



Reference No

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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 or typed in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Tracey GREAVES

.....
(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

Om Sai aka Loco
139 Queen Street
Portsmouth

Post town

Hampshire

Post code

PO1 3HY

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

Mrs Naynaben PATEL

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

11/04365/LAPRMV

Part 2 – Applicant details	
I am	Please tick <input checked="" type="checkbox"/> yes
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)	
2) a responsible authority (please complete (C) below)	X
3) a member of the club to which this application relates (please complete (A) below)	

(A) INDIVIDUAL APPLICANTS (fill in as applicable)										
Please tick <input checked="" type="checkbox"/> yes										
Mr		Mrs		Miss		Ms		Other title (for example, Rev)		
Surname					First names					
I am 18 years old or over								(Please tick <input checked="" type="checkbox"/> yes)		X
Current postal address if different from premises address										
Post town						Post code				
Daytime contact telephone number										
Email address (optional)										
Post Town					Post Code					

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

Email address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Tracey GREAVES
 Trading Standards
 Portsmouth City Council
 Civic Offices
 Guildhall Square
 Portsmouth
 PO1 2AL

Telephone number (if any)

023 9243 7977

E-mail address (optional)

tracey.greaves@portsmouthcc.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

X

Please state the ground(s) for review (please read guidance note 2)

I am seeking a review of the Premises Licence currently held by Om Sai (aka Loco) at 139 Queen Street, Portsmouth, PO1 3HY on the following grounds:

Protection of children from harm

This is due to serious and continued breaches of the premises licence conditions and juvenile Test Purchase failures which call into question the ability of the premises management to support the Protection of children from harm licensing objective.

Om Sai (aka Loco) have failed to adhere to a mandatory condition on its licence Annex 1 -

03. Also to conditions stated in Annex 2 - Conditions consistent with the Operating Schedule Annex 2 - 02, 03, 04 and 05 and likewise to those conditions attached after a review in 2009, stated in Annex 3 - Conditions attached after a hearing by the licensing authority 01, 02, 03 and 04:-

Annex 1 - Mandatory conditions

03. 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. 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

02. The licence holder must ensure that all staff selling alcohol have received adequate training which must incorporate a process of assessment and refresher training to a recognised national standard on the law with regard to age restricted alcohol sales and that this has been properly documented and records kept.

03. The licence holder will operate Proxy Watch.

04. The licence holder will operate a Challenge 25 policy.

05. The licence holder will operate a refusal log.

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

01. Operate Challenge 25 including prominent display in store windows and proper use of ID checks.

02. Operate Proxy Watch scheme and promote to customers, including window display and till cards. The Designated Premises Supervisor (DPS) to phone or email any suspected activities in store vicinity to Trading Standards Proxy Watch on a weekly basis.

03. To keep and use refusal log to record attempted underage sales, proxy sales and anti-social behaviour near store.

04. No sale of alcohol shall be made unless a personal licence holder is present on the premises.

History

An application initially had representations submitted and a premises licence refused at this location by the Licensing Sub-Committee in October 2008.

The premises was granted a Premises Licence at the second application in May 2009 with conditions agreed by the Police, Trading Standards and the applicant Mrs Naynaben PATEL.

A review of the Premises Licence was held on 20th January 2010 following 2 failed juvenile alcohol test purchases, 2 other incidents of underage sales and under age sales training inadequacies.

Trading Standards had asked at the last review for suspension of the Premises Licence for 3 months be considered.

Also, at the last review Trading Standards requested the change of the current DPS due to failure of that DPS to support the Licensing Objectives. The Licensing Sub-Committee imposed the condition 'To remove the Designated Premises Supervisor as she is not capable of running the premises on a day to day basis'. At that time the DPS referred to was Mrs Naynaben PATEL.

As part of this review hearing Mrs PATEL offered in a copy witness statement, section 6 'In agreeing to a Challenge 25 condition we would also agree that it incorporates a condition to display relevant notices, which we will place at the entrance to the premises, in the alcohol display area and at the point of sale'. In another section of the witness statement, section 7, Mrs PATEL stated with regard to missing notices 'I know that this is no excuse and to ensure it cannot happen again either my husband or I now do a daily check of all notices displayed to make sure they remain in place and can be clearly seen'. However, since this statement was made to the Committee, it is quite clear from our investigations that Mrs PATEL has failed consistently to comply with this undertaking.

The Premises Licence was not suspended for 3 months but instead conditions were attached by the Licensing Sub-Committee and on 4th February 2010 the DPS was varied to Mr Satishchandra PATEL.

However, the DPS role was then varied back to Mrs Naynaben PATEL on 29th March 2012.

The premises has again failed to uphold the licensing objective 'The Protection of Children from Harm' and has failed to adhere to the conditions on the Premises Licence.

During a Licensed Premises Check on 07/03/2017 when several breaches of the Premises Licence became apparent, [REDACTED] during discussions said that Mrs Naynaben PATEL was hardly ever there, had undergone an operation so was recuperating. This was reiterated on 10/03/2017 by [REDACTED] when she said that Akash owned the store but the DPS was Naynaben PATEL "but don't see her very often", "retired now", "has hip problems".

A Designated Premises Supervisor is the person who has the day to day responsibility for the running of the premises; they are the main point of accountability and should ensure the premises operates legally. In this case it is apparent that the DPS is not fulfilling their responsibility.

To support this view on 09/03/2017 an adult alcohol test purchase was carried out at Om Sai aka Loco at the request of Portsmouth City Council Trading Standards Service. A sale was made by [REDACTED] to Mr Rob Anderson-Weaver an adult male employee of Portsmouth City Council when no personal licence holder was present on the premises thus breaching a licence condition attached to the Premises Licence after a hearing by the licensing authority.

Juvenile test purchase operation relating to under age sales carried out at Om Sai aka Loco on 10/03/2017, failed juvenile alcohol test purchase as a sale was made to an underage person by [REDACTED], who was subsequently issued with a £90 fixed penalty notice. In fact [REDACTED] tried to up-sell alcohol by offering the young person 3 bottles for £5.

23/04/2017 Trading Standards carried out juvenile test purchase for alcohol. Premises passed but it was a poor refusal.

14/07/2017 Trading Standards carried out juvenile test purchase for alcohol. Premises failed.

This premises has sold alcohol to a child twice in just over 4 months and is non-compliant on a number of the conditions required of it, even the simplest matter, such as displaying Challenge 25 and Proxy Watch posters in the store window.

It can be evidenced that throughout this period no due diligence measures were in place to help prevent the sale of alcohol to a minor.

Please provide as much information as possible to support the application (please read guidance note 3)

Om Sai (aka Loco) at 139 Queen Street, Portsmouth is a convenience store which currently has a Premises Licence to sell alcohol for consumption off the premises Monday to Sunday from 07.00 until 23.00

The Premises Licence holder is currently Mrs Naynaben PATEL.

The Designated Premises Supervisor (DPS) is currently Mrs Naynaben PATEL.

01/03/2017 - email received into the Trading Standards inbox from Police Constable 22367 Joanne LOCKTON wanting contact to discuss the Loco shop 39(sic) Queen Street, Portsmouth.

06/03/2017 - email forwarded to Mrs Tracey GREAVES and Mrs GREAVES emailed PC LOCKTON with her direct contact telephone numbers. In a subsequent telephone call with Mrs GREAVES, PC LOCKTON raised concern that a young female had been supplied alcohol and the selling of alcohol to under age persons. Mrs GREAVES advised that a visit was due to the premises to carry out a licensed premises inspection and that Trading Standards had a test purchasing operation due later that week and so could add the premises to the operation list. (A copy of PC LOCKTONs statement can be seen at **Exhibit 1** of the Trading Standards Bundle).

07/03/2017 - Visit made by Mrs GREAVES at approximately 9.45am spoke with a male who identified himself as [REDACTED] who said that he didn't work there, he was just doing a 2 - 3 hour shift and the regular staff would be there in half an hour. He said the other 2 staff were [REDACTED] and her brother [REDACTED], he also said that Mrs PATEL had undergone an operation so was not working at the moment. Mrs GREAVES worked though the Licensed Premises Inspection Summary form. A copy page was left with [REDACTED] for the DPS (A copy of this page is available see **Exhibit 2** in the Trading Standards Bundle) and found non-compliance of:-

Premises Licence Summary - on display, but only 1 page. Mrs GREAVES advised that the 2 pages should be on display. [REDACTED] said he would tell the manager when he came in and ask for another plastic wallet to display it. This is a legal requirement 2003 Licensing Act, section 57 - duty to keep and produce licence.

Full Premises Licence - [REDACTED] could not produce the document and did not know where it was. This is a legal requirement 2003 Licensing Act, section 57 - duty to keep and produce licence.

Challenge 25 - There was no prominent display in the store windows. This was breaching Annex 3 - 01 conditions attached after a hearing by the licensing authority. Mrs PATEL

offered in a witness statement (A copy of this statement is available see **Exhibit 3** in the Trading Standards Bundle) dated 18/12/2009, in section 6 she stated 'In agreeing to a Challenge 25 condition we would also agree that it incorporates a condition to display relevant notices, which we will place at the entrance to the premises, in the alcohol display area and at the point of sale'. In another section of the witness statement, section 7 Mrs PATEL stated with regard to missing notices 'I know that this is no excuse and to ensure it cannot happen again either my husband or I now do a daily check of all notices displayed to make sure they remain in place and can be clearly seen'.

Proxy Watch - there was no poster displayed in the window and no Proxy Watch cards at the till. [REDACTED] said they had been displaying it on the front door glass but it was not there now. This was breaching Annex 3 - 02 conditions attached after a hearing by the licensing authority. I refer again, to the above paragraph regarding Challenge 25, the previous assurance in Mrs PATEL's statement that she or her husband 'now do a daily check of all notices displayed to make sure they remain in place and can be clearly seen'.

Refusal Register - [REDACTED] could not show me a refusal register, he said that the owner Mr AKASH comes in every day to collect the refusal register and he had had no refusals that day so far, so could not show me a page of refusals. This is in breach of Annex 3 - 03 conditions attached after a hearing by the licensing authority.

Training Records - [REDACTED] could not produce any training records. He said they were maybe in the back office. Breach of Annex 2 - 02 conditions consistent with the Operating Schedule.

On the same visit Mrs GREAVES noted that behind the sales counter on a lower shelf were bottles of Magnum Tonic Wine. This product was on a retailer alert bulletin issued by the Portman Group (A copy page of the bulletin is available at **Exhibit 4** in the Trading Standards Bundle) as being found in breach of the Portman Group's code of Practice on the naming, packaging and promotion of alcoholic drinks. In the summary of decision the panel noted that the product packaging featured an image of a naked couple embracing and a reference to Vigorton, a vitamin ingredient marketed for improving stamina, which linked the drink to the improvement of sexual capabilities the panel said. Licensees were asked not to place orders for stocks of Magnum Tonic Wine (in that packaging) after 15th April 2012. Portman Group stated the following should be borne in mind: when reviewing a liquor licence, a licensing authority may enquire about licensees' compliance action with regards to products that breach the Code.

The premises was also openly displaying for sale packets of blunts in 3 flavours (this is a ready-made, ready to roll sheet of tobacco with a flavour). This is a tobacco product and should not have been openly displayed. Offences contrary to s.7A(1) of Tobacco Advertising and Promotions Act 2002, prohibition of tobacco display. On this occasion Mrs GREAVES pointed out the offence, explained what warnings indicated it was a tobacco product and requested the boxes be placed in the tobacco gantry immediately. Whilst not a licensing matter it is felt it should be brought to the committees attention and included as the licensing objective Protection of children from harm not only concerns the physical safety of children but also their moral and psychological well-being. Section 22.37 of Portsmouth's Statement of Licensing Policy.

Following the licensed premises inspection on 07/03/2017 when a summary sheet was left at the premises highlighting breaches of the Premises Licence conditions there was no contact from the DPS Mrs Naynaben PATEL, her husband, or Mr AKASH to Trading Standards or to, Portsmouth City Council Licensing Section to offer any explanation for the Premises Licence

breaches, that they had now rectified them or how they intended to rectify them even though a direct dial telephone number for Trading Standards was provided on the summary sheet.

09/03/2017 - Adult alcohol test purchase visit made at approximately 10.02am by an adult male employee of Portsmouth City Council Mr Rob ANDERSON-WEAVER (A statement by Mr ANDERSON-WEAVER is available see **Exhibit 5** of the Trading Standards Bundle). The visit to test purchase alcohol by an adult was made because of a concern following the visit by Mrs GREAVES on 07/03/2017 that alcohol would be sold without a Personal Licence Holder being present on the premises. Mr ANDERSON-WEAVER purchased a 1 litre plastic bottle of Frosty Jacks apple cider at 7.5% vol from sales assistant [REDACTED] at approximately 10.04am. No other person was seen working at the premises. No personal licence holder present on the premises and a sale of alcohol was made. Breaching condition Annex 3 - 04 conditions attached after a hearing by the licensing authority.

09/03/2017 - Visit made at approximately 10.12am made by Trading Standards Officer Mrs GREAVES (A copy of notebook page can be seen at **Exhibit 6** of the Trading Standards Bundle) spoke with same male as the visit on 07/03/2017 that had identified himself as [REDACTED]. Mrs GREAVES asked [REDACTED] if he now had a refusal register. [REDACTED] said he didn't have a refusal register but had mentioned it to Mr AKASH. Mrs GREAVES asked if Mr AKASH was there, [REDACTED] said he would telephone him as Mr AKASH was not on the premises. Mrs GREAVES said no, it was ok. Mrs GREAVES provided the premises with a refusal register booklet and explained how to fill in each box, what type of products were age restricted and examples of when you might refuse a sale, such as no ID and [REDACTED] said, or drunk. Mrs GREAVES said the manager and DPS ideally would check this each week and sign off. Mrs GREAVES also provided the premises with Challenge 25 poster and Proxy Watch poster and discussed the siting on the door so could be seen going in and out. Mrs GREAVES asked [REDACTED] if he was the only person there. [REDACTED] first said no that his mother was there. Mrs GREAVES asked what that lady pointing to the photo (Personal Licence Card of Mrs Naynaben PATEL) in the plastic wallet containing a page of the Licence Summary. [REDACTED] said yes. Mrs GREAVES asked 'That lady is here?' [REDACTED] then said 'No she was, but she's just gone out now'. Mrs GREAVES left premises at approximately 10.15am.

I refer again to the statement of Mrs PATEL dated 18/12/2009 who stated that 'It is our practice to have two people working in the shop when it is open. That will usually be myself and my husband, but may also be my son or my daughter. My daughter is a personal licence holder; my son holds the NCPLH qualification and is in the process of applying for his personal licence. My husband has recently passed the NCPLH qualification and he too is in the process of applying for his personal licence. We have not employed other people at present'.

10/03/2017 - Trading Standards carried out a juvenile test purchase for alcohol at approximately 17.20pm using a young person aged 16 years and 10 days. The young volunteer was sold 2 bottles of Bulmers 500ml crushed berries and lime flavour cider by a member of staff at the premises and as such the member of staff committed an offence under Section 146 (1) of the Licensing Act 2003 the sale of alcohol to an individual aged under 18. The sale was observed by a plain clothed Police Constable. PC 512 Jason PEARCE witnessed the sale without any challenge being made. (A copy of PC PEARCE witness statement can be seen at **Exhibit 7** of the Trading Standards bundle). The seller offered to up-sell, telling the test purchaser that they could get 3 bottles for £5.00. This sale would have meant the young person leaving the premises with 9 units of alcohol. PC PEARCE and Mrs GREAVES spoke with the seller who was [REDACTED]. [REDACTED] said she thought the purchaser looked exactly like another customer who she had seen ID for on a previous visit. [REDACTED] said she had been on duty since 13.00pm and that she had

been the only person in the shop since then. PC PEARCE reported and cautioned the seller for the offence of selling alcohol to a person under the age of eighteen. PC PEARCE issued a fixed penalty notice of £90 to [REDACTED]. [REDACTED] said she had received training and it was her first job. She also said Akash PATEL owned the shop and that the DPS was Naynaben PATEL, that she didn't see her very often; she was retired now as she has hip problems. Mrs GREAVES asked if Naynaben was Satish's wife. [REDACTED] said no, his mother. Left premises approximately 17.45pm. (*Sensitive material - copy photographs of the juvenile test purchase volunteers are available if required).

Following the test purchase failure on 10/03/2017 there was no contact from the DPS Mrs Naynaben PATEL, her husband or Mr Akash PATEL to Trading Standards, Police Licensing or Portsmouth City Councils Licensing Section to offer any explanation for test purchase failure, how the test purchase failure was to be addressed and what measures they would put in place to prevent further sales.

23/04/2017 - at approximately 11.40am Trading Standards performed a second Test Purchase operation for alcohol. This retest was carried out using a different volunteer a young person of 16 years, 9 months and 28 days. A plain clothed Police Officer; PC 512 Jason PEARCE witnessed a poor pass. (Copy witness statement of PC PEARCE available at **Exhibit 8** in the Trading Standards Bundle) The server an Asian male with a short beard took the payment, scanned the alcohol plastic bottle of Frosty Jacks, took the change from the till and then asked how old the Test Purchaser was. The young person replying that they didn't have any ID. The seller asked the Test Purchaser again How old are you? The server cancelled the sale, returning the money and telling the young person '....to be careful next time'.

04/05/2017 - follow up visit by Mrs GREAVES with PC PEARCE. (Arranged via two telephone calls with Mrs Naynaben PATEL's daughter). Attended Om Sai aka Loco at approximately 10.55am. The DPS Mrs PATEL was present at the premises although apart from introductions took no active role in the pre-planned meeting. Also present were Mr Akash PATEL and Mrs PATEL's daughter. When it was established that they knew about the Test Purchase failure Mrs GREAVES asked the family why no one had been in touch with Trading Standards, Police Licensing or Portsmouth City Councils Licensing Section. Mr Akash PATEL said that after the explanation from [REDACTED], the seller) that he had rung a number he had but the number was dead. He said he didn't know what to do next. We went to a rear storeroom with Mr Akash PATEL to view 23/04/2017 CCTV footage. Whilst searching for the footage Mr Akash PATEL said it was likely to have been a friend working there on 23/04/2017, helping, as it was a family/a first cousins wedding and they had been in and out. Mr Akash PATEL said that the male serving was his cousin [REDACTED] and the other male his cousin's brother [REDACTED]. Mr Akash PATEL advised, when asked by PC PEARCE, that neither men were Personal Licence holders. When Mr Akash PATEL was advised and shown a copy of the Premises Licence that we had taken to the store that a condition of the Premises Licence required a Personal Licence holder to be on site for sales of alcohol, he seemed surprised at this and said he didn't realise the Premises Licence had that condition. He said that he couldn't keep staff if he trained them up, that it would cost £250 to £300 each and couldn't afford that. He said he would pay and then they would leave. PC PEARCE stated it was a problem if people didn't understand their licence. Mr Akash PATEL said he could not be there all the time. He was asked who held Personal Licences. Mr Akash PATEL said himself, his father but his English was poor, his mother but her English was borderline and his sister. Mrs GREAVES asked if his sister lived in London. Mr Akash PATEL confirmed this but said she pops in and out. He said he couldn't be there seven days. Mr Akash PATEL was advised that there needed to be himself or another Personal Licence holder on site and if other family members couldn't be there then other staff would

need to be trained as Personal Licence holders. Mr Akash PATEL was asked for his Personal Licence, the Full Premises Licence, training records and the refusal register. A refusal register was available but only had entries from when Mrs GREAVES had delivered it on 09/03/2017. Mr Akash PATEL was asked for the refusal register previous to this date, he said they were at home on daily sheets of paper. The training records could not be supplied as Mr Akash PATEL said they too were at home and that he didn't have his Personal Licence card, he thought that was at home also. Mr Akash PATEL located the Full Premises Licence and within the wallet was his Personal Licence card. He was asked if the address on the card was his current address but he advised that no he had moved from there eighteen months ago. The holder of a Personal Licence must, as soon as is reasonably practicable notify the relevant Licensing Authority of any change in his name or address as stated in the Person Licence (2003 Licensing Act - Part 6 - Personal Licences - 127 Duty to notify certain changes). Mr Akash PATEL said he wanted to get the condition of the Personal Licence holder having to be present on the premises for sales of alcohol removed. He was advised he would need to contact Portsmouth City Councils Licensing Section. (PC PEARCE witness statement available at Trading Standards Bundle **Exhibit 8** Notepad of Mrs GREAVES can be seen at **Exhibit 9** of the Trading Standards Bundle).

14/07/2017 - at approximately 17.10 Trading Standards carried out another juvenile Test Purchase for alcohol. This was carried out by a different volunteer, a young person of 16 years, 7 months and 3 days. Mr Rob ANDERSON-WEAVER observed the young test purchase operative being sold a 500ml bottle of Kopparberg Strawberry and Lime Cider of 4.0% vol by the sales assistant [REDACTED]. No challenge was made and no ID asked for. PC 512 Jason PEARCE cautioned and issued [REDACTED] with a fixed penalty notice of £90 for committing offences under Section 146 of the Licensing Act 2003, the sale of alcohol to a person under 18 years of age. [REDACTED] told PC PEARCE that she held a Personal Licence, however she could not produce the card as she did not have it with her. The aim of the Personal Licence qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities involved in the sale of alcohol. It is the Licence Holders duty to produce that licence card for examination (Licensing Act 2003 - Part 6 Personal Licences - Production of a licence 135). A copy witness statement of Mr ANDERSON-WEAVER can be found at **Exhibit 10** of the Trading Standards Bundle and the copy witness statement of PC PEARCE can be seen at **Exhibit 11** in the Trading Standards Bundle.

Since the failed test purchase on 14/07/2017 there has been no contact from the DPS Mrs Naynaben PATEL, her husband or Mr Akash PATEL to offer any explanation for the failed test purchase or how they would address the issue.

There are 213 off licence premises in Portsmouth and the majority comply and do their utmost to uphold the licensing objectives.

This family owned store has consistently failed to maintain even the minimum of requirements and only address them when picked up by a responsible authority. This is despite a previous review hearing in 2010.

Management fail to keep to previous promises and statements made and cannot demonstrate any improvement or ability to maintain required standards.

Concerns raised in the review hearing in 2010 have not been heeded. The history of this premises, the DPS and Licence Holders evidence that these failures cannot be as a result of ignorance on the part of the Licence Holders. On the contrary this can only be explained by wilful neglect under the Licensing Act 2003.

As the facts in this application illustrate it would be futile to recommend further conditions as a means of seeking compliance.

Therefore, Trading Standards would respectfully ask the Licensing Committee to consider:-

Revocation of the premises licence - This will undoubtedly prevent any further sales of alcohol to under 18s and further breaches of the Premises Licence conditions. Indeed, the guidance provided under the Licensing Act 2003 would ask you to seriously consider this in the first instance, due to the holders overall failings to operate the premises in line with the licence requirements, licensing objectives and Portsmouth's licensing policy. Should the Committee decide to revoke the licence it is both proportionate and necessary to the problems that are reoccurring at the premises.

								Please tick <input checked="" type="checkbox"/> yes	
Have you made an application for review relating to the premises before? TS have								x	
If yes, please state the date of that application									
		Day		Month		Year			
		0 4		1 1		2 0 0 9			

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

								Please tick <input checked="" type="checkbox"/> yes	
<ul style="list-style-type: none"> 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. 								X	
<ul style="list-style-type: none"> I understand that if I do not comply with the above requirements my application will be rejected. 								X	

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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature	
-----------	--

Date	18/09/2017
Capacity	Trading Standards Officer (Alcohol & Tobacco Harm Reduction)

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)			
Tracey Greaves Trading Standards Section Floor 2, Core 2 Civic Offices Guildhall Square			
Post town	Portsmouth	Post code	PO1 2AL
Telephone number (if any) 023 9243 7977			
If you would prefer us to correspond with you by email, your email address (optional) tracey.greaves@portsmouthcc.gov.uk			

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Exhibit Record Sheet

Om Sai (aka Loco) 139 Queen Street, Portsmouth, Hampshire, PO1 3HY

Exhibit 1 - Copy witness statement PC 22367 Joanne LOCKTON 01/03/2017

Exhibit 2 - Copy page of Licensed Premises Inspection Summary from visit 07/03/2017

Exhibit 3 - Copy of Mrs Naynaben PATEL statement dated 18/12/2009 to licensing authority

Exhibit 4 - Copy of Portman Group alert bulletin

Exhibit 5 - Copy of witness statement Rob Anderson-Weaver re adult purchase alcohol on 09/03/2017

Exhibit 6 - Copy page of Tracey Greaves notebook entry of visit 09/03/2017

Exhibit 7 - Copy of witness statement PC 512 Jason PEARCE regarding juvenile alcohol test purchase 10/03/2017, juvenile alcohol test purchase re-test 23/04/2017 and follow up visit 04/05/2017

Exhibit 8 - Copy notepad of Tracey Greaves re follow up visit on 04/05/2017

Exhibit 9 - Copy of witness statement Rob ANDERSON-WEAVER re juvenile test purchase alcohol 14/07/2017

Exhibit 10 - Copy of witness statement PC 512 Jason PEARCE re juvenile test purchase alcohol 14/07/2017

*Sensitive material - copy photographs of 3 juvenile test purchase volunteers

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 1

Copy witness statement PC 22367 J Lockton

RESTRICTED (when complete)

MG11T

Witness Statement

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Court Act 1980. s.5B

Statement Of: Joanne Lockton

URN:

Age (If Under 18): Over 18

Occupation: Police Officer

1 30/05/2017 13:25:

I am Police Constable 22367 Joanne Lockton working for Hampshire Constabulary currently based at Parkgate Police Station, Hampshire.

5 On Wednesday 1st March 2017 I was on duty and I was asked by DS 24194 Leeson to review some intelligence that Police had received stating that a 17 year old female had been given wine by one of the members of staff at Loco shop, 139 Queen Street, Portsmouth. On the same date I put a referral into Trading Standards with the above information and concerns around selling alcohol to under-age persons. On Monday 6th March 2017 I received an email from Tracey Greaves, Trading Standards, asking me to contact her about this

10 intelligence. I spoke with Tracey Greaves and we discussed this intelligence and Tracey agreed that Trading Standards would carry out a test purchase at the location in the next few days.

On Tuesday 14th March 2017 I was informed by Tracey Greaves that staff at Loco had failed the test purchase.

15 I had no further involvement in this matter after this time.

This statement 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: Digitally signed

Date: 30/05/2017 13:40

Witness To Signature: N/A

Date: N/A

Statement Started

30/05/2017 13:25

Statement Completed

30/05/2017 13:40

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 2

Copy page of Licensed Premises Inspection Summary from visit
07/03/2017



Portsmouth
CITY COUNCIL

Licensed Premises
inspection summary

more on top window
gently (boxes blinds)

11/04365
TEL: 02392 752222 LIC - LAPRMV

Premises trading name
LOCO (om sm)

Premises address
139 QUEEN STREET
PORTSMOUTH PO1 3HY

Time & date of inspection
MAY 20.7 7th March

Staff name
SATISH KUMAR

Officer's name
TRACY GREENES

Premises licence summary displayed
(legal requirement - 2003 licensing act) YES NO

Is a copy of the full premises licence available on site
(legal requirement - 2003 licensing act) YES NO

Is the premises licence holder on the licence still the business operator? YES NO

Is the designated premises supervisor on the licence correct and are they still employed at the premises? (legal requirement - 2003 licensing act) YES NO

Does the premises have the following notice displayed in a prominent position:
it is illegal to sell tobacco products to anyone under the age of 18? (legal requirement) YES NO

Challenge 18/21/25 poster visible (do they currently operate an age verification policy - mandatory condition) YES NO

Does the premises operate proxy watch - (off sales only) YES NO

Does the premises operate a refusals log YES NO

Can staff at the premises demonstrate under age sales training (Portsmouth licensing policy requirement) YES NO

Can the staff member converse regarding the 4 licensing objectives YES NO

If no, please give opinion below as to why this was

he called / check clearly & take not above
Amul Krishna Patel & work have shift

How do you feel about the quality of service offered to you by trading standards?
Poor Average Good Excellent N/A

Trading Standards can be contacted at Magnum wine

023 9283 4689 or trading_standards@portsmouthcc.gov.uk
437977

EXHIBIT 2

Document Ref: 14354 License Premises Inspection Books

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 3

Copy of Mrs Naynaben Patels witness statement dated 18/12/2009

WITNESS STATEMENT**Name :** Naynaben Patel**Occupation :** Shop Owner

This statement (consisting of 5 pages signed by me) is true to the best of my knowledge and belief.

Signed

Dated 18/12/09

1. My name is Naynaben Patel and I jointly own the premises Om Sai with my husband. I make this statement in respect of the application by Portsmouth City Council Trading Standards Department to review the premises licence for Om Sai. I am the premises licence holder and designated premises supervisor.
2. I have had sight of: the application form issued by Craig Copland and subsequent witness statements of PS Clinton, PC Montague, PCSO Rolfe (2) and Neil Fitzpatrick; the letter of representation from the police with witness statements from PC Montague, PCSO Rolfe, PCSO Gibson and Stephen Keech; the letter of representation from Portsea Action Group and the letter of representation from "the Hairdresser" (Janeen Davis).
3. At the outset I think it is important to acknowledge that both I and my husband accept the evidence relating to the 2 sales of alcohol to persons under the age of 18. One was a test purchase conducted by Trading Standards and the other was a youth who was apprehended by the police. My husband and I are extremely sorry that this occurred and very shocked. We both want to apologise to the Committee, Police and Trading Standards, as well as the parents of the youth. We have passed two subsequent tests by Trading Standards in October 2009.
4. On both occasions we believed the person was over the age of 18 but we both accept that we should have applied the Challenge 21 policy that we had in place at the time. That was where we failed. We have considered the conditions proposed by Craig Copland and we agree that the Committee should impose a condition to change the policy to Challenge 25, with the supporting conditions in relation to ProxyWatch, the refusals log and to have a premises licence holder on the premises at all times.
5. I must point out the background set out in the application is not entirely accurate. The shop did not open on the 5th May 2009. The premises licence was not granted until the hearing on the 20th May 2009. We then opened the store to the public on the 2nd June 2009. My solicitor received written notice of the decision on the 17th June 2009 and whilst I do not recall the exact date we received the premises licence it was certainly after the 17th June. I mention that because that was the reason the summary was not displayed on the officers' visit of the 15th June 2009.

6. The premises licence is endorsed with a condition stating that we should operate Challenge 25 but this is an error. In our application we stated in the operating schedule that we would operate Challenge 21. There was no request from Trading Standards to alter that. I have asked my solicitor to confirm that and he can produce the relevant correspondence if need be to prove that this is an error. We should have returned the licence to the Council for amendment but in the early days of setting up the new business this regrettably was overlooked. There was no condition to display public notices about the Challenge 21 policy. We do accept now that it would be best practice to have the notices displayed and following that visit we did put up notices. In agreeing to a Challenge 25 condition we would also agree that it incorporates a condition to display relevant notices, which we will place at the entrance to the premises, in the alcohol display area and at the point of sale.
7. I accept that on the visit on the 15th June the tobacco notice was not on display. When we opened the shop we had the notice displayed correctly. Following the first two weeks of opening we decided to change things around, where goods were being displayed and how they were being displayed. This resulted in the notice being taken down over the weekend of 12th and 13th June when the shop was closed whilst we made some changes. We genuinely forgot to put the notice back. I know that is no excuse and to ensure it cannot happen again either my husband or I now do a daily check of all notices displayed to make sure they remain in place and can be clearly seen. It was of course immediately rectified following the visit on the 15th June 2009.
8. I have not been contacted by the police or Trading Standards Officers regarding the youths who are approaching adults for alcohol and cigarettes outside our premises. It is our practice to have two people working in the shop when it is open. That will usually be myself and my husband, but may also be my son or my daughter. My daughter is a personal licence holder. My son holds the NCPLH qualification and is in the process of applying for his personal licence. My husband has recently passed the NCPLH qualification and he too is in the process of applying for his personal licence.
9. We have not employed any other people at present. It is not always possible to observe what is happening outside the shop other than immediately outside. We do have an external CCTV camera but its range is limited to the shop doorway. If the youths were identified to us we would not hesitate to ban them from our premises.
10. Mr Copland refers to an email from PC Montague on the 24th August 2009. My solicitor asked for disclosure of this email and I have read it. That email confirms what I believe to be the case which is that the Spar on Queen Street is selling cigarettes and alcohol to children. I attach the email as Exhibit NP1.

11. When I made the application for an off licence interested parties opposed the application. In their letters of representation it was stated there were a number of local issues relating to youths congregating in the area and causing a nuisance. I attach the Committee Report for the application, which contains those letters as Exhibit NP2.
12. There are some general comments made about the premises selling alcohol after 11pm. Our shop has never been open after 11pm. There are also very serious allegations regarding drug dealing in the shop doorway. This is totally denied and this has never been raised with us before. This allegation is now in the public domain and could have a serious impact on our business. We do not run a "tab" for local youths and neither do we run a "tab" for adults. We do not know who [REDACTED] is and neither the police nor Trading Standards Officer has pointed him out to us. We have never knowingly sold alcohol to an adult who then passed it to children.
12. I have viewed the cctv in which it is alleged my son was involved in throwing eggs at the Spar as I could not believe the statement that he was involved. My son did not throw any eggs at the Spar store and nor was he involved in any anti-social behaviour. He is outside the premises cleaning and spraying WD40 on the door to the shop. He was talking to the youths outside the shop. The youths did not get eggs from our store and I am not able to give the Committee any other information regarding this incident other than to confirm contrary to the police assertion it involved my son.
13. I do accept, as does my son, that he should have reported this to the police. I have made it clear to him that we must ask the youths, if they are immediately outside of our shop, to move away from our premises. If they refuse to do so I have instructed him to telephone the police. We have asked them to move away from the shop before and received racist abuse and threats from them. We accept that we must not ignore this behaviour in future and telephone the police.
14. I have telephoned the police once when someone threw a firework into our premises. I have not seen any other anti-social behaviour outside our premises. Therefore in 6 months we have witnessed two acts of anti-social behaviour and on occasions abuse when I or my family have asked youths to move on.
15. I cannot refute there are youths who congregate in the local area, from the representations received, but cannot comment on their behaviour or whether they have been drinking because we have not witnessed it, other than those times I have just stated. I do not accept that those youths are buying their alcohol from our shop.
16. I recall one occasion where an adult female came into the shop and wanted to buy alcohol. I refused her service. I later saw her leave the Spar premises with alcohol. I know we have done wrong in selling alcohol to those young people and agree we need to have tighter controls

on the sale of alcohol but what I cannot accept is that all the anti-social behaviour in Queen Street is being attributed to our premises because the Trading Standards Officer has filed an application to review the premises licence.

17. I now deal with the meeting on the 11th September. We are extremely sorry we did not attend that meeting. The officer was dealing with my son in arranging the meeting which was fixed at very short notice. My son had asked to have the meeting before he returned to University. I was aware of the date of the meeting because I received a letter two days before the meeting. I did not however, appreciate the importance of it. On the day in question I had already arranged to take my daughter back to University and visit a sick relative in London on the return journey. I left Portsmouth very early and did not arrive back until late evening.
18. As I was unaware how important the meeting was I gave priority to my family commitments, which in hindsight of course I should never have done. I recall speaking to the police officer on the telephone on that day and asking her to fix another date. I believed following that call that whilst the meeting would still take place, another meeting would be arranged. I apologise that I did not attend and want to stress that I have not deliberately frustrated the working relationship with the police and trading standards. I see that working relationship as vital in trying to reduce the local issues which are apparent from the police representations.
19. In respect of the cctv I can assure the Committee that all four members of the family know how to operate the cctv and can provide relevant footage if requested. I do not accept the statement by PS Clinton that I did not know how to operate it regarding the incident on the 27th September. I was of course very upset and was not thinking very clearly. I was in a bit of a panic. I accidentally pressed the wrong function key. I then had some problems with the remote. I did telephone my daughter not to ask her how to operate the device but to remind me of how to overcome the issue with the remote. Once told I then produced the CCTV as requested.
20. I have stated that we agree to the Committee imposing conditions on the premises licence as a resolution to the review application and to promote the four licensing objectives. I would respectfully ask the Committee not to suspend the premises licence as a period of suspension would lead to the loss of the business in its entirety.
21. Om Sai is a convenience store and as such being able to sell a full range of products is vital to its success. Whilst the level of alcohol sales is not considerable, if we were not able to sell alcohol we would lose a good % of our other sales, as customers would go elsewhere to do a "one stop" shop. Trade is not as we hoped and as a consequence we now close the premises no later than 10pm and on most days of the week it is 9.30pm. In the last two months our turnover has only been at a level which has met all the expenses of the business. It has not even provided a salary for me and family who have worked there.

22. That should not lead the Committee to think that in those circumstances we would just sell age restricted products to anyone to make ends meet. We have invested [REDACTED] in this business and know exactly how crucial having a premises licence is to its longer term success. If we lost the licence, even for a very short period of time, we would lose the shop and our investment. The financial incentive is therefore not to do anything to jeopardise the licence.

Signed .

Dated 18/12/09

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 4

Copy page of Portman Group alert bulletin



Portman
Group

RETAILER ALERT BULLETIN

HEALEY'S HARD CYDER

Producer: The Cornish Cyder Farm

SUMMARY OF DECISION

The Panel concluded that the term 'hard' in the context of an alcoholic drink had direct associations with strong alcohol, thereby making the alcoholic strength of the drink the dominant theme of the packaging. Accordingly, it found the product in breach of Code paragraph 3.2(a). *The company has said it will consult with the Portman Group's Advisory Service.*

LICENSEE ACTION AND TIMETABLE FOR IMPLEMENTATION

Licenses are asked not to place orders for stocks of Healey's Hard Cyder, as shown in the picture here, after 15 April 2012. Licensees who place orders before this date should consider limiting the order to the quantity that would normally be sold by this date.



MAGNUM TONIC WINE

Producer: J Wray & Nephew (Jamaica) on behalf of Lascelles Ltd

SUMMARY OF DECISION

The Panel noted that the product packaging featured an image of a naked couple embracing and a reference to Vigorin, a vitamin ingredient known for improving stamina. Accordingly, it found the product in breach of Code paragraph 3.2(d) and (j). *The company asserted that it would continue its Portman Group responsibility policy of not importing into the UK the product in its current packaging.*

LICENSEE ACTION AND TIMETABLE FOR IMPLEMENTATION

Licenses are asked not to place orders for stocks of Magnum Tonic Wine, as pictured here, after 15 April 2012. Licensees who place orders before this date should consider limiting the order to the quantity that would normally be sold by this date.



FEBRUARY 2012

The products opposite have been found in breach of the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

Licenses who currently stock the products shown opposite should take careful note of the Licensee Action and Timetable for Implementation sections.

The following should be borne in mind:

- manufacturers are not legally bound to buy back stock from retailers even if the current stock infringes the Code;
- licensees should continue to honour any existing purchase orders and not sell existing stock other than by normal retail trade;
- when reviewing a liquor licence, a licensing authority may enquire about licensees' compliance action with regards to products that breach the Code, so it would be advisable to keep any relevant records, for example the date of new orders placed.

If you have any questions or wish to receive a copy of the Code or additional copies of this Bulletin, please contact: Portman Group, 4th Floor, 20 Conduit Street, London W1S 2XW. Tel: 020 7290 1460; or email info@portmangroup.org.uk

The Portman Group Code is supported by over 140 Code Signatories representing the overwhelming majority of the drinks industry. The Secretary of State's Guidance under the Licensing Act 2003 commends the Code to licensing authorities and recommends that they commend it in their statements of licensing policy.

www.portmangroup.org.uk

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 5

Copy witness statement of Robert Anderson-Weaver re adult purchase of alcohol on 09/03/2017



WITNESS STATEMENT

(Criminal Procedure Rules, Rule 27.1(1);
Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B)

STATEMENT OF: Robert ANDERSON-WEAVER

AGE: Over 18 **OCCUPATION:** Public Health Project 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: **Date:** 7.8.17

I am employed as a Public Health Project Officer by Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AL. On 9th March 2017 I entered the shop Loco at 139 Queen Street, Portsmouth, PO1 3HY at approximately 10.02. I selected a 1 litre plastic bottle of Frosty Jacks white cider and purchased it at approximately 10.04. I was served by a male sales assistant. I did not see or hear any other member of staff at the premises. I left the premises at approximately 10.05 passing the bottle of Frosty Jacks to Mrs Tracey GREAVES a Trading Standards Officer.

Signature: **Date:** 7.8.17

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 6

Copy pages of TG notebook entry of visit 09/03/2017

9th March 2017 approx
10.04 Rob Anderson -
Weaver purchased 1ltr
bottle Frosty Jacks
from male assistant
on visit to Loco (om Sai)
139 Queen Street PO13HY.
at approx 10.12 I visited same
Loco (om Sai) store to ask
for Refusal Register that
same male who told me
he was called [REDACTED]
[REDACTED] on previous visit
7th March 2017 when I carried
out Licensed Premises Inspection
Summary said was unavail

able as owner Mr Akash¹¹
takes away every day. [REDACTED]
[REDACTED] said he still didn't
have a register but he had
mentioned it to Mr AKASH.
I gave him a refusal register
from PCC stock and asked
if Mr AKASH there as [REDACTED]
[REDACTED] said he would ring
him [REDACTED] said no
MR AKASH was not at the
premises I said don't bother
him then it was ok. I
explained how to fill in each
box of the refusal register
what type of products were
age restricted and examples
of whom I might refuse
such as no id and [REDACTED]
[REDACTED] said or drunk. I
said that the manager
DRS ideally would check
refusal register and sign
off weekly. [REDACTED] added
if I had any posters I
had a Challeng 25/Proxy
Wata poster in my briefcase
so provided this to [REDACTED]
he said he would put on door
I agreed the positioning as
glass door & sided poster
could be viewed in and out
of shop. I asked if he was
the only person there [REDACTED]
first said no, my mother is

here. I said that lady 12
pointing to the card with
photo in the license Summary
wallet, Mrs Naynaben PATEL
he said yes. I said that
lady is here. [REDACTED]
they said no she was but
she's just gone out now.
We spoke about the poster
and the old style, colour and
picture. I left Loco at
approximately 10.15

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 7

Copy witness statement of PC 512 J Pearce re juvenile test purchase
alcohol re-test 23/04/2017 and follow up visit 04/05/2017

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: Jason Pearce

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

Occupation: Police Officer

This statement (consisting of 3 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: 01/05/2017

I am Police Constable 512 Jason Pearce. I work as part of the Police Alcohol Licensing team with my primary responsibility to ensure that licensed premises are monitored, managed and compliant with requirements in order to reduce crime and disorder.

On Friday 10th March I was working in the company of Tracey Greaves (Trading Standards) and Rob Anderson-Weaver (Council / Health) on a joint operation in Portsmouth. This operation sought to test a number of off licensed premises to assess if they were operating a challenge 25 age verification policy with regards to selling alcohol and to see if they were ensuring that ID was requested for customers who looked under this age.

Tracey Greaves had obtained the services of a 16 year old girl to assist us with our tests.

The procedure is quite straight forward whereby one of us enters the premises before the juvenile enters. The person then monitors the attempted transaction at the till. The juvenile is instructed to say they have no ID if asked so there is no intent to trick the premises staff. If the staff member sells alcohol to the juvenile without requesting ID then refusing the sale, they fail the test and commit the offence of selling alcohol to a person under 18 (section 146 (1) of the Licensing Act 2003.

For information a Police Officer or a Weights and Measures Inspector has a legal exemption under section 149 part2 (a&b) of the Licensing Act 2003 to allow a person under 18 to purchase the alcohol.

At approximately 1720 hours on Friday 10th March I entered Loco store at 139 Queens Street, Portsmouth in plain clothes. A few minutes afterwards the 16 year old juvenile test purchaser entered the shop and selected 2 x bottles of 500ml Bulmers crushed red berries and lime cider.

The staff member serving who I now know to be [REDACTED] engaged with the test purchaser and informed her that she could buy 3 bottles for £5 to which the test purchaser declined. [REDACTED] then sold the bottles of cider to the test purchaser without any request for ID, taking the money then passing the change and alcohol to the test purchaser.

Signed Signature witnessed by

I then took possession of the alcohol and the child left the shop. I identified myself as a Police Officer and showed my warrant card. I was shortly joined by Tracey Greaves.

█████ said that she thought the girl looked like a girl that had come in the other day.

I reported and cautioned her for the offence of selling alcohol to a person under 18. I then explained and offered the option of a 'fixed penalty fine' (£90) which was accepted. I then issued her with a fixed penalty fine which gave her 21 days to pay.

█████ said that she had worked at the shop since November 2016.

█████ confirmed that she was and had been the only person working at the shop since 1300 hrs that day and when asked confirmed that she was not a 'personal licence holder'. She advised that Akash Patel was her boss and that she didn't see Naynaben Patel (DPS) very often due to her having 'hip problems'.

On Sunday 23rd April 2017 myself, Tracey Greaves and Rob Anderson- Weaver conducted a similar operation with an intention to re-test Loco store.

Another 16 year old was used as the test purchaser and I was again the officer that was in the store monitoring the transaction. The server was an Asian male with a short beard. Whilst the test was passed, it was a poor pass. The server took the money from the test purchaser without requesting ID, scanned the alcohol, took out the change from the till then said 'how old are you'? The test purchaser responded something to the effect of not having any ID. The server again asked 'how old are you'? The server then cancelled the sale and told the test purchaser to 'be careful next time'.

In my opinion there was no purpose of him asking for the age of a person, it is ID or no sale. The question to be posed is, 'Had the test purchaser said '18' would the alcohol have been sold'?

Tracey Greaves and I did a follow up visit to the shop on the 4th May 2017 for a pre-planned meeting with the shop management. The DPS Naynaben Patel was present although her son Akash Patel was the person who spoke to us.

We discussed the test purchase failure on 10th March and also the poor pass on 23rd April. We also viewed the CCTV of the incident on 23rd April.

Akash Patel stated that it was his cousin who was helping out on 23rd April who had served the test purchaser.

It was explained to Akash Patel that the premises licence required a Personal Licence Holder to be present at the premises when alcohol is available for sale. He was asked if his cousin was a personal licence holder (we already knew that ██████ was not).

Akash was surprised by this condition and wasn't aware of it. He went on to ask how he was going to resolve it as it is only him that is available for this role and he would struggle to achieve compliance. He said there are 4 personal licence holders in the family. He said that his mother (DPS Naynaben Patel) was not well, his father did not speak good English and his sister lives in London.

Signed Signature witnessed by

RESTRICTED (when complete)

It was explained to him that he should be aware of the conditions of the premises licence and it was for the premises management (not the authorities) to ensure compliance. He was advised that he could make contact with the Council Licensing Dept to discuss this.

During the conversation I asked Akash for his personal licence. He could not find it initially but did find it along with the premises licence which was at the shop. The wording regarding personal licence holder presence was clearly written on the licence he had possession of.

Whilst we were at the shop Akash was also asked to show us staff training records and the refusals log.

Akash said that staff training records were at home and showed us the refusals log behind the counter. There were documented refusals from March 2017 but nothing prior to this. Again Akash said these were at home.

In summary the follow up enquiries indicated that the test purchase failure and poor pass were probably avoidable. They were assisted by lack of compliance with a key premises licence condition – a personal licence holder to be present on site when alcohol is available for sale.

It is not simply appropriate to resolve the issue of the 'personal licence holder' requirement by taking the condition away. The circumstances on 10th March and 23rd April indicate that there is good reason for the condition. There was nothing to show that the staff selling alcohol (10th March and 23rd April) were adequately trained for the role. Good documented, training and well documented refusals logs may have helped to show an effort (albeit not legally compliant) to have robust staff present to prevent such offences as selling alcohol to children.

2016/08

Signed Signature witnessed by

RESTRICTED (when complete)

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 8

Copy of notes made by TG re follow up visit on 04/05/2017

10.55 in daw
son Akash.
Mother Naynaber

TP FOLLOW UP REVISIT
THURS 4/5/17
EXHIBIT 8

after exp from [redacted] (still works here)
rang but number dead - policy to ring up saying
why no contact to Pol Lic - Lic dept no ID...
didn't know what to do

asked for CCTV

friend on 23/4 as family 1st cousin
wedding he was helping were been
in & out

CCTV operate ok found 23/4

JP discussed poor challenge

J: prob if people dont understand Lic
train all up £250 300 each pay they leave
7 day knackerig. You be on site yourself
waste ref register 11.26

looking at 28th
no could be
my ~~and~~ + [redacted]

anyone there a
PLH?

No

You Lic require it
I cant keep staff if
not trained by us.

Training records.

3 new all
[redacted] how should be
didn't keep her on

PLH A
Sst ? London UK
M. Border hie Eng.
D. poor Eng

at home
my ref prior to my del
at home aid sheet
daily JP all on site.

Full lic was on site card but was with full lic
didn't know if had Pol Lic card but was with full lic
changed add of 1.5 years per lic

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 9

Copy of witness statement Robert Anderson-Weaver re juvenile test
purchase for alcohol 14/07/2017



WITNESS STATEMENT

(Criminal Procedure Rules, Rule 27.1(1);
Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B)

STATEMENT OF: Robert ANDERSON-WEAVER

AGE: Over 18 **OCCUPATION:** Public Health Project 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: **Date:** 7.8.17

I am the above named person and I am currently employed as a Public Health Project Officer for Portsmouth City Council at the Civic Offices, Guildhall Square, Portsmouth, PO1 2AL. I present this statement in relation to a Trading Standards test purchasing operation carried out on Friday 14th July 2014 at the Loco store (aka Om Sai) at 139 Queen Street, Portsmouth, PO1 3HY.

On 14th July 2017 I was working in the company of Police Constable 512 Jason PEARCE and Mrs Tracey GREAVES a Trading Standards Officer. Mrs GREAVES had obtained the services of a female volunteer of 16 years old to assist with the juvenile alcohol test purchase. I entered the premises ahead of the young person at approximately 17.10 shortly after this the test purchaser entered the shop and selected one 500ml bottle of Kopparberg strawberry and lime cider. I observed the transaction at the till, the female staff member serving did not challenge the young person or ask for identification, engaging with the test purchaser to confirm the cost of the cider. The staff member who I now know to be [REDACTED] took the money and passed the change and alcohol to the test purchaser. The test purchaser then left the store and I followed her out. I spoke with PC 512 PEARCE outside the Loco shop regarding the sale of alcohol to the test purchaser and we both went back into the Loco shop whereupon I explained to [REDACTED] what I had witnessed. PC 512 PEARCE cautioned [REDACTED] for the offence of selling alcohol to a person under 18 and issued her with a 'fixed penalty fine' of £90. I left Loco (aka Om Sai) at approximately 17.25.

Signature: **Date:** 7.8.17

Loco aka Om Sai
139 Queen Street, Portsmouth, PO1 3HY

Trading Standards Review Exhibits

Exhibit 10

Copy of witness statement PC 512 J Pearce re juvenile test purchase for
alcohol 14/07/2017

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: Jason Pearce

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

Occupation: Police Officer

This statement (consisting of 3 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: 03/08/2017

I am Police Constable 512 Jason Pearce. I work as part of the Police Alcohol Licensing team with my primary responsibility to ensure that licensed premises are monitored, managed and compliant with requirements in order to reduce crime and disorder.

On Friday 14th July 2017 I was working in the company of Tracey Greaves (Trading Standards) and Rob Anderson-Weaver (Council / Health) on a joint operation in Portsmouth. This operation sought to test a number of off licensed premises to assess if they were operating a challenge 25 age verification policy with regards to selling alcohol and to see if they were ensuring that ID was requested for customers who looked under this age.

Tracey Greaves had obtained the services of a 16 year old girl to assist us with our tests.

The procedure is that one of us enters the premises before the juvenile enters. The person then monitors the attempted transaction at the till. The juvenile is instructed to say they have no ID if asked so there is no intent to trick the premises staff. If the staff member sells alcohol to the juvenile without requesting ID, they fail the test and commit the offence of selling alcohol to a person under 18 (section 146 (1) of the Licensing Act 2003.

For information a Police Officer or a Weights and Measures Inspector has a legal exemption under section 149 part2 (a&b) of the Licensing Act 2003 to allow a person under 18 to purchase the alcohol.

At approximately 1710 hours on Friday 14th July Rob Anderson- Weaver entered Loco store at 139 Queens Street, Portsmouth. A few moments later the 16 year old juvenile test purchaser entered the shop.

Shortly afterwards I was advised that the staff member inside had sold alcohol to the test purchaser who had by now left the shop. I entered the shop and Rob Anderson- Weaver explained what he had seen in front of myself and the serving staff member who I know to be [REDACTED] She had sold a 500ml bottle of Kopparberg Cider (Strawberry & Lime) 4% abv at a cost of £2.49 to the test purchaser.

Signed Signature witnessed by

I was aware that the premises has a challenge 25 policy whereby anyone looking under 25 should be asked for ID when attempting to buy alcohol.

I asked [REDACTED] if she was a personal licence holder. She said that she was but did not have her personal licence on her.

I then 'reported' and 'cautioned' her for the offence of selling alcohol to a person under 18. I then explained and offered the option of a 'fixed penalty fine' (£90) which was accepted. I then issued her with a fixed penalty fine which gave her 21 days to pay.

2016/08

Signed Signature witnessed by

RESTRICTED (when complete)