

From: Steven Doyle <Steven.Doyle@walsall.gov.uk>
Sent: 06 January 2021 08:49
To: Licensing <Licensing@walsall.gov.uk>
Subject: News & Booze, European Off Licence & Convenience Store Licensing Review Representations

Please find representations from Walsall Trading Standards for the above premises.

Best regards,

Steven Doyle
Trading Standards Officer
Trading Standards
Walsall M.B.C.
Civic Centre
Darwall Street
Walsall, WS1 1TP.

steven.doyle@walsall.gov.uk

Tradingstandards@walsall.gov.uk

www.walsall.gov.uk



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Licensing Act 2003 – Premises Licence Review for European Off Licence and Convenience Store, 278 Wolverhampton Road, Walsall, WS2 8RQ

As the Chief Officer of Weights and Measures and a Responsible Authority under the above Act, I wish to make representations in respect of the submitted application. These are:

There have been numerous intelligence reports and complaints provided to Walsall Trading Standards over the last two years that indicate that illegal tobacco is being sold from European Off Licence and Convenience Store. Appendix 1 shows a log of complaints and actions by trading standards in relation to these premises.

In the last two years, counterfeit and incorrectly labelled Marlboro cigarettes were bought on a covert test purchase operation, followed on a later occasion by a packet of counterfeit and incorrectly labelled Richmond Blue cigarettes. A large quantity of illegal tobacco and cigarettes found has been found in the store on two occasions when it has been visited by Trading Standards Officers with a tobacco detector dog, and also from the flat above the store on a third occasion.

Furthermore, the named Designated Premises Supervisor, Mr Bikramjit Singh Mann who is the owner of the premises, and also the Premises Licence holder, has stated to trading standards that he has no involvement with the running of the business as he merely leases the premises to the owner of the business. This lack of involvement by Mr Mann as DPS and Premises Licence holder is contrary to Paragraph 10.28 of the Revised Guidance issued in April 2018 under section 182 of the Licensing Act 2003. The guidance states

‘.the DPS and the premises licence holder remain responsible for the premises at all times.’

Mr Mann is fully aware that sales of illegal tobacco have taken place in the store, and was invited to be interviewed about the offences by trading standards following the first seizure of cigarettes and tobacco. (Copy of letter attached as Annex 2.) It was following receipt of this letter that Mr Mann contacted trading standards and denied having any involvement with the business.

Mr Mann was also fully aware about the find on the second occasion, and arrived at the store during the third time tobacco was seized and was fully cogniscent of what was happening that day.

Photographs of the tobacco seized from the store and the ceiling where the tobacco was hidden on the first occasion are attached as Annex 3.

Over a number of years, part of government strategy to reduce tobacco use has been to increase duty on tobacco products, making them more expensive. Research has shown that illegal cigarettes sell for £3 - £6 per packet of twenty, and hand rolling tobacco around about £6 - £10 per 50g pouch. These are both approximately half the price of legal tobacco products. It is clear that as well as the direct health dangers of using unregulated tobacco, the sale of these cheap products undermines the long term government aim of increasing the health of the population by minimising tobacco use.

Illegal tobacco makes it easier for children to start smoking due to its price, thus making it more likely for them to become hooked at a young age. Illegal tobacco is always available at

a fraction of the cost of genuine tobacco, undermining the effectiveness of taxation and making it harder for smokers to quit. Cheap tobacco makes it easier for non-smokers to start smoking and for ex-smokers to relapse.

The test purchaser who bought Marlboro cigarettes from this store was charged £5, when the normal retail price for this brand is approximately £11 a pack, and the Richmond Blue cigarettes were purchased for £5.50, again approximately half the retail price of a genuine pack.

A further element of government strategy is to have printed on tobacco packets written warnings and pictures showing the consequences of smoking. In the vast majority of cases, these are missing from the illegal goods seized from European Off Licence & Convenience Store.

Offences investigated by Trading Standards relating to illegal tobacco are against the Trade Marks Act 1994 for counterfeit goods, which carries a penalty of unlimited fines and/or imprisonment of up to ten years, against the General Product Safety Regulations 2005 for selling cigarettes which do not self extinguish as required, and against the Consumer Protection Act 1987 for selling tobacco products without correct labelling. There are also potential offences of duty evasion as some of the cigarettes seized are specifically made for smuggling (cheap whites) and others marked as genuine brands (though often counterfeit) did not have a UK customs stamp.

The illegal tobacco trade is often part of organised criminal activity and is linked to a range of other illegal trades including alcohol, people-trafficking, modern-day slavery and drug smuggling. There is also evidence to suggest that the illegal tobacco trade funds terrorism. (Appendix 4).

It is for these reasons that Walsall Council Trading Standards support the License Review recommendation to revoke the Premises Licence for 278 Wolverhampton Road, Walsall.

APPENDIX 1

Trading Standards

Mr B S Mann
37 Reservoir Street
Walsall
WS2 9TG

08 January 2019
TS296
01922 653049
steven.doyle@walsall.gov.uk

Dear Mr Mann,

Trade Marks Act 1994
Consumer Protection Act 1987
Tobacco and Related Products Regulations 2016

You will be aware that on 24th October 2018, officers from this department visited European Off Licence and Mini Market, 278 Wolverhampton Road, Walsall, WS2 8RQ. The visit was made in response to information that illegal tobacco was being sold from the premises, and illegal tobacco products were found during this visit. These were seized under the provisions of the above legislation.

The cigarettes and hand rolling tobacco seized were found not to be in compliance with labelling Regulations. Any cigarettes or hand rolling tobacco sold in the UK must be in plain packs and the health warnings etc must be in English language.

Some of the brands with incorrect labelling seized were Minsk Capital, L&M Forward, NZ Gold, Marvel Blue, Fest, Richmond and Amber Leaf.

Selling tobacco products without the required information in English is an offence under the Tobacco and Related Products Regulations 2016 and can lead to prosecution in the Magistrates or Crown Courts. The maximum penalty for committing such an offence is imprisonment for up to two years and an unlimited fine.

Further, any trade marks which are used on goods, including cigarettes, must have been used with the permission of the trade marks holder. If permission has not been given, the goods will be counterfeit. The Richmond cigarettes have been examined by the trade mark holder and found to be counterfeit.

Selling counterfeit goods is an offence under the Trade Marks Act 1994 and can also lead to prosecution in the Magistrates or Crown Court. The maximum penalty for committing such an offence is imprisonment for up to ten years and an unlimited fine.

As you are the Designated Premises Supervisor for this business, I now need to carry out an interview with you regarding these illegal tobacco products. Please contact me to make the necessary arrangements.

The interview will be recorded and carried out with caution and in accordance with the codes of Practice as laid down under the Police and Criminal Evidence Act 1984

You are strongly advised to contact a solicitor prior to the interview, and you are entitled to have legal representation at the interview if you wish.

If you are not the owner of this business, please advise me who is as soon as possible so that I can contact them regarding this matter too.

If you require further information please do not hesitate to contact me.

Yours sincerely,

Mr S Doyle
Senior Trading Standards Officer

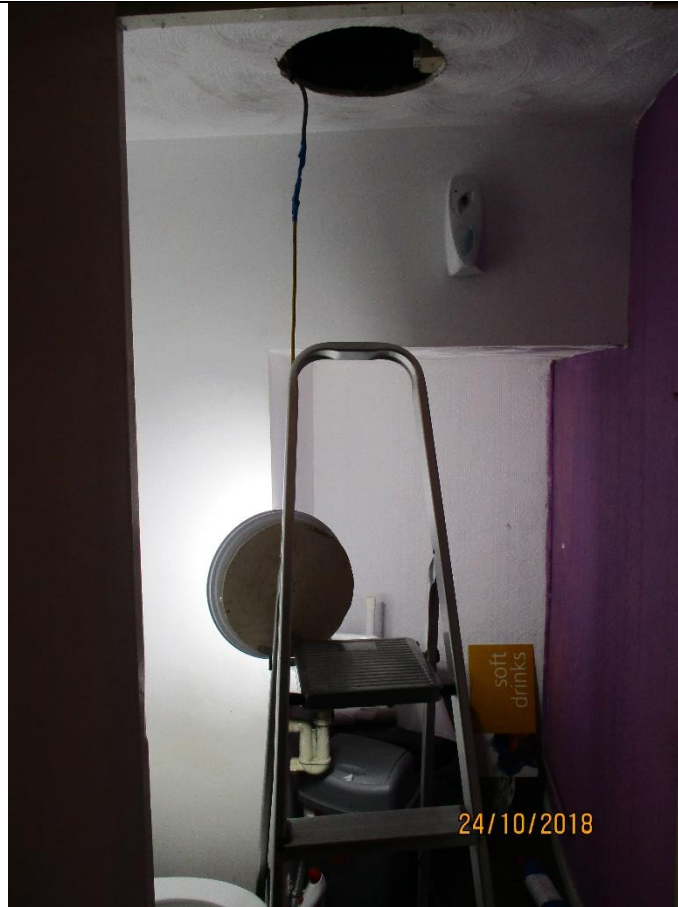
APPENDIX 2

Walsall Trading Standards Record of Dealings With European Off Licence & Convenience Store		
Date	Occurrence	Notes
15/08/2018	Advice visit to store re underage sales	Officers making visit noted that person spoke to in store seemed to be very nervous. Recommendation made to include premises next time tobacco detector dog employed.
24/10/2018	Visit with tobacco detector dog.	15,300 cigarettes & small amount of hand rolling tobacco found in store room and hidden in ceiling.
30/10/2018	Underage test purchase exercise	No sale
07/12/2018	Covert test purchase	20 Marlboro cigarettes purchased
07/01/2019	Consumer complaint about illegal cigarettes being sold from store	
08/01/2019	Letter to Mr Mann (home address) re interview	
11/01/2019	Phone call from Mr Mann	Stated that he is not involved with business and he should no longer be DPS
11/02/2019	Consumer complaint that illegal tobacco being sold from store	
15/02/2019	Licensing officer visited store	Business owner stated that Mr Mann was current DPS but it was his intention to take on this role. Officer spoke to Mr Mann on phone who confirmed he was still DPS.
12/06/2019	Consumer complaint that illegal tobacco being sold from store	
13/09/2019	Visit with tobacco detector dog to store and flat above	19000 cigarettes and small amount of hand rolling tobacco found on stairs leading to flat above shop
20/08/2020	Test purchase by tobacco company	Counterfeit Richmond cigarettes purchased
24/08/2020	Visit with tobacco detector dog to store and flat above	22380 cigarettes and small amount of hand rolling tobacco found in the store

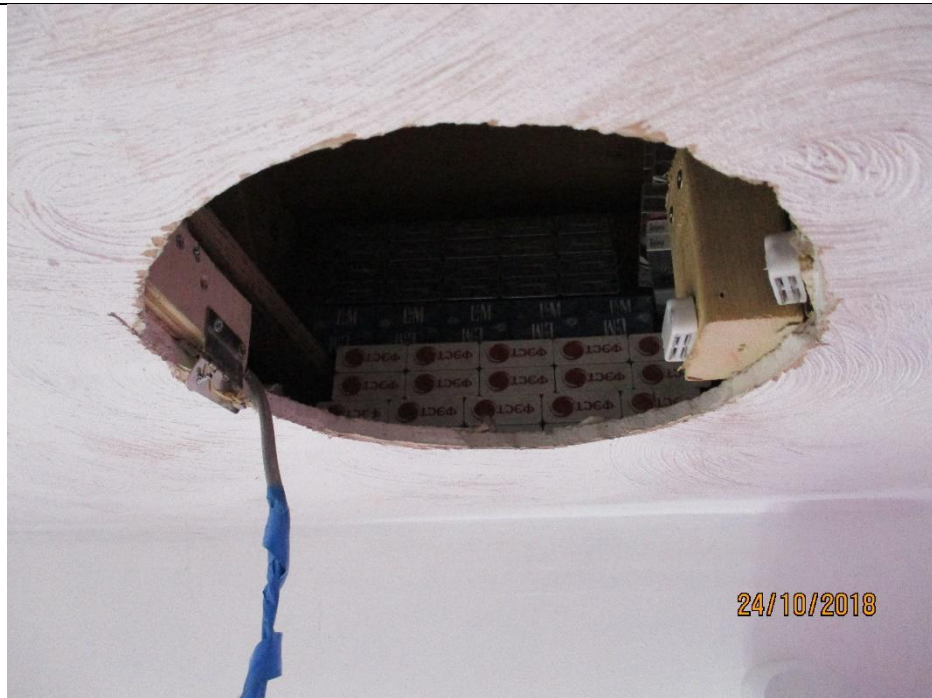
Appendix 3

Photographs Taken at European Off Licence & Convenience Store

Store Room &
Steps to
Concealed
Tobacco
Products
24/10/2018



Tobacco
Concealment in
Ceiling
24/10/2018



Tobacco in ceiling
24/10/2018



Cigarettes in
Store Room
24/08/2020



Cigarettes in
Store Room.
(Snack box
used to
separate
brands.)
24/08/2020



Appendix 4

References

TACKLING ILLICIT TOBACCO: FROM LEAF TO LIGHT

HMRC report 2015

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418732/Tackling_illicit_tobacco_-_From_leaf_to_light_2015_.pdf

Report on HMRC & Border Force Strategy to deal with smuggled tobacco. Goes into detail about the loss of tax revenue (over £2bn per year), international co-operation, the supply chain and enforcement.

Foreword by Exchequer Secretary to the Treasury, Priti Patel:

‘Tobacco Excise Fraud is a crime which deprives the UK of vital revenue which could be used to fund essential public services, including tackling the damaging impacts of tobacco itself, but its impact extends far beyond that.

Dominated globally by organised criminals, the illicit trade damages legitimate business, undermines public health and facilitates the supply of tobacco to young people. The criminality involved, including the use of the proceeds to fund other crimes, has a devastating effect on individuals and communities across the UK and abroad.’

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THE LINK BETWEEN ILLICIT TOBACCO TRADE AND ORGANISED CRIME

Speech given by Prof. Dr. Prof. h.c. Arndt Sinn, University of Osnabrück/ZEIS regarding the smuggling of illegal tobacco by organised crime groups. Illustrates that there are large profits to be made for little risk.

Published by European Economic & Social Committee

https://www.eesc.europa.eu/sites/default/files/files/mr_arndt_sinn_speech.pdf

March 2018

Illicit trade of tobacco products (ITTP)

Despite a notable decrease in consumption of contraband and counterfeit of tobacco products in 2016, it continues to constitute a substantial source of income for OCGs across Europe. In 2016, 9 percent of total consumption continues to be counterfeit and contraband, while illicit consumption deprived governments of €10.2 billion in tax. Activity on this scale is representative for major organised crime on international level conducted by agile groups to feed sustained consumer demand. - With a profit margin of up to 900 percent, the revenues of ITTP are reinvested in more severe criminal activities such as human trafficking, arms smuggling and even terrorist activities.

Health effects of smoking among young people

Lists the physical and emotional effects of early smoking on young people with references to other reports. Part of a wider initiative by the WHO to reduce the prevalence of smoking.

- The resting heart rates of young adult smokers are two to three beats per minute faster than nonsmokers.
- Smoking at an early age increases the risk of lung cancer. For most smoking-related cancers, the risk rises as the individual continues to smoke.
- Teenage smokers suffer from shortness of breath almost three times as often as teens who don't smoke, and produce phlegm more than twice as often as teens who don't smoke.
- Teenage smokers are more likely to have seen a doctor or other health professionals for an emotional or psychological complaint.
- Teens who smoke are three times more likely than nonsmokers to use alcohol, eight times more likely to use marijuana, and 22 times more likely to use cocaine. Smoking is associated with a host of other risky behaviours, such as fighting and engaging in unprotected sex.