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Our ref:
Your ref:

1 November 2018

Dear Sir/Madam,

Re: Licensing Act 2003 – Application for the review of a premises licence, Oxygen, Portsmouth Road, Cosham

I refer to the recent application by Trading Standards for the review of a premises licence in respect of the premises known as Oxygen, Portsmouth Road, Cosham.

The Chief Officer of Police makes formal representations in relation to the application on the following grounds:

- Protection of Children from Harm.
- Prevention of Crime and Disorder

The review application by trading standards shows two failed test purchases at the premises where children were served alcohol within a 3 month period. This has been despite engagement from responsible authorities to prevent similar incidents. Despite this engagement children were continued to be served alcohol by the Designated Premises Supervisor/Premises Licence Holder, Mr Santiapillai. This has seriously undermined the Protection of Children from harm licensing objective.

The Chief Officer of Police notes the information presented by Trading Standards and will not seek to replicate it in this document. What the Chief Officer of Police would like to present to the committee is further evidence of poor practice and further evidence of Test Purchase failures at the premises when Mr Santiapillai has been responsible for its operation as Designated Premises Supervisor and Premises Licence Holder under the Licensing Act 2003. This evidence also shows similar activity at another store operated by Mr Santipillai a short distance away from the current premises and in the same name. The Chief Officer of Police feels that it is proportionate and reasonable to introduce this information as it shows that the issues faced at the current premises are not a one off. This evidence stretches back to 2014 and again shows that the protection of children from harm



licensing objective has been seriously and continuously undermined over a period of around 4 years.

In 2013 Mr Santiapillai took over as DPS and PLH for Fishers News (a small newsagents selling alcohol) in Havant Road, Cosham. A short time later this was renamed to Oxygen.

In July 2014 a Juvenile Test Purchase Operation was conducted at the premises by the Police. The staff member working at the premises served alcohol to a person under the age of 18 and was subsequently issued a £90 Penalty Notice for an offence under S146 Licensing Act 2003.

Immediately after the sale the following concerns were noted:

- Lone working staff member could not converse in English very well. Concerns were raised that this person would not be confident in refusing sales of alcohol to persons as they lacked the language skills to do so and manage any conflict resulting from this.
- No formal documented training records for the staff member working meaning Mr Santiapillai had failed to provide any due diligence and take the appropriate steps to prevent such sales of alcohol.

An email was sent to Mr Santiapillai requesting a meeting with Police to discuss this matter and what measures were going to be introduced to prevent a repeat. This meeting took place on 18/07/2014 and Mr Santiapillai attended and advised the Police he had introduced the appropriate measures to prevent a repeat. **Annex A provides the email request and notes made of the meeting.**

On 11/09/2014 a further Test Purchase took place at the premises. The premises passed its Test Purchase and refused the sale of alcohol to a child.

In early 2015 Mr Santiapillai took over the current premises in Portsmouth Road, Cosham and applied for a premises licence at the store. Conditions were agreed with the Police to ensure the promotion of the licensing objectives at the premises. **Annex B provides the email trail detailing the agreement of conditions. These conditions included training conditions for staff to prevent the sale of alcohol to children.**

In April 2016 as part of a joint agency visit the premises was attended and a licensing compliance check performed. A number of issues with compliance were identified by PCC Principle Licensing Officer Mr Ross Lee and later followed up on by Mr Lee. **Annex C provides the check list detailing these compliance issues which raised concerns around the level of training given by Mr Santiapillai to his staff.**

Following on from this visit Mr Lee from PCC Licensing formally PACE interviewed Mr Santiapillai. He was later prosecuted and convicted for a total of 4 offences under S136 of the Licensing Act 2003 having plead guilty to these offences in court.

In August 2016 Mr Santiapillai left the premises in Havant Road.

On 19/02/2017 a juvenile Test Purchase was conducted at the premises in Portsmouth Road. A person under the age of 18 was served alcohol by a staff member. They received a £90 PND. Following the sale of alcohol to a child, Mr Santiapillai was able to supply



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training records for the staff member and also a refusals log which was up to date for the premises.

Following the sale of alcohol to a child Mr Santiapillai advised that he was retraining his staff member and also sending her to gain a personal licence. **This is also contained in Annex C.**

In July 2018 information was received by a member of the Public regarding their children who had alleged to them that they had purchased alcohol from the premises. This information was passed to Trading Standards for their information from the Police Licensing Department.

This brings us to speed with the information provided by the Trading Standards review document.

The Chief Officer of Police has very serious concerns about the premises ability of the DPS and PLH to operate the premises in a way which promotes the protection of children from harm licensing objective. Over the course of 4 years Mr Santiapillai has demonstrated that despite assistance from the Police, Licensing authority and Trading Standards he still cannot get the basics right. Still children are being served alcohol at his premises. This is despite training provision, despite sending staff members on personal licence courses and despite intervention from all manner of agencies to assist the licence holder. This concerning series of events have culminated in the licence holder himself selling alcohol to a child.

The Chief Officer of Police draws your attention to the guidance issued by the Home Office under 11.29 of its Section 182 in relation to when premises persistently sell alcohol to children which states in relation to the persistent sale of alcohol to children:

“In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.”

The Chief Officer of Police have looked at the options provided by our colleagues in Trading Standards, however is of the belief that the only reasonable option in these circumstances is the revocation of the premises licence.

The removal of the DPS in the opinion of the Chief Officer of Police would be a paper exercise. Mr Santiapillai is both DPS and Premises Licence Holder. To change the DPS would still leave Mr Santiapillai in charge of the business and still allow him to exert his influence. It is not believed that this would be an effective measure in preventing the sale of alcohol to children at the premises.

Suspending the premises licence for a period of three months would indeed allow Mr Santiapillai to put further measures in place to prevent the sale of alcohol to children. However Mr Santiapillai has previously had four years since the first Test Purchase failure to get things right. Mr Santiapillai's premises, after all of this time, continues to sell alcohol to children. It is the belief of the Chief Officer of Police that three months will make no difference as the last four years have shown that there continues to be the sale of alcohol to children at the premises.



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Having every sale of alcohol made by a personal licence holder will also not prevent the sale of alcohol to children. Mr Santiapillai is a personal licence holder, he is also an experienced manager of a licensed premises. He still sold alcohol to a child without requesting any form of identification as per the conditions of his premises licence. He has demonstrated that there is an inability under his leadership of the premises, members of staff, personal licence holders or not, to not sell alcohol to children at the premises.

The imposition of further conditions around training and alcohol sales would also not satisfy the Chief Officer of Police that the sale of alcohol to children at the premises would stop. The premises already have conditions around training. Sales of alcohol to children have been made persistently in spite of this. Mr Santiapillai has also demonstrated that he cannot adhere to simple licence conditions. He has previously been prosecuted by Portsmouth City Council for offences under the licensing act, in particular S136 of the act. Mr Santiapillai also gives cause for concern with his production of training records which are believed to be “fixed”. The Chief Officer of Police would urge the committee against imposing further conditions for Mr Santiapillai to avoid adhering to them.

In light of the information provided the Chief Officer of Police would respectfully request that there is a revocation of the premises licence. It is the view of the Chief Officer of Police that this is the only realistic measure which can be taken to prevent any further sales of alcohol to children.

Submitted respectfully for your consideration.

Yours Sincerely

PC 21945 Peter Rackham
Force Licensing Team
Portsmouth



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