

In response to your notice of intention (under the licensing act of 2003), on the form we have indicated that we do not think that the hearing is necessary and submit the following statements in support of this position.

Staff Training

TSO Lawford suggested that the proposed actions may not be enough.

At this time and during the hearing (which we assume will be noted in the minutes) Mrs. Chestnutt asked what further help Trading Standards, CAP and Licensing Department could provide to us, as their websites advise they assist retailers within the CAP with training and support staff in making refusals.

She also spoke to TSO Lawford after the hearing to see what training was available. He advised there wasn't anything although he did have some challenge 25 badges in the office and he would get Paul Worrall to deliver them to the shop when he was next in the area. These were never received.

Mrs. Chestnutt had a very helpful conversation with TSO Lawford following the failure in February. She has looked at the various training offers on the websites and asked about the training offered under the CAP (on their website). TSO Lawford advised that the Southern CO-OP had offered to help smaller retailers with staff training. He was unable to provide any contact details and was unsure whether this was still available as the Hayling CAP was and still is in a non-operative state on the off license side following the departure of James Noble the lead police officer. This may explain why none of the emails Mrs Chestnutt sent were responded to. TSO Lawford very kindly offered to try and find out if any training was still available, but was instructed not to assist by Philip Loring CAP and his supervisor (See enclosed email).

After extensive research by Mrs. Chestnutt we were put in contact with Kevin Jones Compliance manager for the CO-OP. He has offered to train the 3 members of staff who failed the test purchases to ALPH level. He has also arranged to provide us with some books they use in their training. The courses are on the 28th May and the 20th June. This will mean that we have 5 members of staff trained to ALPH level.

He advised that in their stores they only train the section supervisor to ALPH level the other members of staff undertake an e-learning module the content of which he assumed is similar to the training manual provided by the CAP. Retraining takes place every 6 months. The only time they have more staff trained to ALPH level is if there is a history of problems with proxy sales or under age drinking in the area.

We feel strongly that Trading Standards, Licensing and the Committee should have been more responsive in assisting us with the training required. This would have enabled more staff to be trained in line with Trading Standards recommendation and helped avoid this latest failure.

Refusals log

We feel that it would be worse if the failure had been by the same member of staff, as this would indicate they had not learnt from the failure or the subsequent training received.

The refusal logs inspected by TSO Lawford reflected a traditionally quiet time of year with custom further reduced by some of the worst weather on Hayling Island for years with the island experiencing flooding and high winds.

Also as the challenge 25 policy had been employed effectively for several months customers were coming in with their ID ready, so fewer challenges needed.

Gerry Thorne licensing officer had verbally confirmed that there was no need to repeatedly challenge customers that you had served before and that he would expect the number of challenges to reduce with time.

We therefore feel that the number of entries recorded is not out of line with expectations

Challenges and the challenge log

We accept what was written on the sheets appears to not be good enough however Darren Sawyer the DPS had also had conversations with the staff to ensure they were recording entries. At one stage we were getting them to sign at the end of their shift to say that no challenges had been made. This practice was stopped on the advice of Gerry Thorne, when he delivered our revised license.

Mrs. Chestnutt has discussed this with Darren, he is aware that he needs to record that he has spoken to the staff on the challenge log. He wishes to point out that he has had no contact from Trading Standards the CAP or licensing office to assist him in his role as DPS and review the effectiveness of the systems he had put in place.

He phoned the licensing office after the failure on the 20th February to ask for help and what he should do. He was advised that there was nothing he could do and that he just had to wait for notification of the review date, or he could hand the license in.

We have enclosed a copy of the sheets and grid that we are using. We have reviewed the sheets for the period in question and confirm that challenges where ID was produced and the sale was able to proceed have been recorded.

The 2 entries that had been recorded on the week of the failure were for refusals. The person was unable to produce ID, which is why nothing is noted on the sheet. Other weekly sheets clearly show that ID is recorded when produced and the sale proceeds.

From the introduction of the logs until the 20/2/2014 a total of 119 challenges have been made in relation to age related products, there have been a further 123 since.

Peter Hawkins, who failed the test purchase, works 2 shifts a week in the shop from 5am to 2pm. After allowing for his break, he is only there for 10 hours that the shop is licensed for. He had recorded 7 challenges with the last one on the 12th January. He had been absent for approx. 7 days due to sickness and holiday since 12th January. We feel this level of refusals is acceptable. The highest numbers of challenges over the same period was 39 and 32 and were done by the 2 members of staff who work more hours that are predominantly evenings and weekends.

Management of the premises (Para 11.23)

We do not believe the management of the premises is any different from other independent retailers. Indeed TSO Lawford has confirmed that many other outlets will not

have a refusal log and will not under take the training we have. Kevin Jones from the co-op made the same point.

We have trained all staff using the material provided by the CAP. We have obtained more challenge 25 signage and we have upgraded the till so that a challenge 25 warning appears for all age related products. We have made our own age ready reckoner for the staff to use as the one in the training book and website are out of date.

A company policy has been drawn up and is on display in the shop. All staff have been provided with a copy.

The DPS continues to check the refusal logs weekly. After the failure in February we devised a grid so that we can easily see how many challenges each member of staff is making and when the last one was. This is then looked at against their working hours and shifts. i.e. the more hours, and evening weekend shifts, you work the more challenges expected. Any concerns are then discussed with the member of staff concerned.

We are also reviewing our staff rota to try and ensure there is a member of staff trained to ALPH level on duty (after completion of the courses in May and June) when ever possible. Now that the business is more stable financially even more attention can and will be devoted to up holding of the licensing objectives, hopefully with the support of the CAP, Trading Standards and licensing office.

Action taken immediately after the failure.

We suspended Peter from selling alcohol for 2 weeks following the incident and retrained him with the CAP training material. Peter is a challenging employee in many ways and TSO Lawford suggested we sack him. As you will know, this is not possible with employment law requiring certain processes to be followed which are very time consuming and drawn out, and quite often impossible to conclude. We continue to up skill him and also ensure he works on shirts that have a very low level of alcohol purchases.

We believe that the management structure within the shop is sufficient to uphold the license objectives, however as with all manual processes errors can occur. By way of example we have listed a few just from this case:

- Omission in your letter advising the outcome of the last hearing picked up by Mrs. Chestnutt and resulting in delays.
- Errors on trading standard web site in relation to some of the training material and amount of the fixed penalty fine
- Trading standards not delivering the promised challenge 25 badges or informing us and the committee of the training ALPH training available through the CAP.

We are extremely sorry about the failure and apologise to everyone involved. We firmly believe that our procedures are much stronger than at the review in October and have strengthened even further since the last failure. Indeed TSO Lawford and Kevin Jones have both said that our systems are probably stronger than many other Independent retailers. However the majority of licensed premises are never tested. TSO Lawford advised that they only test if there is a complaint or there are public disorder problems in the area or if a CAP is set up as in our case. Indeed with the CAP not currently operational, new licenses have been agreed on Hayling and others amended which will not have been tested.

We have not been advised, or are aware of any complaints against us or any problems in our locality with underage drinking and proxy sales. This indicates that our systems are robust.

On the rare occasion that an underage sale has occurred in the area we have always cooperated fully with the Police, as mentioned at the last hearing we have been able to satisfy Police that sale was not made by us as the item was not stocked.

Wider Community interest (para 11.26)

We have banned individuals from the shop who have alcohol problems, indeed when trying to enforce this a few months ago a member of staff was physically threatened. In line with our policy we supported the member of staff and contacted the police.

Unfortunately despite providing CCTV footage the police advised they were unable to support us in any action against the individual.

There have been no complaints from the police or public against us.

There are no local problems with proxy sales or underage drinking.

We serve a retired community and are a life link for them.

Summary

The allegation that we continue to fail and show a complete disregard for the licensing objectives is simply not true, as evidenced by the steps we have taken to ensure all conditions of the license have been complied with – acknowledged by TSO Lawford in our conversation.

The licensing officer Gerry Thorne also visited the store to deliver the revised license, and confirmed that he was happy with the steps we have put in place to meet the hearing and our legal requirements. He acknowledged that a large percentage of our trade is to known local customers.

We accept that the implementation of the practices was not up to the required standard at the last hearing due to the personal problems that Mr. Swan had experienced.

We are also aware from the council's website that precedents have been set in decisions against other retail units in the borough, that have had even more failures, where no action has been taken by the committee. In this instance the member of staff had left the business. TSO Lawford did suggest in our conversation of 24th February that we dismiss Peter Watkins but as we are sure your legal council will confirm you cannot easily do this, and one failure is not sufficient grounds to take this course.

We phoned TSO Lawford immediately after the failure and had a very productive conversation. We asked if we could work together on an action plan rather than going to review. We discussed the CAP and he agreed to contact Philip Loring who is in charge. We then received the enclosed e-mail from TSO Lawford stating that the community alcohol partnerships officer has advised "retailers within a CAP would expect enforcement action where another retailer is persistently failing to uphold legal requirements." and that his senior officer within Trading Standards has authorized a review and that the offer of free training was not appropriate.

With CAP not operational from a retailer perspective and new retailers probably not even aware of the CAP, we feel this approach was unfair, and if they were concerned about the welfare of children they did nothing to help us protect them whilst we awaited the hearing.

My understanding is that any decision by the committee, or subsequent appeal hearing would be based on the position at the time of the hearing. We feel that the information presented shows that our systems are robust and that we are committed to the licensing objectives. We believe that a hearing of the committee is not necessary and would not be a good use of involved parties time.

We would instead suggest that the evidence we have provided is reviewed by the Committee, Trading Standards and the Licensing Officer and that we spend time working together to uphold the licensing objectives and get to a place that Trading Standards and Licensing are happy with.

If however you still feel a hearing is appropriate we request a date change, as we are not available on The 20th June due to a pre booked holiday.

We are also in the process of seeking legal guidance from the National federation of newsagents, and may present further information if you decide a review hearing is necessary. TSO Lawford advised this could be done until the night before the hearing.

We would like to record that my dealings with TSO Lawford have been friendly professional and open. We are appreciative of the information and advice that he has been able to give. It is just a shame that the CAP seems to have disappeared and that we were not offered the free training as mentioned at the last hearing as a significant amount of time and money could have been saved.

From: "Lawford, Stephen"
Subject: RE: age restricted sales retailer pack request.
Date: 7 March 2014 10:20:39 GMT
To: 'Dreen Chestnutt'

Dear Dreen

I have received a reply from the Community Alcohol Partnerships Officer and he has said that retailers within a CAP would expect enforcement action where another retailer is persistently failing to uphold legal requirements.

My senior officer has authorised a Review of the premises licence for Clapps and has stated that therefore, the offer of free training is not appropriate.

Yours sincerely

Steve Lawford
Trading Standards Officer

-----Original Message-----

From: Dreen Chestnutt
Sent: 06 March 2014 08:07
To: Lawford, Stephen
Subject: Re: age restricted sales retailer pack request.

Hi Steve,

Thanks for your time last week. It was very useful. I am conscious that i will need to book the licensing course at Highbury shortly (31st March) and wondered whether you have heard back from Philip at the community alcohol partnership regarding the training they offer and whether the co-op can help under the scheme? It would be great to get all f the staff trained as you suggested at the previous hearing and this is hopefully a way of achieving that, without the prohibitive financial cost.

Thank you for your time and help.I know how busy you are now that Paul has left.

Kind Regards

Dreen Chestnutt