

**Decision of the Licensing Sub-Committee sitting at Crawley Borough Council in relation to the application under section 51 the Licensing Act 2003 for a review of the premises licence held by Mr Rifan Caseem Lebbe in effect for the premises Saad Newsagents, 8 Brighton Road Southgate Crawley West Sussex RH10 6AA**

1. The Sub-Committee listened carefully to the submissions made by the representative for the applicant for the review, Trading Standards, the representative for Public Health the representative for the Licence Holder, and the Licence Holder himself.
2. In coming to its determination, the material and documentation the sub-committee took into account included:
  - 2.1 the evidence given and the representations made on behalf of all parties;
  - 2.2 the requirements of the Licensing Act 2003;
  - 2.3 the section 182 Statutory Guidance (December 2022); and
  - 2.4 Crawley Borough Council Licensing Policy.

Observations and findings by the Sub-Committee:

3. This case involved an undisputed sale of alcohol to a child in February 2023 by a member of staff employed at the time at the premises.
4. The context of the review application was the zero tolerance policy by Trading Standards of sales of age-restricted items to children. Trading Standards explained that their policy was to follow up on each piece of intelligence of this nature, such as anonymous complaints, with a subsequent visit to the premises where advice is given with supporting material, and followed by written advice and a warning that checks will follow, such as test purchases.

5. This is what occurred in this case. Trading Standards, following the receipt of intelligence of an alleged sale of alcohol to a child in August 2022, spoke with the Licence Holder by telephone, then attended in August during which the staff member was unable to find the refusals book. At the visit Trading Standards provided templates along with Challenge 25 posters. On 31 August 2022 there was a follow up letter of advice, which included information about how to show due diligence, staff training, refusals logs, signage and CCTV, and provided a weblink to further advice. The letter warned that there would be a test purchase and if it failed, the licence could be revoked.
6. The Licence Holder explained at the hearing that the refusals book had been at the premises but under paperwork/receipts. At the hearing additional pages of the refusals book (sheets) were provided and shown to the sub-committee and all who were present, as the pages submitted ahead of the hearing went only up to 2019.
7. Despite the Licence Holder assuring the sub-committee that there were robust procedures in place at the premises and that all staff were trained, including the staff member who sold the alcohol to the 17 year old on 8 February 2023, the sub-committee's view was that there were clearly shortfalls in the systems and procedures at the premises, including the training of staff.
8. The sub-committee took the view that the licence holder's keeping of the refusals book did not demonstrate a diligent approach to complying with that existing licensing condition. The additional pages, being the original records, produced and inspected at the hearing were shabby loose pieces of paper with no identifying mark as to the premises. The committee noted the Licence Holder's own admission that the refusals book had been lost under receipts when officers had sought to inspect it in August 2022.
9. In addition, although the sub-committee noted that the staff member who sold the alcohol to a child was a new member of staff and was also recently from abroad, they took the view that to sell alcohol to a child so shortly after being trained and in a premises where the licence holder asserted that a Challenge 25 policy was actively used, in fact indicated that the training and supervision given was inadequate and the Challenge 25 policy was not properly implemented.

10. The sub-committee however welcomed the Licence Holder's willingness for the additional conditions proposed by Sussex Police and West Sussex Public Health to be added to the licence, and also welcomed his stated commitment to robustly promote the 4 licensing objectives.
11. The sub-committee also noted the Licence Holder's submissions included that this was not a case which fell within the scope of paragraph 11.29 of the guidance, as there was only evidence of 1 sale of alcohol to a child, and so agreed with the Licence Holder that the appropriate steps in this case did not include revoking the premises licence.
12. They did, however, agree with the responsible authorities' representations that the licence ought to be suspended for a period of 3 months to enable the implementation of the new conditions, in particular the training of staff and new procedures.
13. The decision of the sub-committee was that they considered the following were the appropriate steps to take to promote the licensing objectives:

13.1 **To modify the conditions of the licence** as set out below.

13.2 **To suspend** the premises licence for 3 months.

### **Modifications to conditions**

All existing conditions in Annex 2 are to be removed from the licence.

The following conditions are added to the licence:

1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation. The following will also apply:
  - 1.1 The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

- 1.2 CCTV footage will be stored for a minimum of 31 days.
  - 1.3 CCTV will record all alcohol displayed in the premises.
  - 1.4 The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
  - 1.5 The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
  - 1.6 Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police. The CCTV system will have internet connectivity, in order to facilitate the uploading of requested footage to Sussex Police Digital media systems.
  - 1.7 Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.
  - 1.8 In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
2. All off sales of alcohol will be made in sealed containers.
  3. Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

4. Surplus alcohol stock, not for immediate sale, shall be securely stored away from the shop floor in an area where the public have no access.
5. The premises will operate a “Challenge 25” policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the “PASS” mark hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.
6. Suitable and sufficient signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.
7. The Premises Licence Holder shall ensure that all staff members (including family members, friends and all temporary staff) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:
  - 7.1 the lawful selling of age restricted products
  - 7.2 refusing the sale of alcohol to a person who is drunk
8. Individual members of staff should receive refresher training on the Challenge 25 policy every 3 months.
9. All such training and refresher training undertaken by staff members shall be fully documented and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.

10. The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor (with the date and time of each review documented) at intervals of no less than 4 weeks and feedback given to staff as relevant. The incident log and refusals recording system will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the incident log and refusals recording system will be retained on the premises for a minimum of twenty-four months.
11. Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
12. A list of staff members who are authorised to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences.

The following conditions relate to any alcohol delivery service:

13. Alcohol deliveries will only be made to a residential or business address and not to a public place.
14. The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.
15. At the time the order is placed a declaration will be required from the person placing the order that that person is aged 18 years or over, and that the intended recipient are over 18 years or over. This process will be documented, (tick box before

proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

16. For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.
17. For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.
18. Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:
  - 18.1 only employs delivery employees or agents aged 18 and over;
  - 18.2 is aware that alcohol is included in the delivery;
  - 18.3 that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
  - 18.4 that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.