

## Appendix E

### Representations following an application to review the premises licence for Loco Om Sai,

Mrs Patel would like to apologise to the Licensing Committee and the Responsible Authorities that it has been necessary to review the premises licence.

Following the review of the premises licence in 2009 there has been compliance with the licence conditions and promotion of the licensing objectives. Until March 2017 there has been an uninterrupted period of 8 years trading where there no evidence of concerns have been raised with the premises licence holder, from any of the responsible authorities, about selling alcohol to persons under the age of 18.

There have been visits from Licensing, Police and trading Standards since the last review. It is accepted that officers from Trading Standards have raised issued about the notices in the shop, particularly with regard to tobacco. However, notices have certainly been on display for Challenge 25 and Proxy watch and have been checked. Not all the issues in the review application have been brought to the attention of the premises licence holder.

Following a request for disclosure of any visits by PCC Licensing officers they have advised there was a visit on 30<sup>th</sup> November 2012 and the following note is recorded:

*Visit to Om sai by Ross and Les. Saw Akash Patel, holder of a personal licence. Summary on display and premises licence found. Challenge 25 posters evident and Mr Patel demonstrated a very good understanding of the licence, objectives and the law generally. No adverse comment to make.*

Disclosure was also requested from the Trading Standards officer regarding all test purchases for the store and the following was disclosed.

15/10/09 Test purchase – Pass  
22/10/09 Test purchase - Pass  
10/02/10 Test purchase - Pass  
31/05/10 Test purchase - Pass  
15/07/10 Test Purchase - Pass  
04/10/11 Test Purchase – Pass

The police were also asked whether they had carried out any test purchases. PC Rackham emailed that there was no record of a test purchase at the premises but his recollection was that in late 2014 test purchases were carried out by the police on off licences in the local area and he believed that Loco Om Sai was tested and passed the test.

Following the review of the licence Mr Patel and her son Akash became personal licence holders. The licence was varied to name Mr Patel senior as the DPS. Mrs Patel remained as the premises licence holder.

All the measures required by the conditions of the licence were implemented.

In September 2011 Mrs Patel applied to vary the licence to remove the condition requiring all alcohol products to have UV labels. This was a considerable burden to the business but they had agreed to do it at the last review as it would assist in proving that their shop was not the target of the under-age drinkers in the locality. However, after nearly 18 months with no concern about under-age drinking/purchases there was no objection to that variation and so the condition was removed.

Unfortunately in early 2012 Mr and Mrs Patel's marriage broke down and the licence was varied to name Mrs Patel as the DPS again. The premises had been trading without issues for 3 years and the police did not object to that application. Mr Patel has worked at the premises since, on an infrequent basis, but has now moved abroad and no longer has any involvement in the business.

In 2013 Akash Patel came home from University and worked in the shop full time. He is a personal licence holder. Mrs Patel works in the morning from opening until around 2pm and then Akash works from about 2pm until the shop closes. As it is a small business it is not possible to have more than 2

people working at the shop at the same time. Often the business only requires one person to be there. When the alcohol was purchased by Mr Anderson-Weaver from Mr Kumar, as Mr Kumar told him, Mrs Patel had been at the shop. She had left the premises temporarily to go to the cash and carry and came back to the shop within an hour of his visit.

Mrs Patel accepts this is a breach of the premises licence as a personal licence holder should be present. It was only for a short period of time and Mrs Patel knew Mr Kumar was trained and could trust him in her absence. She had no alternative but to leave the shop and Akash was not available to cover for that temporary absence. In hindsight she accepts she should have told Mr Kumar that while she was gone he should not sell alcohol.

All staff working in the premises have been trained in their responsibility in selling alcohol and that includes using a refusal book, which has been available for their use and is checked by Akash. The shop is not targeted by young persons for either alcohol or cigarettes.

Both Amy and Kimberley had been trained. Amy explained she made a mistake as she was convinced the test purchaser was a regular customer who had previously satisfied her with ID that she was over the age of 18. There is nothing more the premises licence holder could have done to prevent that from happening. Amy works in the afternoon and evenings and therefore very rarely sees Mrs Patel as she works with Akash.

Kimberley who failed the other test purchase is a personal licence holder and has worked at other licensed premises in the City. She is experienced and she had been trained at Loco Om Sai before starting work there. She explained that she thought the person looked over 18 but she accepts she made a mistake in not applying the challenge 25 policy as she agreed the purchaser did not look over 25.

Both have been issued them with warnings about their future conduct but have not to dismiss them from their employment. They have been punished by having to pay a £90 fine which is a significant amount of money for them and Mrs Patel is satisfied they have learned from their mistake and will not do it again.

Since the second failed test purchase all staff have been booked to undertake the Award for Personal Licence holders course with the intention of them all having personal licences. This is a significant financial commitment for a small business such as Loco Om Sai, particularly bearing in mind that there is a high risk of them leaving shortly after getting a personal licence.

If the Committee do not revoke the licence it is intended to transfer the licence to Akash Patel who would then also be named as the DPS.

Revocation of the premises licence would lead to severe financial hardship. This is the only source of income for Mrs Patel and her son Akash. They also employ 4 other people who rely on that wage and would lose their jobs.

This business operates as a convenience store and alcohol is a core product in convenience store retailing to give customers the "one stop" shop offer. If a convenience store did not sell fresh dairy, such as milk customers would go somewhere else. If it did not sell tobacco, customers would go elsewhere. If they did not sell newspapers people would shop elsewhere. The same is equally true of being able to buy alcohol. A customer's loyalty and use of a shop is based entirely around the prospect of getting what they want when they want it.

If the licence is revoked the business cannot survive and it will leave the family with debts. In 2015 £60 000 was invested in a refit for the shop the repayments for which are £1,100 per month. Originally when the family purchased the shop they re-mortgaged the family home and accordingly if the shop does not survive they will lose their home as well.

16<sup>th</sup> October 2017

