

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 27 June 2011 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Eliza Mann
Councillor David Hubber

**OTHERS
PRESENT:** Councillor Renata Hamvas (Observing)
Mr Shafait Ali, Licensee
Barry Craig, Licensing agent
David Murphy, Local resident
Bill Masini, Trading Standards (Applicant)

**OFFICER
SUPPORT:** Dorcas Mills, Licensing Officer
Felix Rechtman, Legal Officer
Sean Usher, Constitutional Team

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The 3 members listed above were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 - PAYLESS, 121-125 PECKHAM HIGH STREET, LONDON SE15 5SF

The licensing officer presented her reports. Members had questions for the officer.

The trading standards officer presented his application for review. Members had questions for the officer.

The licensee with his representative addressed the sub-committee and asked for leniency. Members had questions for the licensee.

All parties were then given 5 minutes to sum up then the sub-committee went into closed session to consider the review application.

The sub-committee resumed at 11.15am and the chair read out the following decision:

RESOLVED:

The council's licensing sub-committee, having had regard to the application by Trading Standards for a review of the premises granted under the Licensing Act 2003 in respect of the premises known as Payless, situated at 121-125 Peckham High Street, London SE15 5SF and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the licence by adding the 4 additional conditions proposed by Trading Standards in their submissions which are listed as follows:

- The premises shall operate an age-check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card;
- All staff involved in the sale of alcohol shall be trained in the age-check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection on request by the council's authorised officers or the Police;
- Age-check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age-check 'Challenge 25' policy applies and proof of age may be required;
- A register of refuse sales of alcohol shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the Police.

Reasons

The reasons for the decision are as follows:

The sub-committee heard evidence from Trading Standards that on one occasion alcohol and cigarettes were sold to a minor. The sub-committee found this to be a clear breach of the protection of children from harm objective in the Licensing Act 2003 and view such breach seriously. The sub-committee also heard evidence from the licensee that since the said incident, the premises took action to prevent further

breaches which included a change of DPS and removal of staff who made the under-age sale. The licensee also accepted all the conditions suggested by Trading Standards and these are now added to the license and are stated above. In the circumstances the sub-committee considered it necessary and proportionate to modify the licence by including the 4 additional conditions (page 13 of the agenda).

Appeal Rights

This decision is open to appeal by either

- a) The applicant for the review;
- b) The premises licence holder; or
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices chief executive for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting then adjourned for a 5 minute break.

6. LICENSING ACT 2003 - PAYLESS, 49-5, PECKHAM PARK ROAD, LONDON SE15 6TU

The licensing officer presented her reports. Members had questions for the officer. It was noted that the licensee was the same for this premises and that in Item 5.

The trading standards officer presented his application for review. Members had questions for the officer.

The licensee with his representative addressed the sub-committee and asked for leniency. Members had questions for the licensee.

All parties were then given 5 minutes to sum up then the sub-committee went into closed session to consider the review application.

The sub-committee resumed at 12.05pm and the chair read out the following decision:

RESOLVED:

The council's licensing sub-committee, having had regard to the application by Trading Standards for a review of the premises granted under the Licensing Act 2003 in respect of the premises known as Payless, situated at 49-51 Peckham Park Road, London SE15 6TU and having had regard also to all other relevant representations

has decided it necessary for the promotion of the licensing objectives to:

Modify the licence by adding the 3 additional conditions (condition 2 modified by the sub-committee) proposed by Trading Standards in their submissions which are listed as follows:

- The premises shall operate an age-check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card;
- All staff involved in the sale of alcohol shall be trained in the age-check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection on request by the council's authorised officers or the Police. Such training to be provided by Trading Standards and to be attended by the licensee and all his staff within 28 days from today's date.
- Age-check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age-check 'Challenge 25' policy applies and proof of age may be required;

Existing conditions 347 and 348 shall be removed.

Reasons

The reasons for the decision are as follows:

The sub-committee heard evidence from trading standards that on 3 separate occasions sales of alcohol and cigarettes were made to a minor. The sub-committee further heard evidence that following the first sale, that trading standards offered free training to the licensee and his staff but that the licensee failed to attend the said free training. The sub-committee found this conduct to be unacceptable and in clear breach of the protection of children from harm objective in the Licensing Act 2003 and view such breaches very seriously.

The sub-committee heard from the licensee that he accepted there was a failure on his part and the part of management which resulted in breaches of the licensing objective. Having accepted responsibility for the breaches the licensee, in an attempt to remedy the situation, took the following steps:

- Replaced the Designated Premises Supervisor
- Trained staff
- Applied to be removed as a licence holder.

In the circumstances the sub-committee found it is necessary and proportionate to add to the license the 3 conditions proposed by trading standards (listed above) and removal of conditions 357 and 348.

In view of the serious nature of the breaches, the sub-committee also found it necessary to modify condition 2 to include the wording "Such training to be provided by Trading Standards and to be attended by the licensee and all his staff within 28 days from today's date"

Appeal rights

This decision is open to appeal by either

- d) The applicant for the review;
- e) The premises licence holder; or
- f) Any other person who made relevant representations in relation to the application

This decision does not have effect until either

- c) The end of the period for appealing against this decision; or
- d) In the event of any notice of appeal being given, until the appeal is disposed of.

Such appeal must be commenced by notice of appeal given by the appellant to the justices chief executive for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

The meeting closed at 12.15pm.

CHAIR:

DATED: