

Lancashire Constabulary's grounds for making representation with regards to the variation of DPS at K&M Deli, 90 Market Street, Chorley.

With regards to the application to vary the DPS at K & M Deli, 90 Market Street, Chorley (reference 14/01495/LAPLA) made by Sirwab MR DARKALA of 57 Cardine St, Preston, Lancashire Constabulary would like to make representations against this variation being made. The grounds for this objection are as follows. On the 14th of May, 2014, MR DARKALA was found guilty at Preston Magistrates court of 'Supplying tobacco products the producer having failed to comply with Regulation 4 to 10 requirements on 02/10/13' for which he received a £500 fine.

The following is the record made by the court :-

1.	14/05/14	PRESTON MAGISTRATES	
1.	SUPPLY TOBACCO PRODUCT THE PRODUCER HAVING FAILED TO COMPLY WITH REGS 4 TO 10 REQUIREMENTS ON 02/10/13 (NO PLEA TAKEN) TOBACCO PRODUCTS (MANUFACTURE PRESENTATION AND SALE) (SAFETY) REGS 2002 s.14		FINE 500.00 VICTIM SURCHARGE 50.00 COSTS 230.00

The above offence comes under the 'Consumer Protection Act 1987' and refers to cigarettes being sold in non-compliant packaging. The regulations referred to are included in 'The Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002. (see below).

The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002

- 2002 No. 3041

- Regulation 14

14. ***(1) No person shall supply any tobacco product in respect of which the producer has not complied with any requirement of regulations 4 to 10 which relates to that product.***

(2) Except in relation to products intended for the travel retail sector, paragraph (1) does not apply where a tobacco product is or is to be supplied for consumption outside the United Kingdom.

(3) Where in relation to a brand of cigarettes the producer is required by regulation 6 to provide on the packet a statement of tar, nicotine and carbon monoxide yields notified to him by, or agreed with, the Secretary of State, the producer shall not, after the expiry of a period of three months beginning with the date of expiry of the period of nine months mentioned in regulation 6(4)(a) or (b) or the date of the agreement, supply a packet of cigarettes which does not provide that statement.

APPENDIX 2

Could the Committee also note that on the initial representations made by Lancashire Constabulary, an incorrect reference was made to the offences being under the Fraud Act :-

“Fraud is a ‘Relevant Offence’ under Schedule 4 of the Licensing Act 2003”

Lancashire Constabulary apologise to the Committee for this error. This was made as the above regulations were believed to involve ‘Excise and Duty’ Fraud at the time of making the representations. On further investigation with Preston Trading Standards, this was found to be incorrect.

With regards to the ‘Revised Guidance issued under section 182 of the Licensing Act 2003’ by the Home Office, Lancashire Constabulary believes that allowing MR DARKALA to become a DPS whilst the offence is ‘un-spent’ would be contrary to the guidance. This guidance states (s 4.27) that ‘The Police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective’.

MR DARKALA has recently shown that he is unable to effectively supervise premises in Preston having been convicted of three offences. Although the offences for which he was convicted pertain to the sale of Tobacco, Lancashire Constabulary believes that he may have a propensity to commit similar crimes in relation to alcohol sales. It is also worth noting by the Committee that he has 3 impending prosecutions for like offences, again in the Preston area. These are due to be heard on the 16th of January, 2015 at Preston Magistrates Court and the Committee will be updated as to the result in due course.

Lancashire Constabulary feels that in allowing MR DARKALA to act as a DPS in the above premises, this would undermine all 4 of Licensing Objectives, these being the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm. Therefore, Lancashire Constabulary would respectfully seek to put the above before the Chorley Borough Licensing sub-committee for their attention and consideration.

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