under the till is the crackers which is obviously the metal device for extracting the gas out and balloons – they are all in the same place. You believed that the crackers were used or are used for making cakes or cream
MS	(INAUDIBLE – MUTTERING)
PC40786	And you had one , you thought you had one box under there which was you know about twelve or thirteen but there was actually two boxes all be it one was full, one wasn't
MS	(INAUDIBLE-MUTTERING)
PC40786	You gave them a receipt for the transaction – they then left the shop. Police have come back inside we've shown IDs for some people who weren't in Police uniform and obviously some people who were and Ian and my colleague Emma who is a Drugs Liaison Officer - we came in and checked the store Police took details from you but you kept saying you were or sorry, you were apologetic/apologising and saying that can you let me off this time. You've said that because you were almost shocked the Police had come in and it was your natural reaction as opposed to you knowing that you had done wrong and you saying sorry for that offence. You have them underneath because your supplier had said well if you're gonna have the cannisters you need these chargers as well – you've got them together because you don't think they are
MS	No no no...
PC40786	They're used to inhale
MS	I never used to sell ??? I told you
PC40786	Hmm mmm
MS	The crackers we never used to sell them. My customers used to buy this chargers
PC40786	Uh huh...
MS	Have you got the cracker, I say I haven't got it
PC40786	OK fine
MS	Every customer used to ask for them so I say maybe I should bring it so... I never ask what do you use it. We don't ask the customer why you use it we just sell them because it says cream chargers on them even my supplier told me it's to make for cakes, they make cream inside the cake or whatever I mean
PC40786	OK customers ask you for the chargers then so you got the balloons, the cannisters and the chargers underneath. A customer has asked you for the chargers, do you think that before you took the customers word and you started to sell them do you think that you should have maybe done some research into them?
MS	I just I just took his word I just believed
PC40786	It's like me coming in saying here you are, I've got some BB guns and samurai swords here – would you just naturally buy them and advertise them
MS	Guns guns guns is a different thing than actual guns
PC40786	Yeah but a BB gun (MS TALKING OVER)
PC40786	A bright orange toy BB gun (MS TALKING OVER)
MS	I think it's ??? a gun you can obviously you see...???(UNCLEAR)

PC40786	Do you think that you should have done some research into if you can or cannot sell the cream whippers
MS	Yeah I should have done but as I said I was naïve – I didn't even bother doing this so – I do apol... it's my mistake I agree- I apologise for that
PC40786	OK, cannabis lollies, your supplier came into the shop it was a random guy/eastern European guy – you're not aware of who he is, you've got no details to then trace him. You had a card, you think you had a card but you haven't got that now it may be in the shop or at home but you don't know who that guy is
MS	No
PC40786	He came in he sold you these lollies, you paid cash it may be an invoice or a bit of hand-written paper somewhere which obviously suggests the sale of them at that time. Obviously it says with real cannabis on there you weren't aware that it was an offence to have those or cannabis in your possession and you've been selling them for one and a half or one to one and a half months. The lollies you were gonna sell for seventy five p and then the cannabis pots, again the same principle applies you weren't aware that it was an offence to have cannabis in your possession although its branded cannabis and you were gonna sell them to customers at one pound ninety nine each. Is that correct?
MS	That's correct
PC40786	Is there anything else you wanna add or clarify in relation to what we've discussed
IW	Did we say that , just quickly did he say that the invoice given for those might be with lan
MS	Might be in the box...potentially
PC40786	Potentially (INAUDIBLE – EVERYONE TALKING)
IW	I just wanna clarify that
IS	??? (INAUDIBLE – EVERYONE TALKING)
PC40786	Potentially
IW	Potentially - were not sure
PC40786	Yeah sure
IW	We're not sure, OK
IS	But I have got the records
IW	Yeah you have...
IS	By all means I'll have a look to see whether there's anything that matches the description... yeah yeah
IW	Yeah... no absolutely. I also am just making the point that it took me a very close peering to look at them ???
PC40786	Hmmm – well it is a photo to be fair
IW	It is a photo to be fair
PC40786	yeah
IW	It does look very small I think
PC40786	Yeah
IW	In the bottom

PC40786	In...
IW	Obviously one of them maxi is very obvious
PC40786	Yeah sure
IW	But the other on isn't
PC40786	In person that box is probably that wide by that tall?
IW	Yeah
PC40786	So the font in there is is quite obvious
IW	(INAUDIBLE)
PC40786	You know it's easier to see in a printed photo
IW	Yeah
PC40786	But yeah. Ok I've got no more questions in relation to these items here or the transaction – I think we've covered that we've gone you know town on it and you've said, look-it's my mistake shouldn't have done it, I should know more about but I didn't and I sold it. We know that, obviosity there's numerous other items which my colleague Ian is going to ask you some questions about
IS	Yep
PC40786	And we've got some photos here as well so we might need to go through that again.
MS	Cigarettes as well, hmmm
IS	As you can see I brought some examples here...
PC40786	So Ian's gonna ask you some questions
IS	So, yep before we sort of kick off just to go over again just so that you know that what I'm talking about is also criminal offences in relation to the cigarettes, the vodka and the DVDS I think that were found at your premises as well...
MS	DVDS
IS	I will get to that, you can tell when I get to those questions. Essentially the cigarettes that were found in your premises , there were some similar to the ones I've got here which are Benson and Hedges inside that - I have reason believe that they're counterfeit. Do you know what I mean when I say counterfeit ?
MS	Well they're fake
IS	Fake – yeah, they're
MS	Fake brand
IS	Yeah...
IW	Not made by ...
IS	Exactly, they're not what they pretend to be
MS	(INAUDIBLE-MUTTERING)
IS	They're not made by Benson and Hedges
MS	They looks exactly like a real one (TALKING OVER IS) that's what ???
IS	They look like real but they're not made by them . (MS TALKING OVER) that's right. OK – it's the same for the Glens Vodka. You also had some cigarettes called NZ Blacks which I think there's a picture there

PC40786	Again that's in exhibit EGO one, that's a photo
IS	Right
MS	Right
IS	I'm not alleging that they're counterfeit but they are smuggled – we call them illicit tobacco and essentially my interest in relation to that is because they aren't , don't carry the correct warnings on them and they are not in the correct colour that cigarettes must be in if you're gonna sell them in this country. And in relation to the DVDs, I think there were sixty-four pornographic DVDs..
MS	That that that's not mine – I told you that's a customer, his name is Joe
IS	OK
MS	A black guy
IS	I'll ask you specifically about them. The point in relation to that is that if you're gonna sell you know video works like that they've gotta be classified and there was no classification marks on the boxes, ok
MS	That's not mine-that's not even mine, that's what I'm saying
IS	No.. no fine, but I'll talk to you about it, essentially and just to sort of like let you know what the offences are under, the counterfeit issues are under The Trademark Act ninety ninety four – in relation to the packaging of the illicit cigarettes it's the Standardised Packaging Tobacco Products , twenty fifteen and there's another one Tobacco and Related Products Regulations, twenty sixteen so that covers
MS	Which tobacco..
IS	The NZ Black, the...
PC40786	These ones
IS	The ones that aren't in that horrible erm...
IW	When you're saying tobacco do you mean cigarette?
IS	They're cigarettes yeah
IW	Rather than rolled tobacco
PC40786	Rolled tobacco...
IS	They're cigarettes
PC40786	Cigarettes
IW	They're cigarettes, OK yeah...
IS	There was actually some rolling tobacco that I took away
MS	Uhhh...
IS	Is it Peublo, or something like that? yeah
MS	Yeah yeah.... I think I got an invoice for that (INAUDIBLE TALKING OVER)
IW	He's got a receipt (INAUDIBLE TALKING OVER)
IS	To be honest at the time because it was with all the other counterfeit tobacco
IW	Yes ,
IS	I took it away and I, I was uncertain and was gonna get it checked out and I don't know yet so

IW	(INAUDIBLE)
IS	OK fine
MS	(INAUDIBLE)
IS	If you've got a receipt for it great
PC40786	(INAUDIBLE)
IS	I'll..
IW	??? (INAUDIBLE) cos Ian may need copy of that later
IS	Yeah yeah I will so I will take a photograph of it the very least yeah. So that's the reason why I wanna talk to you, about those particular things and they're the offences that relate to them. So, and obviously Officer Saddler has been through the circumstances of our visit with you and these were all found again apart the DVDs behind the counter in your shop. Can you just tell me about these and how you came to be in their possession?
MS	The same supplier came to my shop - it was good, he was giving me a cheap price I said are these original, he said yes, you can see they are UK duty paid, I said why send the boxes, just put in the box, he said that how we supply, I took it with box and then and also when he gave me the box I said ??? what's the best seller B and H Blue and Gold cos I asked have you got B and H Gold and he refused and get agitated and ??? and I said no don't have it - can I check it, can I check it so I put in a box, safe. He give me in a box as well the supplier, just kept it in a box.
IS	OK
MS	Otherwise cos you know, can I see it can I see it - ??? he force me to sell them .
IS	OK from what you're saying is you said it, did you say it was the same guy who sold or brought in the cannabis?
MS	No no it was a different guy
IS	No, this was a different guy-OK
MS	It's a different guy he was a English guy, I told him can you give me invoice?
IS	Right so what are we specifically talking about here? Are we talking about these, the Benson and Hedges?
MS	????(INAUDIBLE-MUTTERING) yeah yeah yeah
IS	OK right so in relation to those, the chap came in
MS	Yeah
IS	Do you know who he is?
MS	Sorry
IS	Do you know who he is?
MS	No I didn't bother to ask
IS	You've got no name, no nothing
MS	Well I didn't bother to ask I name
IS	OK
MS	(INAUDIBLE- PERSON TALKING OVER) ??? many people come in to sell it and we buy well he offered me very good price, I thought, well, it was a very good price- cheap and we can

IS	OK
MS	??? (INAUDIBLE-MUTTERING) (LAUGHTER) thought I could make some profit
IS	Did he leave you with any paperwork, or an invoice or receipt?
MS	Yeah, I told him he said well he, he had a computer with him
IS	OK
MS	He took me my details, everything
IS	Yep
MS	And he said what he said OK – I don't have it with me now just give me an email and I'm gonna send it for you in the email
IS	OK, did he
MS	He never sent it now
IS	No ok – how did you pay?
MS	Cash
IS	You paid in cash
MS	Because in the shop it's all mostly we have cash
IS	OK well you said he had a device with him. I wondered whether he
MS	He had a computer
IS	Yeah he did, so he couldn't take
MS	No... (MUTTERING)
IS	Ok and much did you pay for these?
MS	I paid er sixty pound
IS	Sixty
MS	(MUTTERING) six zero yeah
IS	Sixty – six zero OK , what for both of these boxes
MS	Yeah yeah
IS	Did you buy...
MS	Sixty pound..... ??? just one stick
IS	Sixty pounds a box?
MS	Yeah
IS	OK, right so
PC40786	As in one strip?
MS	One strip yeah
PC40786	Inside that box?
MS	Yeah yeah yeah
IS	Ah... and do you know how many strips are in a box?
MS	I think I think that four in a four in a box?
IS	I think there's five in a box actually

MS	Oh five whatever
IS	OK so
MS	Five or four
IS	So that's six hundred pounds
MS	Sorry?
IS	How many strips in a box?
PC40786	Yeah from from from two boxes
MS	Yeah I I paid four hundred pound for four hundred something for it and four hundred and twenty pounds
IS	You paid four hundred and twenty pounds for both boxes
MS	Yeah yeah yeah
IS	OK and you paid that cash
MS	Cash yeah
IS	OK. Is that a normal thing that you do?
MS	Well that's I was, it was cheap – well I said this price is good, normally if you buy from a cash and carry is about seventy pounds? And he was charging me about fifty – how much comes to fifty something? Whatever
IS	So cash and carry seventy pounds for a strip
MS	Yeah
IS	And this chap is selling it for ten pounds cheaper (MS TALKING OVER)
MS	I said why you selling– I ask him why you selling it cheaper, he said none of your business, you want it or not, it's the deal, its UK paid..I said OK I say you gonna give me invoice?
IS	And in relation to the boxes, what were you telling me about the boxes because there are. They're all packed in boxes that purport to be a to be boxing tower?
MS	Yeah yeah yeah, that's how he give it to me in a box
IS	He gave it you in the boxes
MS	In a box yeah that how he give me in a box
IS	OK OK
MS	I then took it out from the box because I thought it was safe as ???
IS	Right
MS	Because kids come
IS	Did you question him about why it's been supplied in a box like that
MS	No I didn't question him no no
IS	You didn't
MS	Didn't question no no
IS	Ok and when they were supplied to you were box boxes shrink wrapped
MS	No they were just like that

IS	Well one of them was shrink wrapped because I opened the shrink wrapping
MS	Well what does shrink wrapping mean?
IS	Its covered plastic so its sealed
MS	Well it wasn't plastic, well tell me I can't remember, as I said he give me just in a box, so I took it, keep it
IS	OK and you didn't think that was odd
MS	Sorry
IS	You didn't think that was odd... peculiar
MS	I I did think why he put it in a box and then say OK I didn't because I just took it and say OK just take money and go because
IS	OK
MS	Because some time in the shop and you are busy and you don't have time to think about all these things here
IS	Yeah, in relation to the NZ Black cigarettes, the ones with the, well I don't know.. the zebra design...
MS	Yeah this this one we all know this one we all know I thought I knew it is fake one
IS	Right .. yeah ok (MS TALKING OVER)ok you know it's not right to sell those
MS	Yeah I knew that one
IS	OK
MS	Cos it looks fake
IS	OK
MS	This one looks real?
IS	Where did the NZ Black ones come from
MS	Supplier that comes on shop selling everywhere
IS	So this is somebody else
MS	Yeah he he was a east European as well I think he was he was Polish guy, Polish
IS	So it's a Polish chap who comes round
MS	Yeah Polish
IS	OK how many of those did you buy from him?
MS	Four
IS	Four strips
MS	Four strips yeah
IS	Ok
MS	Small amount of them and that was with you
IS	So that would be forty packets essentially
MS	Forty packets yeah
IS	Yeah – OK. How much did you pay him for those
MS	I paid about thirty pound each

IS	Thirty pounds each
MS	Yeah
IS	Ok
MS	And I haven't paid him full money yet I paid him half, he might come back
IS	Ok so he comes around regularly does he
MS	And when he come back I take his picture or something...
IS	Ok and
MS	And I didn't pay him full money yet
IS	Does he come round regularly?
MS	No every time it a different supplier, every time it different supplier
IS	OK
MS	He come definitely because I owe him money
IS	And how did you pay him?
MS	Cash?
IS	Cash-OK. So can I just take you back to when we visited the shop and we did the inspection behind the counter. Behind the counter as you can see sort of in the picture here
MS	Yes
IS	These were, the NZ Black and the Benson and Hedges were in a yellow bag that was hanging at the side
MS	Yeah yeah (MUTTERING)
IS	Yeah – just bearing in mind what you said about the Benson & Hedges and that you thought they looked real, why were they in there with the NZ Black (MS TALKING OVER) instead of in the gantry which was behind you
MS	Yeah because, yeah because it was a cheaper price when customer say have you got cheaper I say we got this cheaper stuff
IS	Oh ok
MS	That's why we put the cheaper stuff
IS	So you were selling them for cheaper.... OK
MS	Cheaper yeah because we got the cheaper so don't take much difference I mean customer have you a bit cheaper so we say well we got two pound cheaper.
IS	OK
MS	So
IS	And how much were you selling them for? The Benson and Hedges to start off with – how much did you sell them for?
MS	Seven fifty-eight pounds maximum eight pounds
IS	Sorry what did you say?
MS	Seven fifty sometimes or eight pounds
IM	Presuming in a box of twenty

MS	For for for
IS	Fifty pounds....
PC40786	For one box (INAUDIBLE- PEOPLE TALKING OVER) one box one box yeah yeah yeah
IS	So one box you would sell for
MS	Maybe buy it for sixty we buy it for six and sell it for eight
IS	You buy it for six and sell individually for eight
MS	Yeah..yeah
IS	OK fine OK I get you. And what about the NZ Black
MS	The NZ we buy it for forty and sell it for five pounds six pounds , six pounds
IS	OK OK fine. And You say it was only the two boxes that you bought
MS	Yeah
IS	Yeah ok so
MS	It its
IS	The ones that are accounted for you've sold (MS TALKING OVER)
MS	Before you came before you came I bought it three or four days before you came
IS	OK, so to move on to the Glens vodka... what can you tell me about the Glens vodka?
MS	Glens vodka... I mean, the same.
IS	Particularly you know the box... yeah you know the box that was down at the side
MS	Yeah
IS	Yeah, not anywhere else, there was a couple of bottles I think on the shelf behind you as well, that particular box where did...
MS	It was Indian guy supplier
IS	Yep
MS	He say I got cheaper Glens he says it real original one
IS	Yep
MS	I say have you got any invoices, no I haven't got any invoices, I say I won't take it then. He say OK if you take it if you give me a bit higher price I'll give you invoice as well I say OK bring me the invoices, he said I'll give it tomorrow and he didn't come after that. He told me its real one I believe – I'm not sure if its real or not
IS	So an Indian guy came into your shop
MS	??? yeah
IS	Do you know who he is – do you know him?
MS	No I don't know – that supplier come in I ??? name.
IS	So you've never met him?
MS	If we some things cheaper we can sell it we just take it . But he assured me it's a real one

IS	Ok
MS	Yeah I took it
IS	And you, what did you say about the paperwork? Did you say he'd left you with any paperwork? Did he leave a receipt for the
MS	No I say have you got invoices, he said he hasn't got any invoices
IS	Right
MS	I won't buy it then he say ok I bring invoices in tomorrow then for you
IS	OK so he told you he'd bring an invoice tomorrow
MS	I said keep it here then
IS	But you paid him then
MS	Sorry
IS	But you paid him for it at that point did you
MS	Yeah I paid him
IS	When he brung
MS	Yeah yeah
IS	How much did you pay for them?
MS	I can't remember how much it was – because my colleague, my colleague was he he paid him money I need to ask him about the amount, hundred pounds something like that for the whole case?
IS	OK and it was a full case of twenty-four
MS	Yeah..
PC40786	Did you say the Indian guy showed you a real one?
MS	No he brought the case he's like do you want to buy Glens?
PC40786	Yeah
MS	I say yeah I got cheaper ones – what price it is I can't remember, call my brother, or my mother or uncle who's in the shop now...
PC40786	Yeah
MS	He was talking to him but I was there, how much he paid I unsure
PC40786	OK I might have misheard you there but I thought I said (INAUDIBLE – MS TALKING OVER)
MS	I tell you the exact what it is I I
PC40786	I thought I heard you say this Indian guy who...
MS	Yeah yeah yeah Indian
PC40786	Who showed you a real vodka (MS TALKING OVER)
MS	No he – I ask him is this real he said yeah it is real, I said if it real then keep it here
PC40786	OK.. OK
IS	OK – did you do anything to verify whether he was telling the truth – did you, cos obviously you have got some real ones in the shop haven't you so you could have done a comparison (MS TALKING OVER-MUTTERING)

MS	Yeah because.. but that's the thing because we always buy it from cash and carry as well if its.. we never knew people sell fake as well
IS	OK
MS	If you think its fake I'm not even aware if its fake
IS	And then.. (MS TALKING OVER)
MS	If you says its real I say ok it could be real
IS	Ok – when did this Indian guy call round?
MS	It's been probably about ... five six days as well
IS	What before our visit?
MS	Yeah before
IS	Ok so it was shortly before our visit, five-six days. What about the cigarette chaps?
MS	Yes same same time
IS	About five six days before
MS	Yeah one day or two I can't remember exactly yeah
IW	I thought it was three or four
MS	Yeah three or four
IS	Did you ok - ok
MS	???(MUTTERING) three of four days
IM	In a similar time area
IS	Yeah similar times ok fine. Is this the first time that you've sold these?
MS	The Glens for the first time, cigarette I have done it once before there as well
IS	OK
MS	It the same...
IS	Was it supplied by the same chap?
MS	Different different – its every time different people comes
IS	And when you say cigarettes was it the Benson and Hedges or was it the ...
MS	Yes same
IS	It was the Benson and Hedges
MS	Yeah
IS	OK
MS	Yeah
IS	Alright, same terms but different chap
MS	Different man yeah
IS	OK
MS	First time it was an Arab, Arab man
IS	Ok
MS	He looks Arab

IS	Right so North African chap
MS	It was a Muslim Muslim guy... sorry?
IS	Sort of North African... chap
MS	No – maybe from, from Lebanon or somewhere – Arab
IS	Yeah ok, fine. You got any details in relation to any of these people?
MS	No no
IS	No nothing? Ok and what about if you wanted to order some more – did you get
MS	I won't take it now because you tell me its fake so
IS	Yeah but I wondered whether they gave you anything, telephone numbers, anything at all to contact them?
MS	Well one of them the Arab guy he have me his number
IS	Right
MS	I don't know where his card so I don't know where , must be in the shop misplace it somewhere, I will check if I can find it
IS	OK
MS	One of them give me the card yeah
IS	Ok so how much cheaper is the, is the Glens than you'd normally buy
MS	Not much difference just one pound difference only one pound cheaper
IS	One pound per bottle
MS	Per bottle yeah
IS	OK.
MS	Well I thought one one pound cheaper than the bottle so it was I think it was twenty-four there? Twenty-four pounds every little counts
IS	You'll have to excuse me I can't remember whether I've asked you whether you thought that was erm an odd thing to do
MS	Sorry?
IS	To come round and buy or sell you Glens just like that
MS	Sorry – say that again?
IS	I can't remember whether I asked you that (MS TALKING OVER) did you think it was odd to buy Glens vodka like that?
MS	Yeah a lot of supplier does it and
IS	A lot of suppliers do
MS	Yeah, a lot of suppliers does it , we have gotten ??? as well, with a proper invoice. This guy didn't give me a invoice. I didn't , I did (STUTTERING) do it if it's a deal or fake – he says real so I say OK give it the only thing I ask him normally other other suppliers came they always give me invoice, this guy didn't give me invoice I where invoice, yeah I haven't got invoice, I won't take it ok just keep it, I'll give you in the morning I say ok
IS	OK so you expected him to return with an invoice for you
MS	Yeah. He didn't give me invoice

IS	And he didn't – yeah ok. In relation, OK, that's that, move on to the DVDs – that were in the storeroom
MS	Yeah at the back – if you if you if you see out the back there was some clothes as well there was some umbrellas, all the stuff as well, Joes, everything's for Joe because he moving, he keeps on moving around the place to other place
IS	What can you tell me about the DVDs
MS	That's not mine
IS	They're not yours
MS	That's not mine
IS	Ok. And the chap they do belong to
MS	Yeah he comes to me shop every day
IS	OK, who is he
MS	Joe is the black, black guy
IS	OK have you got his contact details – can I you know confirm with Joe that they're his or
MS	(MUTTERING)
PC40786	What's his surname?
MS	Let me call – I don't know his surname is just call him Joe, that's what we call him, Joe, let me... if you tell him I won't tell him I'm in the Police station I'll just call him and I
PC40786	Er no no no don't call him now (IS/MSTALKING OVER)
IS	Just just just just give me his telephone number (MS TALKING OVER)
PC40786	What's his telephone number?
MS	He might....ok yeah, telephone number I'll give you , just a second
IM	Let the officers' sort it out themselves after the interview-yeah?
IS	Yeah
MS	If I tell him Police ??? oh it's not mine he'll get even ???
PC40786	Yeah sure (MS/IS TALKING OVER)
IS	If you can put the telephone number on your phone can you just read out the telephone number
MS	(INAUDIBLE – IM/MS/PC40786 TALKING OVER) I'll give you his number just a second, sorry ;
IS	Ok the reason why I ask about the DVDS is I think there's only two titles out of sixty-four in that box
MS	I even know how many are there, how many are there put out the back – I just did him a favour
IS	Right
MS	Because he's my regular customer
IS	And
MS	So

IS	And basically what you're telling me is you didn't have them to sell them
MS	Sorry?
IS	You didn't have them to sell them
MS	No no no no not at all not at all not all no no no
IS	OK right and can I just ask a few things about yourself and your business
MS	Yep
IS	Because as you can tell I'm finishing up a bit
IM	(LAUGHTER) it's a long interview
IS	Yes, your business, is it, are you is it just you as a sole trader?
MS	No its err it's a limited company
IS	Ah, what's the name of...
MS	I'm the director
IS	Ok – what's the name of the limited company?
MS	??? Enterprises Limited
IS	Sorry what is it?
MS	??? Enterprises Limited
IS	Gim?
MS	Enterprises Limited
IM	How you spelling that?
MS	GIM
IM	GIM Enterprises
MS	Enterprises Limited
IS	OK fair enough, and where's the registered office for Gim Enterprises Limited?
MS	What its office it's a ???
IW	No the registered office for the company
IS	Yeah
MS	Registered address you mean?
IS	Yeah yeah
MS	my home address
IS	It's your home address
MS	Yeah
IS	OK
IW	??? (INAUDIBLE)
IS	And who are the other directors?
MS	Only me
IS	You are the only director of it then OK fine. Alright and the shop

MS	Sunbury Food and Wine
IS	Is is the limited company trading as Sunbury
MS	Trading as Sunbury Food and Wine
IS	Ok
MS	That's right
IS	I think ... I have everything I need to know
PC40786	Yep
IS	Actually, one more question – how long have you been trading from that shop?
MS	For about approx. nine to ten years
IS	A while then
MS	Quite a while, quite a while
IS	Nine to ten year ok – have you got any other shops?
MS	No just the one, just one
IS	Just that one
MS	Just one
IS	Ok and before you trade from there what did you do?
MS	I used to work for Tesco's
IS	You were an employee at Tesco's
MS	Tesco's for a while
IS	OK alright so you've got a fair bit of experience, did you say nine years-ish in basically that sort of shop- retail trade
MS	Yeah... nine years ago
IS	Ok – right?
PC40786	OK cool I've got no more questions, have you got any more questions?
IS	No, I'm finished - if there's anything you want to add on top of what I've just said just for the record
MS	I just want to say if I did- if I did something wrong I didn't do it intentionally, I'm not that kind of a guy – I'm sorry even if I did it by mistake – I really apologise, sorry about it – won't do it next time.
IW	??? INAUDIBLE- MS TALKING OVER)
PC40786	Do you need me to clarify anything that I have said or do you understand all the questions that Ian and I have asked ?
MS	??? I think everything if there is anything I would just maybe call you back or asking
PC40786	Sure – yeah you can do
MS	Or something but I don't think I need ask you anything
PC40786	Is there anything that you
MS	Now if I go home, now I need to ask this have I got number
PC40786	Yeah give us a call – let us know

IW	I'm just err showing the receipt to Ian for the
MS	Payment
IW	For the payment of the err what I call hand tobacco
PC40786	Hmm mmm
IM	Rolling tobacco
IS	I will take a copy...assuming I can
PC40786	Other than the fact that you know you said if you've done something wrong and it's not intentional, you know you're sorry – is there anything else that you want the Police or Courts to consider or is that it?
MS	(PAUSE)
IW	Do you need me to take my hands off this
IS	No that's fine
IW	(LAUGHTER)
IS	Let me just check the photo back just to make sure its legible - err oh yeah that's not bad
MS	(INAUDIBLE-MUTTERING)
PC40786	Is
MS	??? (MUTTERING) As lenient as possible?
PC40786	Well we gotta do our investigations still there's some more bits that we have to do – is there anything
IW	Quite a lot of time
PC40786	Is there anything you want the Police or Courts to consider other than the fact that its not intentional, you know you apologised
IM	I think he said everything he needs to say
PC40786	Yeah cool
MS	Yeah, ok.
PC40786	OK the time is then thirteen fifty-three and well stop the tape.
	DISC ENDS

..... Signature

a.



b.



c.



d.



e.



f.



g.



h.



i.



J.



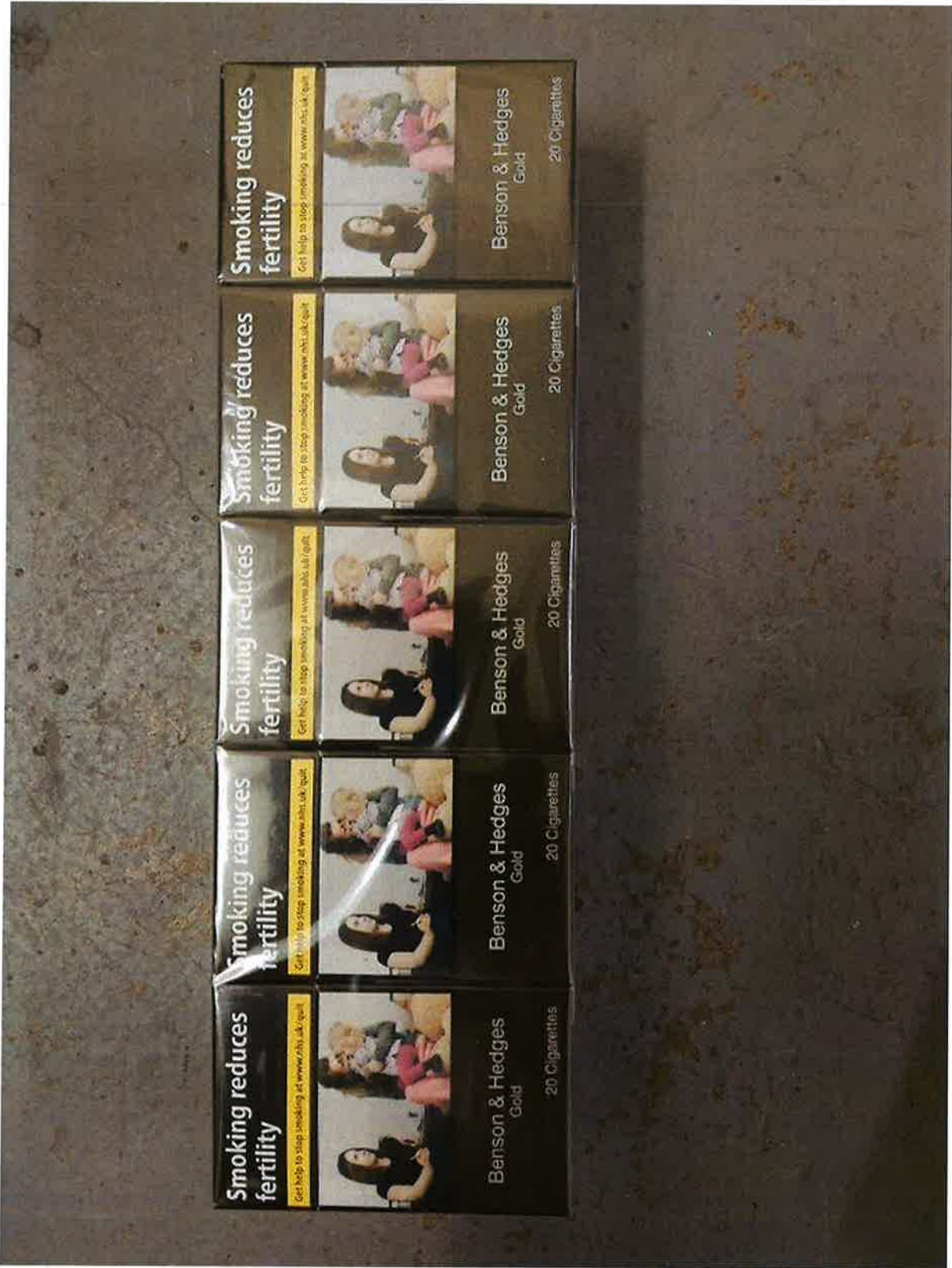
k.



I.



m.



n.

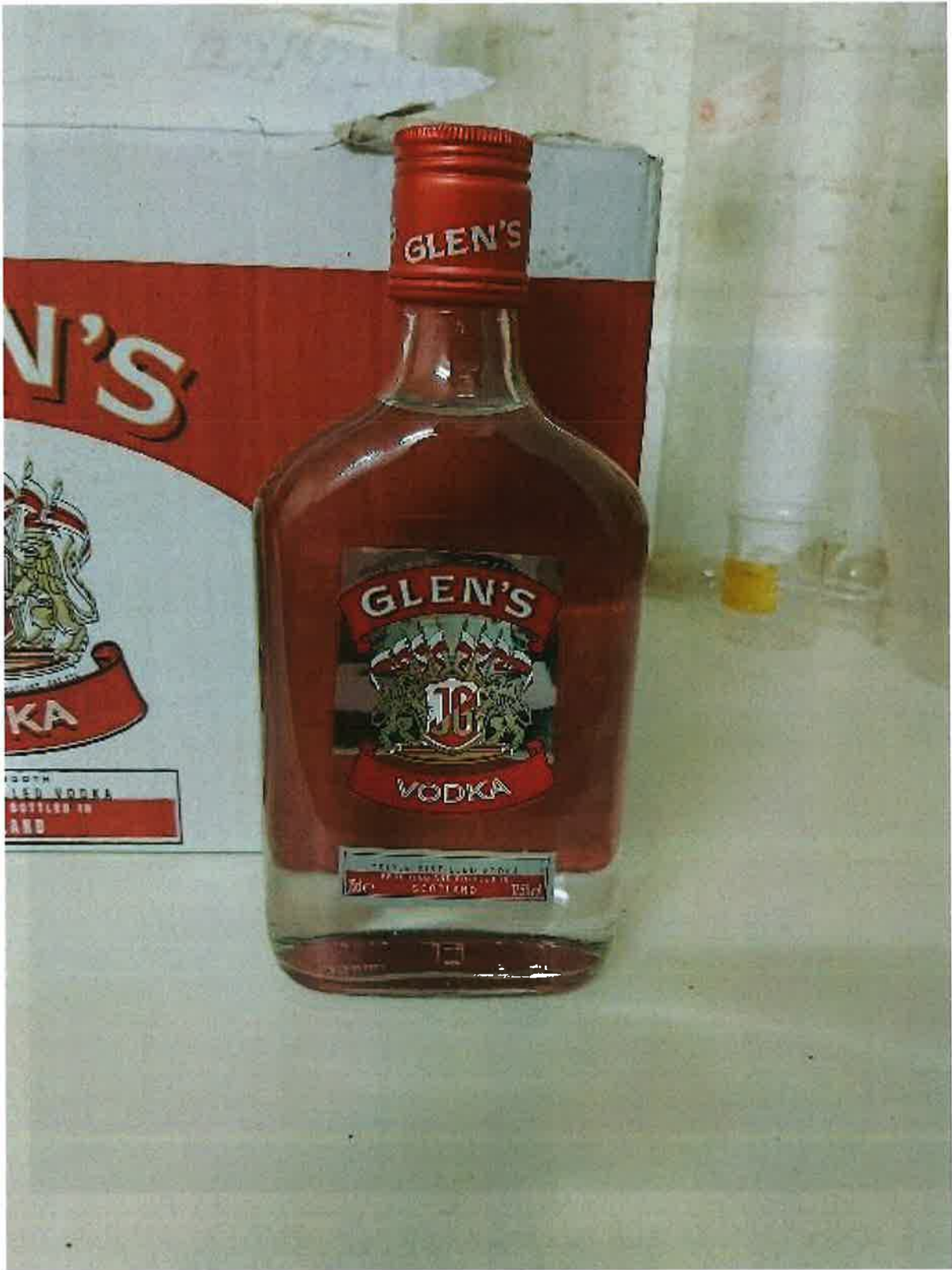


IS/12/SFW

A



B



C



OFFICIAL

45200099815

Photo Album - Exhibit EG/01

**“Photographs taken at Sunbury Food and Wine,
13 Staines Road West, Sunbury on Thames
19/09/2020.”**

Drug Liaison Officer: 11339 GOWER



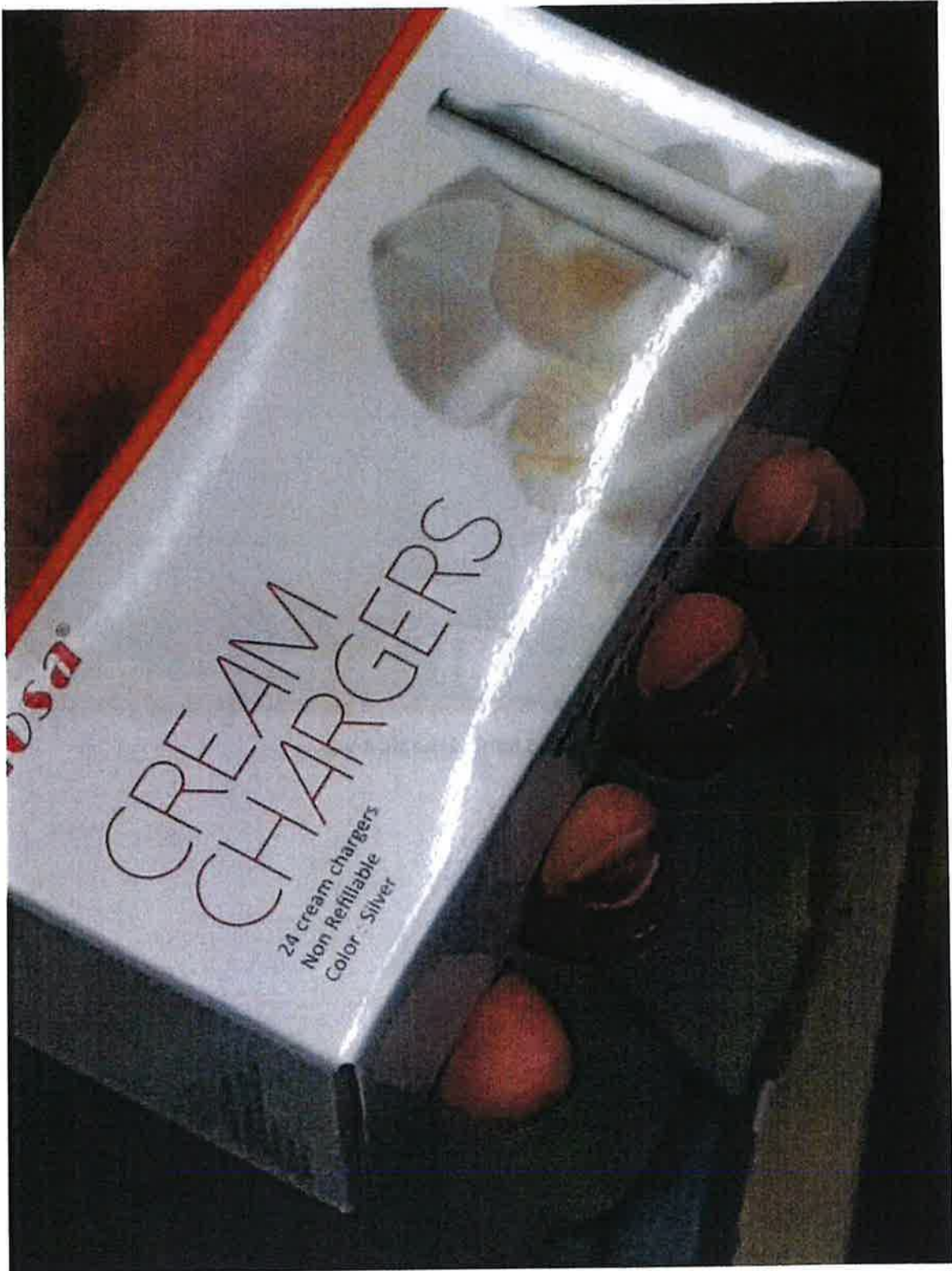
Plastic bag full of packets of balloons situated on floor behind till area.



Packets of balloons in blue plastic bag on the floor behind the till area.



Bag containing foreign cigarettes located behind the till area.



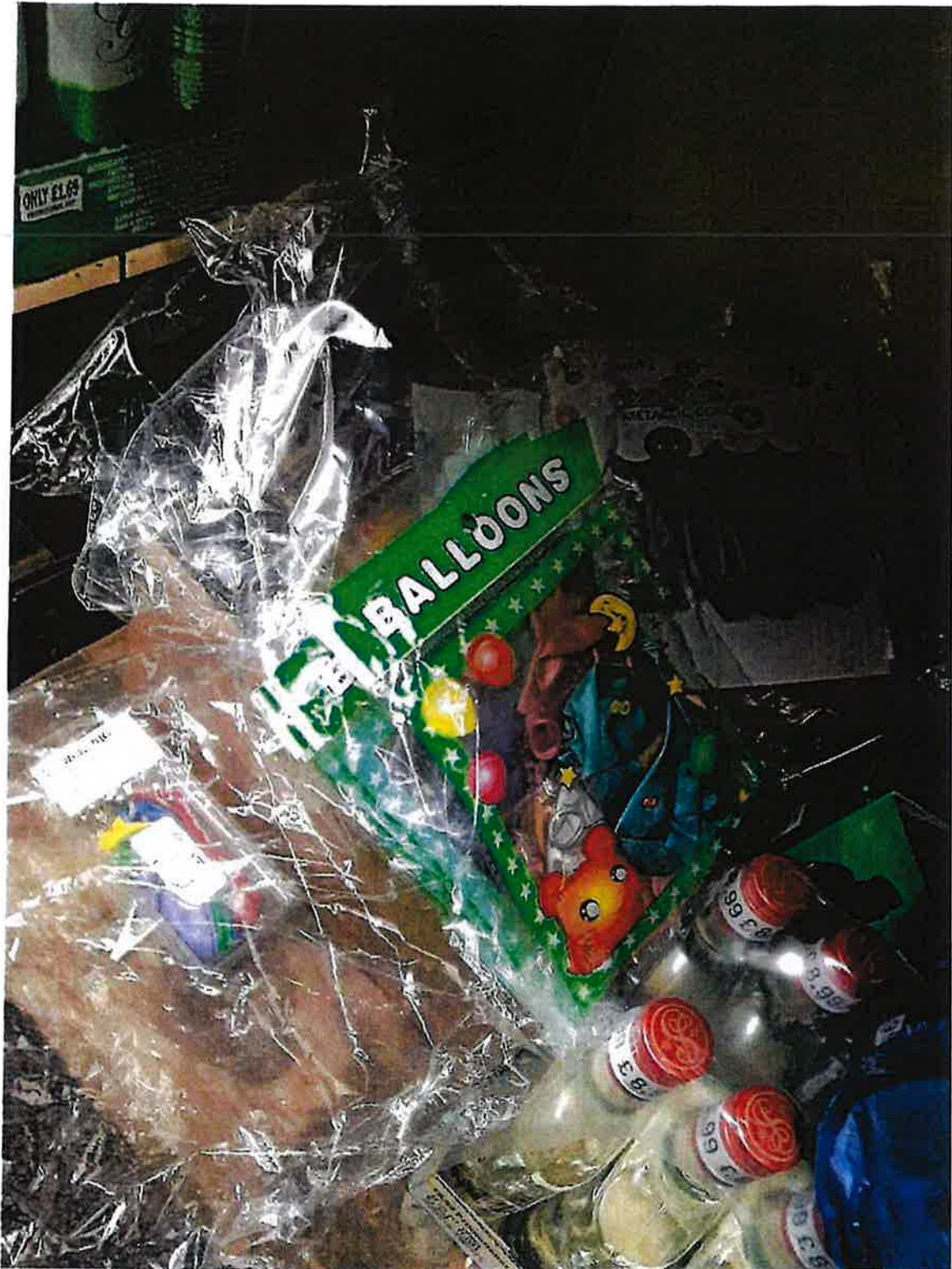
Packet of nitrous oxide Cream Chargers located behind till area



Multiple packets of nitrous oxide cream chargers located in plastic bags under the till counter



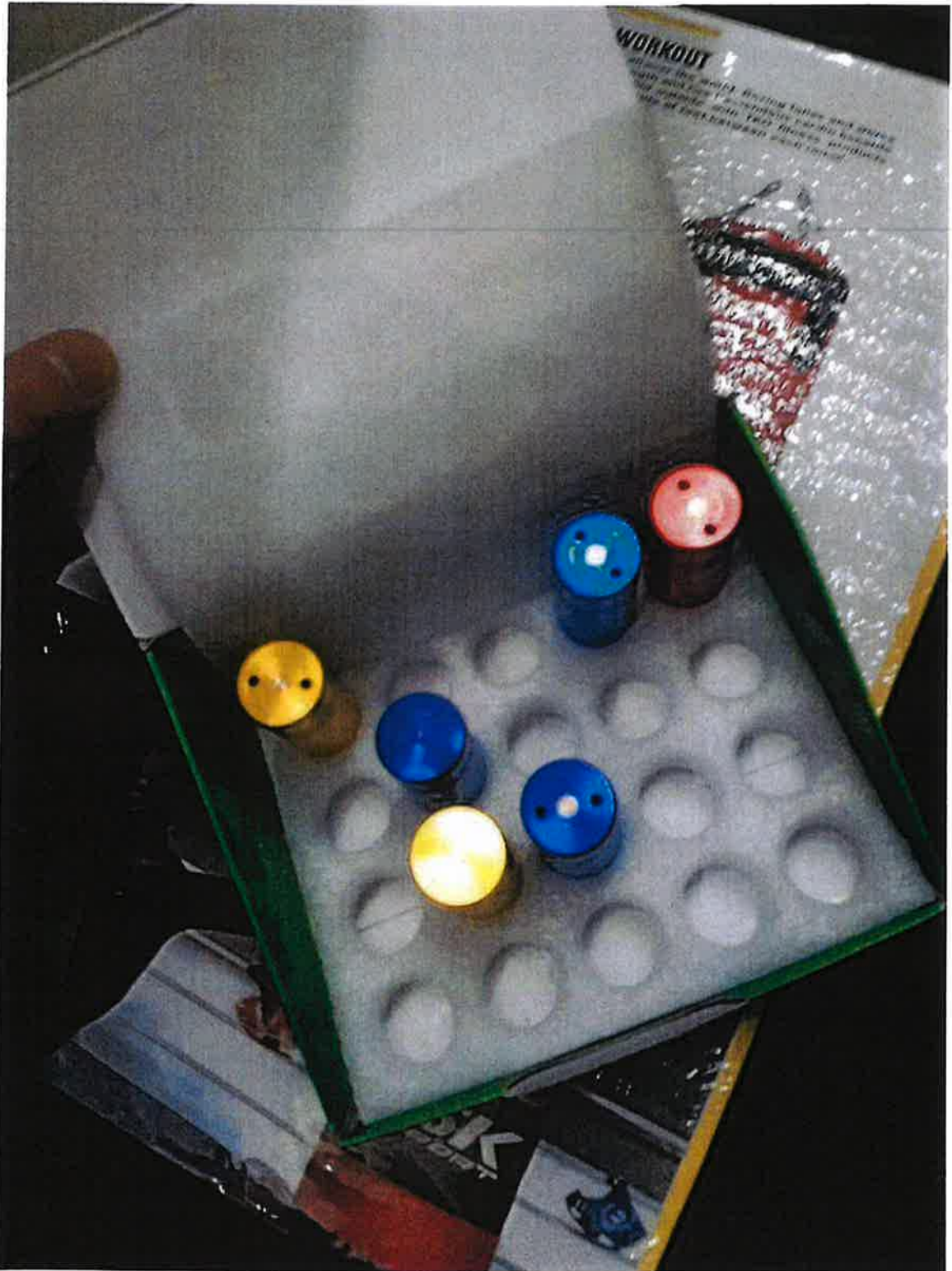
Black plastic bags containing nitrous oxide cream chargers located under the till counter



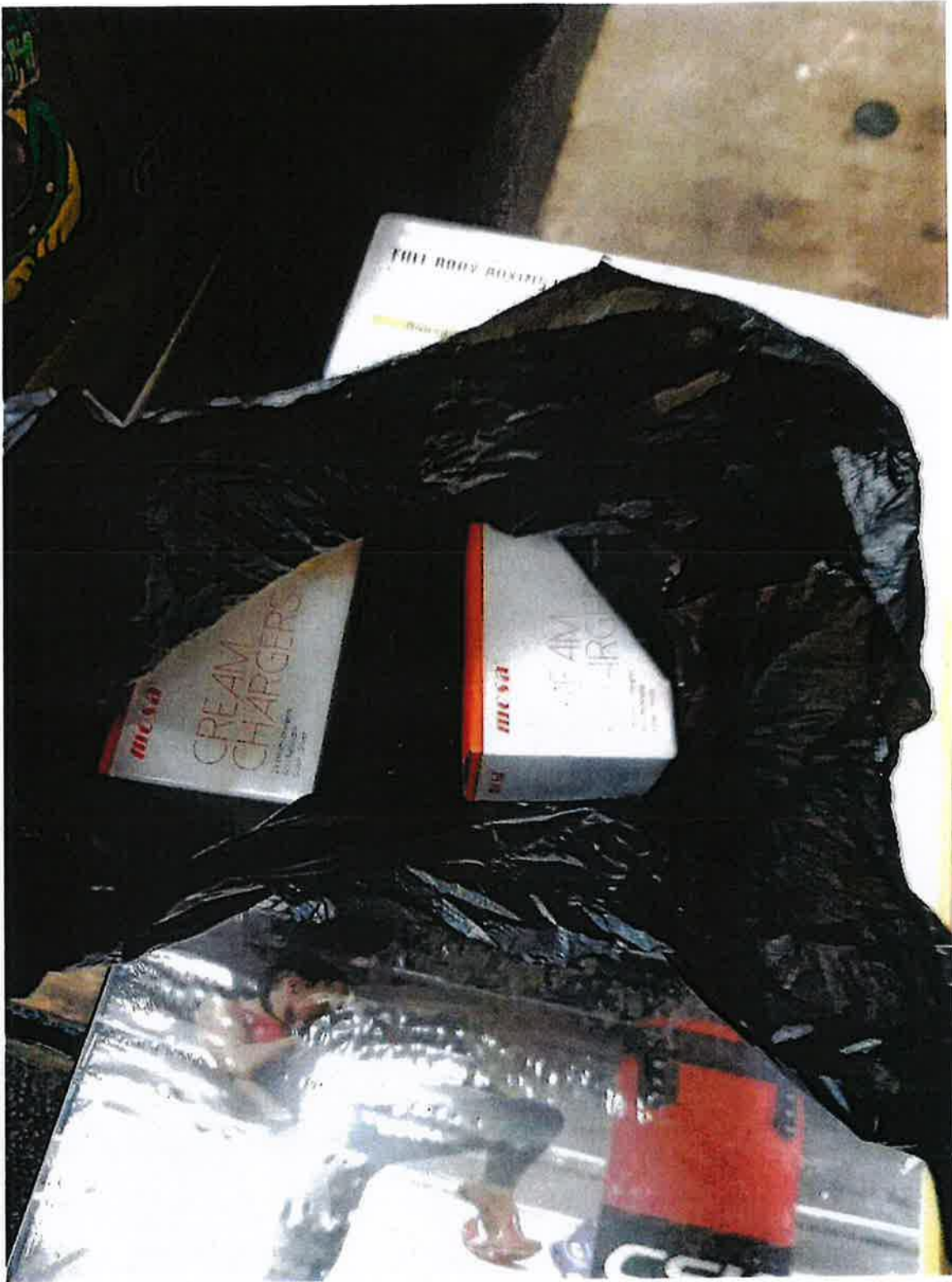
Packets of balloons located within a box on the floor behind the till area



Box containing 6 x 'Cream whipper' located under the till counter



Box containing 6 x 'Cream whipper' located under the till counter – opened box image



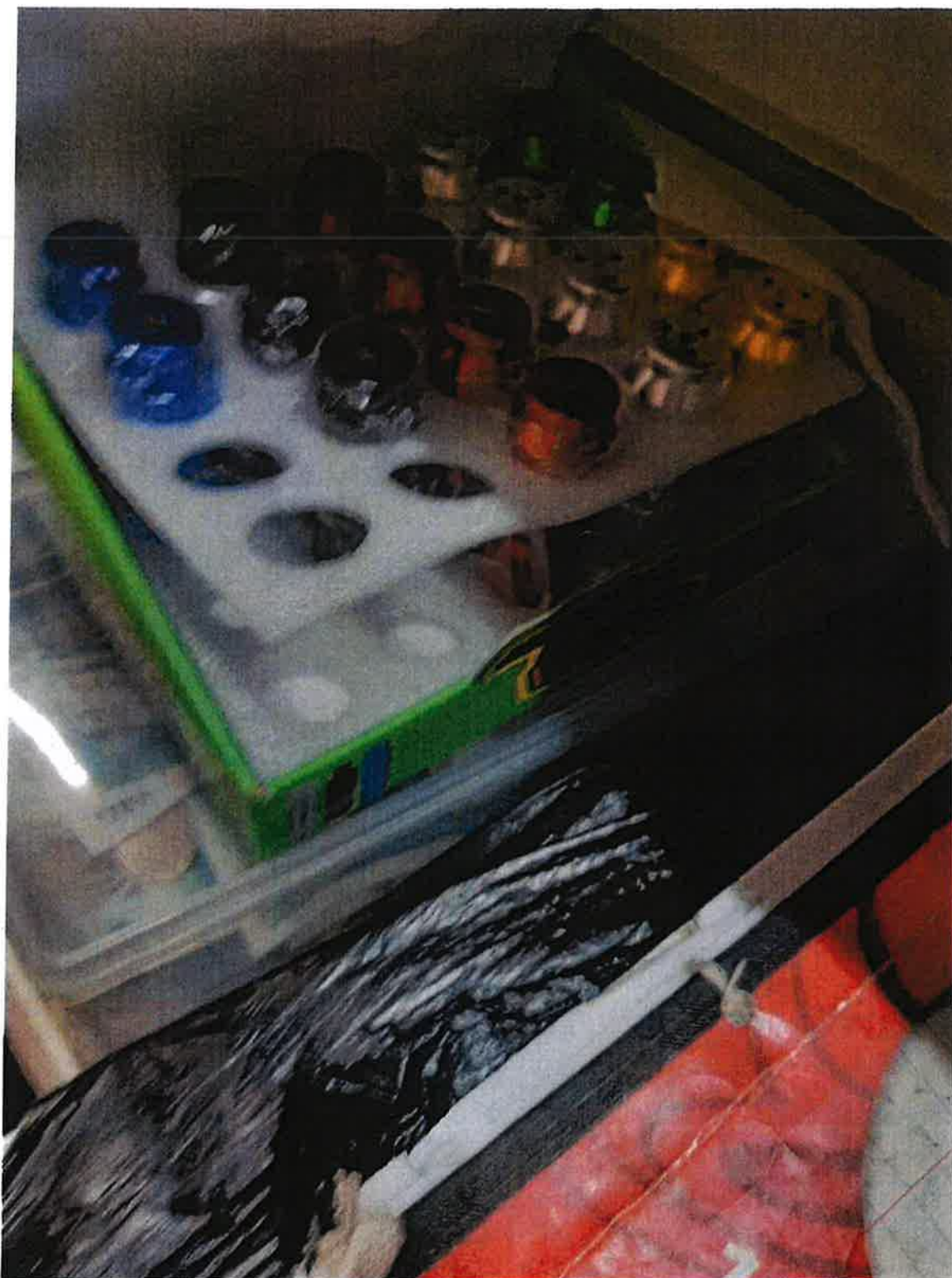
Black plastic bag containing 2 x packets of nitrous oxide 'Cream Chargers' located under till counter area



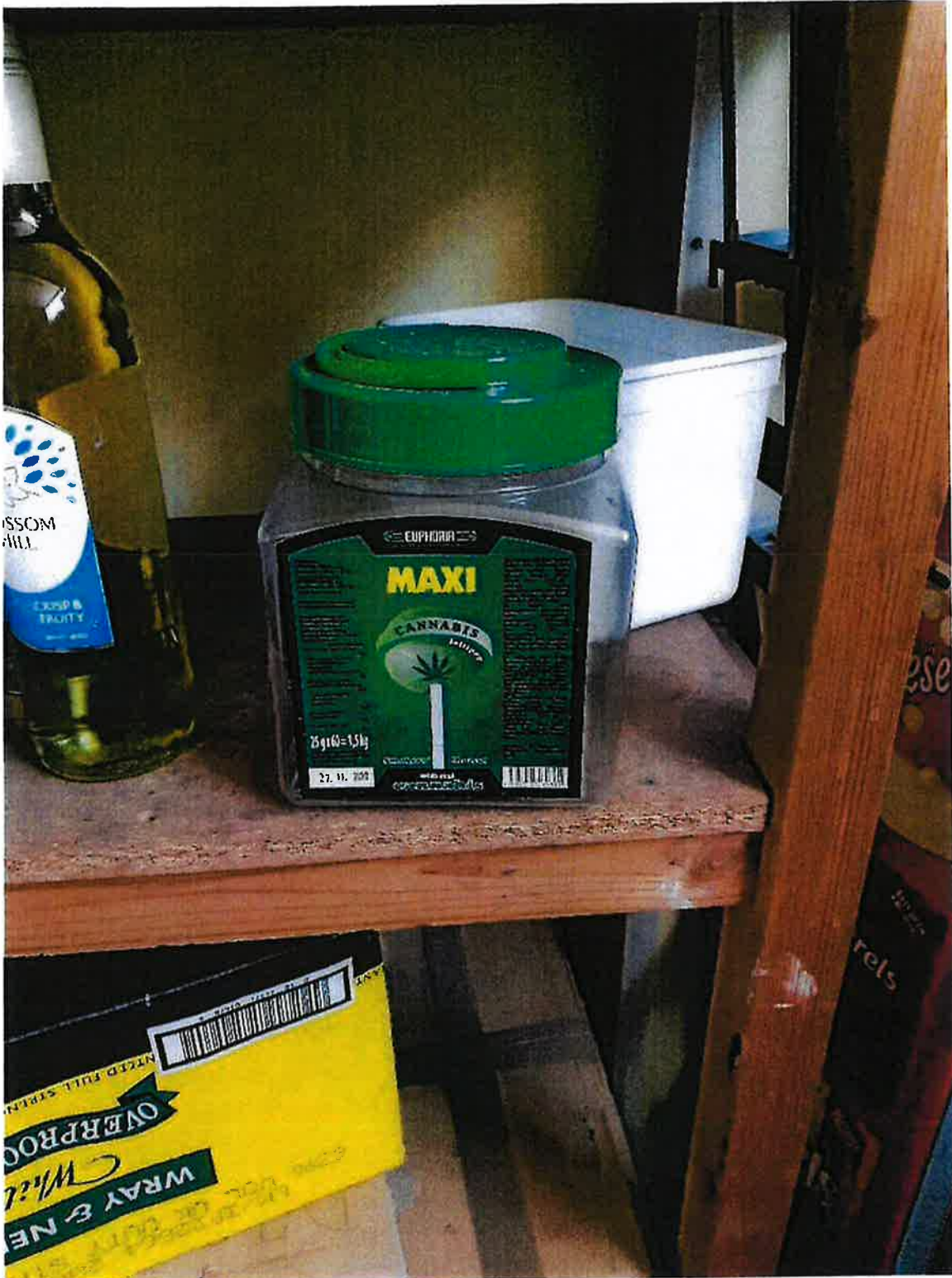
Shelf under till counter containing smoking paraphernalia and 2 x metal 'Cream Whippers'



Second box containing 17 x 'Aluminium Cream Whippers' located under till counter – closed image.



Second box containing 17 x 'Aluminium Cream Whippers' located under till counter – open image.



Empty container of 'MAXI CANNABIS' Lollies located in Store Room.



Sealed 'Boxing Tower' box containing multiple packets of cigarettes. Located underneath wooden 'step' behind counter.



The contents of the sealed 'Boxing Tower' box containing multiple packets of cigarettes. Located underneath wooden 'step' behind counter.



Close up of contents of sealed 'Boxing Tower' box containing multiple packets of cigarettes located underneath wooden 'step' behind counter.



Open, unsealed, half empty 'Boxing Tower' box containing multiple packets of cigarettes located behind till counter area.



Blue plastic bag located behind till area on floor containing red metal 'Cream Whipper' and chewable tobacco products.



Food for sale past Use By date. Eaten pot of food and bag containing mouldy food located on lower chiller shelf.



Plastic bag containing food including mouldy bread located on lower chiller shelf.

EBB1
26/11/20

[Skip to main content](#)

Intellectual Property Office

Trade mark number

EU003231107

Status

Registered

Overview

Trade mark



Dates

Filing date

18 June 2003

Date of entry in register

07 December 2004

Renewal date

18 June 2023

Priority details

2501

26/11/20

Priority date
18 December 2002

Priority country
United Kingdom

TM from which priority claimed
2319225

Goods and services

Classes and terms

Class 33

Names and addresses

Holder's name

Loch Lomond Distillers Limited
7 Albemarle Street, London, W1S 4HQ, United Kingdom

Representative

KELTIE LIMITED
Galway Technology Centre, Mervue Business Park, Galway, Ireland

Publications

First advert

Journal
2004/018

Date of publication
03 May 2004

EPAB31

26/11/20

The information displayed is our version of the details supplied by EUIPO. For the official register of the case please refer to the [EUIPO website](#).

Intellectual Property Office is an operating name of the Patent Office

95582

26/11/20

[Skip to main content](#)

Intellectual Property Office

Trade mark number

UK00002324314

Status

Registered

Overview

Trade mark

GLEN'S

GLEN'S

Mark details

Number of marks in series

2

Dates

Filing date

20 February 2003

Date of entry in register

23 March 2007

EKS

26/11/20

Renewal date
20 February 2023

Priority details

Priority date
03 September 2002

Priority country
Italy

Claim
Whole

Details of Security/Charge

Security number
RC000018699

Charge date
28 February 2014

Charge detail
Fixed and floating

Security holder
PNC Business Credit
8-14 The Broadway, Haywards Heath, West Sussex, RH16 3AP, United Kingdom

Goods and services

Classes and terms

Class 33

Names and addresses

Owner(s) name

Loch Lomond Distillers Limited
7 Albemarle Street, London, W1S 4HQ, United Kingdom

98582

26/11/20

Company registration number
8686920

IPO representative name

Keltie LLP
No.1 London Bridge, London, SE1 9BA, United Kingdom

Publications

First advert

Journal
6480

Date of publication
16 May 2003

Intellectual Property Office is an operating name of the Patent Office

Intellectual Property Office

Trade mark number

UK00001495096

Status
Registered

[Historic case details](#)

Trade mark

BENSON & HEDGES

Dates

Filing date

24 March 1992

Date of entry in register

10 September 1993

Renewal date

24 March 2029

Goods and services

Classes and terms

Class 34

Tobacco, whether manufactured or unmanufactured, substances for smoking sold separately or blended with tobacco, none being for medicinal or curative purposes; smokers' articles and matches; cigarette papers; all included in Class 34, all for sale in the United Kingdom and for export to the Republic of Ireland

Names and addresses

Owner(s) name

JT International S.A.
Rue Kazem-Radjavi 8, 1202 Geneva, Switzerland
Country of incorporation
Switzerland

[View owner's other trade marks](#)

IPO representative name

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place, 78 Cannon St, London, EC4N 6AF, United Kingdom

Publications

First advert

Journal
5980

Date of publication

23 June 1993

This is Exhibit 20/TS 196/251

Signed: 

Dated: 

Intellectual Property Office is an operating name of the Patent Office

Referred to in my Statement

Intellectual Property Office

Trade mark number

UK00002294714

[Historic case details](#)

Status
Registered

Trade mark

BENSON & HEDGES GOLD

Dates

Filing date
08 March 2002

Date of entry in register
02 August 2002

Renewal date
08 March 2022

Goods and services

Classes and terms

Class 34

Tobacco, whether manufactured or unmanufactured; substances for smoking sold separately or blended with tobacco, none being for medicinal or curative purposes; smokers' articles and matches; cigarette papers, all included in Class 34; all for sale in the United Kingdom and for export to the Republic of Ireland.

Names and addresses

Owner(s) name

JT International S.A.
Rue Kazem-Radjavi 8, 1202 Geneva, Switzerland
Country of Incorporation
Switzerland

[View owner's other trade marks](#)

IPO representative name

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place, 78 Cannon St, London, EC4N 6AF, United Kingdom

Publications

First advert

Journal
3426

Date of publication
17 April 2002

This is Exhibit 20/TS 196/KSE

Signed: 

Dated: 17/04/02

Referred to in my Statement

Intellectual Property Office is an operating name of the Patent Office

SURREY POLICE

DELEGATED AUTHORITY LICENSING ACT 2003

I, the Chief Constable of Surrey Police, hereby authorise and Delegate powers conferred upon me by:

Licensing Act 2003 ("the Act")

With regard to the following functions and responsibilities under The aforementioned Act:

Grant of premises licence, provisional statements, variation Of licences, transfer of premises licence, review of premises Licence, and relevant club premises certificate equivalent (under Parts 3 and 4 of the Act); temporary permitted Activities (under Part 5 of the Act); grant and renewal of Personal licences (under Part 6 of the Act)

To: Inspector 2099 Maxine Cilia

This delegation shall remain forever in force until revoked by the Chief Constable of Surrey Police.

Signed:

Date: 09/01/2020

Gavin Stephens
Chief Constable

WITNESS STATEMENT

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9)

URN

45			
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Statement of: **Emma Gower**

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

Occupation: **Drugs Expert Witness &
Drug Liaison Officer**

This statement (consisting of 9 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 **01/03/2022**

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

Declaration	Page 1-2
Professional Experience	Page 2-4
Request	Page 5
Nitrous Oxide Summary	Page 5-6
Disclaimer	Page 6

Declaration

In view of my expertise and knowledge of drug related issues I have been requested to provide a statement. I confirm that I have read guidance contained in a booklet known as Disclosure: Expert's Evidence and Unused Material which details my role and documents my responsibilities, in relation to revelation as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of revelation. In accordance with my duties of revelation as documented in the guidance booklet, I;

- a. Confirm that I have complied with my duties to record, retain and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended;
- b. That in the event that my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

As an Expert Witness I am aware that:

- It is my duty to help the court to achieve the overriding objective by giving objective, unbiased opinion on matters within my expertise.

Signature: _____

Signature Witnessed by: _____

Continuation of Statement of : Emma Gower

- That this duty overrides any obligation to the person from whom I receive instructions or by whom I am paid.

Professional Experience

I am CE 11339 Emma Gower of Surrey Police where I have been employed for 16 years.

I have a Bachelor of Science Honours (BSc Hons) degree in Criminology and Criminal Justice from the University of Portsmouth (2004).

My involvement in the Drugs Field commenced in 2006 when I became the Drugs Intelligence Analyst for North Surrey. This role involved me analysing all the drugs intelligence received by our department and using this to create in depth profiles of the drugs markets in our Boroughs. I was also responsible for initiating numerous intelligence led drugs operations.

In 2007 I became involved in a Divisional Test Purchase Operation tackling Class A Drug Supply in Spelthorne as the Intelligence Analyst for the operation. My role in this operation involved me providing constant guidance based on intelligence received and the day's activities as to where the operation should be going and who we were intercepting at various stages. This operation was the largest of its kind run in Surrey at the time and resulted in numerous arrests and charges for conspiracy to supply controlled drugs. I received a Divisional Commendation for my role in this operation.

I remained working in the intelligence unit for the next 2 years and I established myself as the intelligence lead for drugs in North Surrey. In this time I ran the intelligence analysis for another Test Purchase operation which was on a larger scale than Operation Arboreal in 2007. Operation Wentwood ran from 2008 through to 2009 for over 6 months and again targeted Class A Drug Supply in Spelthorne and the surrounding areas, tackling not only local offenders but also cross border offenders from the Metropolitan Police Force areas. Again I had to provide constantly updated profiles of the current drugs markets taking in to account differing trends and intelligence and provide guidance on the direction of the operation. Operation Wentwood resulted in the arrests of over 30 persons and eventuated in over 28 charges. I received my second Divisional Commendation for my involvement in this operation.

In 2010 I transferred from the Intelligence Unit to become the Divisional Drugs Liaison Officer for North Surrey. This role constantly updates my knowledge of the drugs field through my daily activities.

In March 2010 I attended the Kent Police Drugs Expert Witness Course. As part of this course I spent a day at the Home Office approved Cannabis Farm for the UK where I received wisdom from Dr David Potter on how cannabis is cultivated, the varying strains of cannabis, yield estimation and pricing. I

Signature:

Signature Witnessed by:

Continuation of Statement of : **Emma Gower**

personally witnessed cannabis plants in various growth stages from germination through to full maturity, as well as witnessing the harvested plant being dried and resin being made.

In March 2012 I attended and assisted with a Surrey Police Expert Witness Course, and have been instrumental in establishing the Surrey Police Drugs Evaluation Association, which manages the Expert Witnesses trained by Surrey Police, of which I am a committee member.

I am trained in drug identification and recognition, being able to identify cannabis and being able to test and identify Cannabis, Cocaine, Ecstasy, Ketamine, Mephedrone, Amphetamines and Opiates. I became accredited in Evidential Drug Identification Testing (EDIT) using Home Office approved kits (BDH, MMC, NIK, Cozart and D-Tec) and methods in January 2011 having received further training from LGC Forensics. I now also provide training for others in the use of such techniques and am responsible for the management and regulation of the EDIT tests in Northern Surrey.

In May and June 2014 I received training in the use of the Bruker Alpha 1 I-R Machine and in the use of the TruNarc Raman Spectrometry machine, in order to analyse substances under EDIT and to create an analysis of NPS database for Surrey.

In October 2012 I received further training from LGC Forensics on the identification of Cannabis Plants. In September 2017 I received further training from LGC Forensics on the identification of Cannabis, the conversion of drug forms from Salt to Base and Base to Salt and on forensic issues.

In November 2017 I developed the Surrey Police Drug Testing and Identification for Remands training package and presented this to a number of police officers, providing them with accreditations in order to identify substances and corroborate identifications in line with the Scientific Working Group for Drugs (SWGDRUG) recommendations using multiple Home Office approved devices.

I am also an accredited Ion Track operator and frequently use the machines in order to identify locations where drugs have been present. In December 2014 I became an accredited in the use of the Itemiser I3e Machines for POCA (Proceeds of Crime Act) swabbing of cash money for confiscation hearings.

In addition to holding the records for every 'Personal Possession amount' EDIT test performed in Surrey, I also hold detailed records on the results of every Forensic Science Laboratory drug analysis statement received for drug seizures in Surrey and I complete the annual force drug data returns for the Home Office. This provides me with an indepth and up to date knowledge of current purities and trends for the local area.

Signature:

Signature Witnessed by:

Continuation of Statement of : **Emma Gower**

I maintain my knowledge of the drugs market on the Division through intelligence submissions and this also provides me with current up to date knowledge of the street prices for controlled drugs in North Surrey.

I keep abreast of Force and Nationwide trends and prices through bulletins, literature and conferences. I also keep myself up to date by using various websites including Drug Scope, Blue Light and Erowid along with various Dark Net marketplaces and sites which I frequently trawl for intelligence purposes. This increases my understanding of the effects of drugs on users and those around them and how legislation and policing affects them not only in terms of arrests and charges but also in terms of lifestyle impact and rehabilitation.

I am a member of the Drugs Advisory Group (DAG) which also expands my knowledge of National trends through frequent email updates.

I am a member of the Drug Expert Witness Valuation Association, a national body of Police Officers, SOCA and Forensic Science drug expert witnesses. I attend regular conferences held by this group and members are in regular contact discussing all issues with regards to drugs and expert witness work.

I am involved in educating and training police officers, members of the public and various outside professionals on the current drugs markets, drug effects and appearances as well as trends and prices including training on drug seizures and policies. I am called upon to offer advice and assistance on knowledge, enforcement and harm reduction with regards to drug use and supply.

My knowledge of prescription drugs comes through my involvement with NHS England, The General Pharmaceutical Council and DEFRA and my participation in Controlled Drug Disposals and inspections at pharmacies and dispensaries ranging from local chemists through to hospitals and veterinary surgeries.

I work alongside Public Health and partner agencies including Treatment Services to try to identify and reduce the risk of drug related harm and deaths in Surrey.

I have prepared statements for the courts on many occasions regarding the identification of drugs, valuations of seizures, the relevance of paraphernalia, documentation including 'tic lists' and the interpretation of mobile phone messages.

Signature:

Signature Witnessed by:

Continuation of Statement of : **Emma Gower****Request**

I have been asked by Licensing Officer Jacque Clark to provide a summary of Psychoactive Substances, focusing in particular on Nitrous Oxide, it's use and the dangers associated with it.

Nitrous Oxide Summary

The Psychoactive Substances Act (PSA) came into force on 26 May 2016. The focus of the PSA is on supply and distribution rather than use, hence there is no possession offence, other than in custodial institutions. However, the legislation does give the police powers to seize and retain these substances in any circumstances. The aim of this legislation is to stop the flow of psychoactive substances in the UK, reducing the harm caused by dangerous chemicals. It introduces a 'blanket ban' on the import, export, manufacture or sale of all psychoactive substances. The Act contains Criminal and Civil Sanctions. The Act gives powers to the Police and Local Authorities (Trading Standards) to take action against suppliers of psychoactive substances.

Since the turn of the century the UK has seen the emergence of new substances that are intended to mimic the effects of traditional drugs which are controlled under the Misuse of Drugs Act 1971. These were commonly referred to as 'Legal Highs' or New Psychoactive Substances (NPS). They were not regulated or subject to any formal testing re chemical content and their harms were not assessed. Thus they were considered not safe for use. Many were labelled as 'not for human consumption' or 'research chemical' but their intended consumption use was always clear. They presented a significant risk to public health comparable to that of traditional controlled drugs. They have also been linked to crime and disorder, health problems and in some cases deaths.

'Psychoactive substance' means any substance which is 'capable of producing a psychoactive effect in a person who consumes it, and is not an exempted substance.

Exempted substances include items such as food, alcohol, tobacco, medical products, caffeine and controlled drugs which are excluded from the definition and which are controlled / governed by their own licencing and legislation. A substance produces a psychoactive effect in a person if, by stimulating the person's central nervous system, it affects the person's mental functioning or emotional state. This legislation also makes it clear that there are a number of substances that will be covered by this act including Nitrous Oxide.

Nitrous oxide is a dissociative anaesthetic that has a number of industrial uses. When mixed 50/50 with air (known as gas and air) it is used in surgery for its mild anaesthetic and analgesic effects. It is used to help

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Continuation of Statement of : **Emma Gower**

relieve pain and anxiety for women giving birth and in dentistry. It is normally a colourless gas not visible to the eye. Nitrous oxide has emerged as one of the most commonly used Psychoactive substances or 'NPS'. It's 'street' names include 'NOS' or 'NOZ', 'whippets' or hippy crack. It is also commonly referred to simply as 'balloons' with the sellers being 'balloon sellers' due to the use of such items for the inhalation of the gas.

In order to produce its dissociative effects nitrous oxide is normally inhaled, usually by mouth. Medical grade nitrous oxide is supplied in various sized canisters. Within the catering trade nitrous oxide is sold in small silver cartridges for use with a 'whipper'. In the case of these 'whippets'; they have to be fitted into and released from a small canister into a whipped cream dispenser or a smaller gadget called a 'cracker'. This has a balloon/ bag fitted to the release valve so that when the lever is pressed the balloon fills with gas which can then be inhaled. Evidence of nitrous oxide inhalation can include discarded silver canisters and balloons.

Serious damage could be done to the lungs if the gas was inhaled directly from capsules or cylinders, it must always be inhaled from a balloon. Nitrous Oxide works very rapidly and reaches the brain within 20 seconds. The effects are almost instantaneous and can last from seconds up to a minute and a half. The effects subside as soon as the gas is no longer being inhaled.

Some of the effects of consuming this substance can be light-headedness, euphoria, relaxation and calmness, dizziness, hallucinations and laughter. Administration of Nitrous Oxide without oxygen can be very dangerous. Hypoxia can occur which may lead to loss of blood pressure, fainting and even heart attack. Prolonged exposure to nitrous oxide may also result in anaemia, bone marrow suppression and poisoning of the central nervous system. These risks are likely to be exacerbated if the exposure to the gas is combined with alcohol or narcotics. Binging can lead to Oxygen deprivation which in turn leads to loss of consciousness. As nitrous oxide suppresses the gagging reflex this can lead to choking, asphyxiation and death. Inhalation of nitrous oxide rapidly induces loss of motor control causing the user to fall over. Prolonged use of nitrous oxide causes significant loss of vitamin B12 causing brain and nerve damage. Nitrous oxide does not sustain life and using it in a confined space can result in asphyxiation.

Disclaimer

I submit this statement based upon the information made available to me at the time of compilation. I reserve the right to add, alter or replace any explanation or opinion in the event of being informed of additional material, evidence or facts.

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Spelthorne Licensing Policy

3.0 LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES

Section 4 of the Licensing Act requires the Licensing Authority to carry out its licensing functions with a view to promoting the Licensing Objectives, which are:

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

Decision making will be based on promoting these licensing objectives.

Decision makers will also have regard to this policy document and any guidance issued from time to time by the Secretary of State.

The policy relates to all “licensable activities” as defined by the act, namely:-

- Retail sale of alcohol (for the avoidance of confusion, the definition of alcohol was amended by the Policing and Crime Act 2017 to include alcohol “in any state”. This is to make it clear that products such as powdered and vaporised alcohol fall within the definition provided by the 2003 Act.)
- Supply of alcohol to club members
- Provision of ‘regulated entertainment’ (listed below) – to the public, to club members or with a view to profit
 - o A performance of a play
 - o An exhibition of a film
 - o An indoor sporting event
 - o Boxing or wrestling entertainment 7
 - o A performance of live music (except within limits defined by The Live Music Act 2012)
 - o Any playing of recorded music
 - o A performance of dance
 - o Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance
- The supply of hot food and/or drink from any premises between 11pm and 5am (known as Late Night Refreshment). Note: The requirement to license “entertainment facilities” was removed in October 2012.

8.0 CONDITIONS - The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:

- knowledge of best practice;
- that they understand the legal requirements of operating a licensed business; and
- a knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003.

Measures offered by applicants on their operating schedule will normally become licence conditions. They therefore must be enforceable and the meaning must be clear and unambiguous. The authority may alter the wording of a condition to achieve this. The context or meaning of the condition will not be changed.

The Licensing Authority may only attach conditions to a premises licence where “relevant representations” have been received. Relevant 12 representations are those that relate to the licensing objectives, are about the particular application and relate to the particular premises.

Conditions will only be attached to a licence where they are appropriate for the promotion of one or more of the licensing objectives. They will focus on matters that are within the control of individual licensees and that are relevant to the type of premises and licensable activities that take place. When considering conditions, the Licensing Authority will take into account the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Conditions that duplicate provisions in other legislation would not normally be added to licences.

9.0 ADMINISTRATION AND DECISION MAKING:

This Policy shall be decided upon by the full Council. The Licensing Committee will consist of a maximum of 15 Members of the Council. If there are relevant representations against an application, the Licensing Authority will try to resolve issues between applicants and those making representations to try to reach agreement so that a hearing is not necessary.

Members of the public who wish to submit a representation will be made aware that their personal details will be made available to the applicant, unless they clearly state that they wish for them to be redacted. Anonymous representations however, will not be accepted by the Licensing Authority.

Where relevant representations have been made and not subsequently withdrawn, applications will be heard by a sub-committee of three members drawn from the Licensing Committee.

The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; the Council's licensing department may do so where considered appropriate without having to wait for representations from other responsible authorities. In cases where Spelthorne's licensing department is also acting as a responsible authority and has submitted a representation against or in support of an application being determined by a sub-committee, it is important to achieve a separation of responsibilities within the authority - to ensure procedural fairness and eliminate conflicts of interest.

13 A separation will be achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority. The officer advising the sub-committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person from the officer who is acting for the responsible authority.

Guidance issued by the Home Office conveys that it should be considered reasonable for licensing authorities to expect other responsible authorities will intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

19.0 THE REVIEW PROCESS

Residents have the power to apply for a licence to be called in for review if the premises are causing problems. There is no requirement to live or work in the vicinity. Any responsible authority under the 2003 Act may apply for a review of a

premises licence or club premises certificate. Therefore, the Council's licensing department may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that the 18 Council will act as a responsible authority in applying for reviews on behalf of other persons or where the basis for intervention falls within the remit of another responsible authority.

A review can be requested at any time, however government guidance recommends that not more than one review in 12 months should be allowed on similar grounds unless there are compelling circumstances. Review applications cannot be made anonymously.

The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly. The Council's licensing department will work closely with officers from Immigration Enforcement to enable them to carry out their functions as effectively as possible.

Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- upon receipt of a notice that a magistrates' court has made a closure order, it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

A review application needs to be in writing on the statutory form. There will need to be clear and factual evidence to support the application and this should show that incidents are not isolated and that there is a direct link with the premises. Grounds for review must also be based on one or more of the licensing objectives.

25.0 CRIME AND DISORDER

Staines Town Centre is no longer considered a hotspot for alcohol-related crime and disorder. However it has the strongest night-time economy in the Borough with a mixture of restaurants, bars, pubs, late night takeaways and a cinema.

What applicants include on their operating schedules will depend on the type of premises, the location, and the proposed activities.

Premises that are mainly concerned with the sale of alcohol for consumption on the premises (pubs, bars, proprietary clubs) will need to address the risks to crime and disorder with measures in their operating schedules to:

- Prevent disorder on the premises

Appendix F

- Prevent drunkenness
- Prevent under age sales of alcohol
- Ensure customers enter and leave in an orderly manner
- Exclude illegal drugs
- Exclude offensive weapons

Examples include:-

- Active membership of pubwatch schemes
- Use of licensed door supervisors
- Physical security features e.g. use of shatterproof drinking glasses
- Information on amount of seating to be provided
- Training given to staff in crime prevention measures
- Use of town centre radios (Staines Town Centre) to enable licensed premises to communicate to each other and police
- Search procedures
- Measures to prevent the use or supply of illegal drugs
- Details of CCTV video cameras

This list is not exhaustive and will not suit all applications. Applicants should seek advice from Surrey Police before preparing their operating schedules in relation to the prevention of crime and disorder.

It is recognised that late night takeaways can be the focus of anti-social behaviour, and in Staines Town Centre the use of CCTV, licensed door supervisors at peak times, and signing up to the town centre radio may be considered necessary to address this.

Shops and off licences applying to sell alcohol will need to address the risks to crime and disorder with measures in their operating schedules.

Examples include:-

- That there will be regular staff training (whether or not staff are paid) in relation to sale of alcohol to under age people and that training records shall be kept.
- All refusals to be recorded. in a refusals book. Refusals books shall consist of a bound book with consecutively numbered pages, and shall be held at the premises and available for inspection on demand at all times by the responsible authorities. Records shall include the reason for the refused sale, whether because the customer looked under 25 and could not provide ID, or the customer appeared to be intoxicated, or whether the sales assistant suspected that the sales may be made on behalf of someone who may be underage or intoxicated (known as proxy sales).
- Use of Electronic Point of Sale (EPOS) system to remind staff via a suitable visual prompt or audible warning. Alternatively stickers can be used over certain products to remind cashiers to check the customer's age.
- That there is CCTV coverage of the licensed premises and the immediate vicinity outside in accordance with Surrey Police's Operational Guidelines in the use of CCTV in licensed shops.
- That a personal licence holder may be required to be on duty at high risk times such as outside school hours and during the evenings, for example where a business has been prosecuted for underage sales and/or is a source of youth disorder.
- That staff shall not sell alcohol to any person they have reason to suspect may be buying the alcohol for a child and that there shall be signage to warn adults that it is an offence to buy alcohol on behalf of a child. This is known as "proxy sales". Where there is evidence of such sales taking place, consideration should be given to ensuring CCTV coverage outside the shop.

- In areas with problems with alcohol related youth crime and disorder, that licence holders shall participate in “Bottlewatch” schemes, if requested to do so by responsible authorities.
- In areas where there is an Offwatch scheme, that licence holders sign up to such a scheme.

This list is not exhaustive and applicants should seek advice from Surrey Trading Standards or Surrey Police before preparing their operating schedules

25.1 REVIEWS A review of the licence may be sought by Responsible Authorities or any other person, where:

- A serious crime has occurred at, or can be linked to a particular premises
- There have been prosecutions or penalty notices served for underage sales
- There have been incidents which raise concerns that the premises are not being properly managed
- There have been breaches of the terms or conditions of the licence
- There have been repeated complaints from the public.

25.8 PROTECTION OF CHILDREN FROM HARM

The Council is committed to the safeguarding of children and vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

In exercising the Council’s powers under Section 182 of the Act to designate a body which is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority’s area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

Having regard to the above principles and the guidance issued by the Home Office, the Council designates the Surrey County Council Children’s Service for this purpose.

There are a great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, cafes, take-aways, community halls and schools, all of which will have different risks to children. The general relaxation that gives children greater access to licensed premises is a positive step, which aims to promote more family friendly premises. However the risk of harm to children is equal in importance to the other licensing objectives and applicants must include in their operating schedules the steps they propose to take to prevent moral, physical, or psychological harm to children.

When considering applications for new licences and variations to existing licences, the Council will seek to be assured that applicants have considered safeguarding of children and vulnerable persons within the Operating Schedule of the application.

Where alcohol is to be sold, applicants should include details of the measures they propose to prevent its supply to children. It is expected that:-

- staff will receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers, checking identification), such training to be properly documented and records made available for inspection.
- registers of refused sales will be maintained and made available for inspection

Appendix F

- Applicants should indicate whether they are signatories to the Portman Group Code of Practice.

Further additional examples of recommended management practice for the protection of children could include:

- exclusion from the premises in certain circumstances;
- the display of prominent warning notices about the supply of alcohol to minors.;
- consideration of and / or refusal to stock high strength beers, lagers, ciders, etc.

It is now mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Council favours the Challenge 25 scheme and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the Council determines the licence application.

Applicants needing advice on how to avoid age-restricted sales should contact Surrey Trading Standards Service (contact details at Annex 2) before preparing their operating schedules.

There are certain restrictions in the Act relating to the presence of children on licensed premises. In the case of premises, which are used “exclusively or primarily” for the supply of alcohol for consumption on those premises, it is an offence to allow anyone under the age of 16 to be on such premises unless they are accompanied by an adult.

Where the consumption of alcohol takes place but is not the exclusive or primary activity at a particular venue, those under 16 are not allowed on the premises between midnight and 05.00 unless an adult accompanies them.

The licensing authority will not seek to further limit the access of children to any premises unless it receives representations to that effect based on concerns about physical, moral, or psychological harm to children. The following are examples of premises that will raise particular concern:-

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where “adult” entertainment is being proposed.

Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:

- the person they are selling alcohol to is over 18;
- that alcohol is only delivered to a person over 18;
- that a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer;
- the time that alcohol is sold on the website / over the phone and the time; and
- that the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

25.8.3 REVIEWS IN CONNECTION WITH PROTECTION OF CHILDREN FROM HARM

An application for review by the responsible authorities or any other person may be considered where:

- There have been underage sales or underage drinking taking place
- Breaches of licence conditions in respect of protection of children have taken place
- Complaints have been received that have been substantiated by investigating officer

National Guidance

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.

These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs; 94 | Revised Guidance issued under section 182 of the Licensing Act 2003
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitive. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 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.

Review of a premises licence following closure order or illegal working compliance order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
 - the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
 - notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

- 11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

12. Summary reviews

- 12.1 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process, set out under sections 53A-53D of the 2003 Act, allows interim conditions to be quickly attached to a licence and a fast track licence review. The provisions were inserted by section 21 of the Violent Crime Reduction Act 2006 and amended by sections 136-137 of the Policing and Crime Act 2017, including the addition of section 53D.
- 12.2 The powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives. The powers complement the general procedures in the 2003 Act for tackling crime and disorder associated with licensed premises and should be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken. Separate powers in the Anti-social Behaviour, Crime and Policing Act 2014 provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance). The consequent review of premises licences by the licensing authority is provided for by section 167 of the Licensing Act 2003.

Application for summary review

- 12.3 Section 53A of the 2003 Act sets out who may apply for an expedited review and the circumstances in which it can be used. The application is made by, or on behalf of, the chief officer of police and must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42).
- 12.4 The completed application must be accompanied by a certificate issued by a senior officer of the rank of superintendent or above. The certificate is a formal note which identifies the licensed premises and includes a signed statement by the senior officer that in his/her opinion the premises are associated with serious crime, serious disorder or both. This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is published on gov.uk.
- 12.5 The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
- (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or
 - (b) Involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- 12.6 There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.

- 12.7 In deciding whether to sign a certificate, the senior officer should consider the following (as applicable):
- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises. It is not expected that this power will be used as a first response to a problem and summary reviews triggered by a single incident are likely to be the exception.
 - The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
 - Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014, or section 38 of and Schedule 6 to the Immigration Act 2016, to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power)?
 - What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?
- 12.8 It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review. In appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53D, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe or for an appropriate period determined by the licensing authority.
- 12.9 Similarly, the power could, where appropriate, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paragraphs 12.15 and 12.16 below). However, it should always be borne in mind that the aim of the powers is to provide a selective tool, to be used proportionately.

The licensing authority and interim steps pending the review

- 12.10 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a notice of the review and should include a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps (place temporary conditions on the licence). When calculating the 48 hour period any non-working day can be disregarded¹¹.
- 12.11 The licensing authority may want to consult the police about the steps that it thinks are

necessary, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.

12.12 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee rather than the full committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

12.13 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

12.14 If the licensing authority decides to take steps at the initial interim stage:

- the decision takes effect immediately, or as soon after it as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

12.15 The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

12.16 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw

or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring.

Making representations against the interim steps

- 12.17 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded. Where the licensing authority has already held a hearing to consider representations against the interim steps, the holder of the licence may only make further representations if there has been a material change in circumstances.
- 12.18 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and/or serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that the licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.
- 12.19 At the hearing to consider representations against interim steps the licensing authority must:
- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
 - determine whether to withdraw or modify the steps taken.
- 12.20 When considering the case the licensing authority must take into account:
- the senior officer's certificate that accompanied the application;
 - the chief officer's representations (if any); and
 - any representations made by the premises licence holder.
- 12.21 There is no right of appeal to a magistrates' court against the licensing authority's

decision at this stage.

The review of the premises licence under section 53C

- 12.22 The licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the chief officer's application. There can be no adjournment of the hearing or delay in reaching a determination beyond the end of the 28 day period. This must take place even if the chief officer asks to withdraw his application or representations. At the review hearing, the licensing authority must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken (if any).
- 12.23 In making its final determination the steps the licensing authority can take are:
- the modification of the conditions of the premises licence;
 - the exclusion of a licensable activity from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence for a period not exceeding 3 months; and
 - the revocation of the licence.
- 12.24 Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.
- 12.25 The licensing authority must:
- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- 12.26 A party shall give to the licensing authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –
- whether he intends to attend or be represented at the hearing;
 - whether he considers a hearing to be unnecessary.
 - whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

- 12.27 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 12.18 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.
- 12.28 The licensing authority must notify its decision and the reasons for making it to:
- the holder of the premises licence;
 - any person who made relevant representations; and
 - the chief officer of police who made the original application.

Review of the interim steps under section 53D

- 12.29 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged (see below information on right of appeal). To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.
- 12.30 In conducting the review of the interim steps the licensing authority has the power to take any of the steps that were available to it at the initial stage (see paragraph 12.13). Any interim steps taken at the review hearing apply until—
- (a) the end of the period given for appealing against a decision made under section 53C (21 days),
 - (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or
 - (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under (a) or (b) above).

Right of appeal against review of interim steps decision

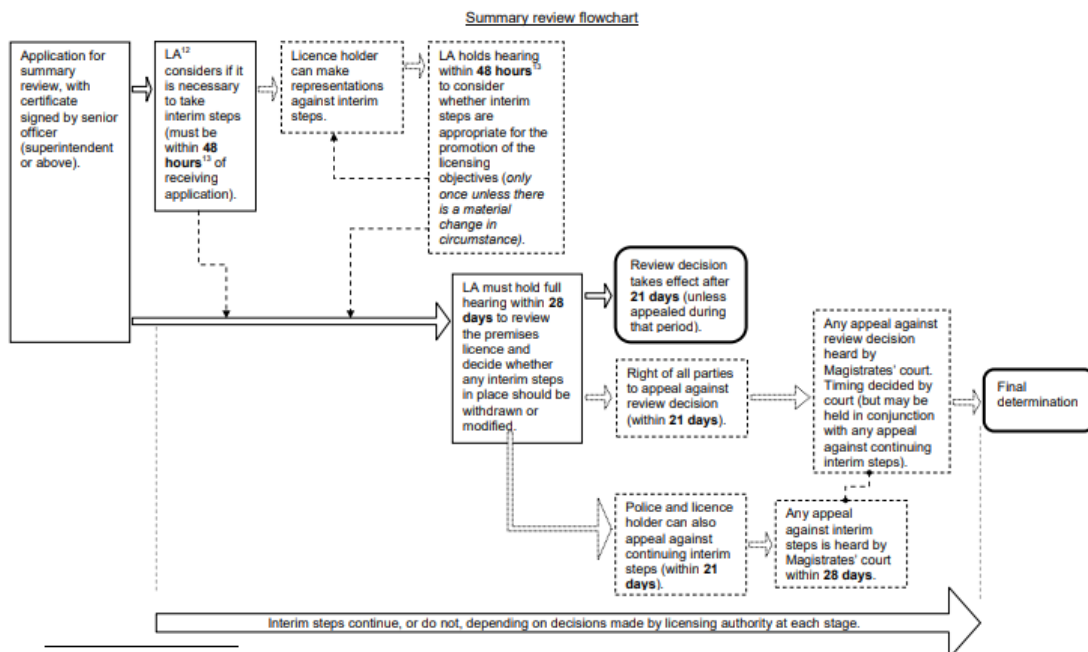
- 12.31 The licence holder or the chief officer of police may appeal against the decision made by the licensing authority concerning its review of the interim steps to a magistrates' court. The appeal must be made within 21 days of the appellant being notified of the licensing authority's decision and must be heard in full by the magistrates' court within 28 days beginning with the day on which the appellant lodged the appeal.

Right of appeal against final review decision

- 12.32 An appeal against the final review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 12.33 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.
- 12.34 Where appeals are lodged both against the decision following the review of the interim steps and against the final determination, the courts may decide to consider the appeal against the final determination within the 28 day period, allowing the interim steps appeal to be disposed of at the same time.

Flow diagram of the summary review process

12.35 The following flow diagram summarises the process.



¹² Licensing authority

¹³ Only working days count

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