

# BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE A,  
MONDAY 10 JUNE, 2024**

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY, 10 JUNE, 2024 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Sam Forsyth in the Chair;

Councillors Ziaul Islam and Penny Cornish.

### **ALSO PRESENT**

David Kennedy – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Poole - Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/100623

### **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's meeting You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](http://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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### **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

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Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

There were no interests declared.

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### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/100623 No apologies were submitted.

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### **APPOINTMENT OF SUB-COMMITTEE**

4/100623 The Sub-Committee noted the appointment by the City Council of the Sub-Committee and Chair for the Municipal Year 2024/25.

Members were reminded that they may nominate another Member of their respective Party Group on the Licensing and Public Protection Committee to attend in their place.

Any Member nominated must of had formal training as set out in Paragraph 6.1 of the Licensing Committee Code of Practice for Councillors and Officers.

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### **DELEGATIONS OF SUB-COMMITTEE**

5/100623 The delegations to the Sub-Committee as follows:-

To determine matters relating to the Licensing Act 2003, the Gambling Act 2005, hackney carriage licences private hire licences and such business as may be referred by the Director of Regulation and Enforcement.

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### **MINUTES**

6/100623 The Minutes of the meeting held on 15 April 2024 at 1200 hours were confirmed and signed by the Chair.

The public part of the Minutes of the meeting held on 19 April 2024 at 1000 hours, 19 April 2024 at 1200 hours and 22 April 2024 at 1200 hours were circulated and the Minutes as a whole were signed by the Chair.

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**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – WINE O’CLOCK, 4 SILVER STREET, KINGS HEATH, BIRMINGHAM, B14 7QU.**

7/100623 The following report of the Director of Regulation and Enforcement was submitted:-

(See document no. 1)

**On Behalf of the Applicant**

Martin Williams – TS (Trading Standards)

**On behalf of the Premises Licence Holder**

Ramesh Srisena – PLH (Premises Licence Holder)

**Those Making Representations**

Chris Jones – WMP (West Midlands Police)  
Sherine Edwards-Dodd – PH (Public Health)

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Prior to proceedings Mr Srisena advised that he had to pick his daughter up from school, after her exam. He asked how long the hearing would take.

The Chair advised that it was not possible to predict the end of the proceedings.

The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present the report. David Kennedy, Licensing Section, outlined the report.

The Chair then invited the applicant to make their submission, Martin Williams behalf of TS made the following points: -

- a) That a complainant purchased two bottles of Smirnoff Vodka from the shop (there was a sign in the shop advertising one litre bottles for £8.49 each). The shop worker fetched the two bottles from the rear of the premises but upon getting the bottles home the complainant noticed the seals were broken and they looked as though they had been tampered with.
- b) Upon receiving the complaint TS then visited the complainant at her home and the bottles did appear to be quite old.
- c) TS then visited the premises later that day (20 December 2023) to follow up on the complaint.
- d) On entering the premises, they explained to the man behind the counter why they were present and showed their ID.

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- e) The man identified himself as the PLH, Mr Srisena. He stated that he did not remember serving the complainant.
- f) TS found one litre bottles of Smirnoff Vodka set aside from the other Vodka in the shop, they appeared to be non-UK customs stamped, very old and most appeared to have seals compromised and a variety of liquid fill heights. Some bottles of Whiskey also looked suspicious – two of which were non-duty paid and had seals compromised and a variety of liquid fill heights.
- g) TS advised Mr Srisena that the bottles would be seized and examined.
- h) The counter area had a large selection of vape products, many of which were above the legal puff limit. They were also seized.
- i) The manufacturers, Smirnoff, stated that the Spanish bottles were not legal, and the other bottles dated back to 2011. Some of the metal seals were indeed broken but they the analysis from the lab confirmed that it did appear to have vodka inside.
- j) The Whiskey also had seals compromised and bottles dating back to 2011, but again the contents of the bottles were of the Whiskey brand displayed.
- k) The complainant was concerned about the age of the products and had no confidence in the products or the shop where she purchased them from.
- l) The complaint which was confirmed by what was found in the premises could cause harm to the actual brand itself.
- m) The current intelligence surrounding this type of illegal activity was linked to the grey market.
- n) The Company Director Ramesh Srisena was also the designated premises supervisor and was present on the day of the inspection. The licence was issued in 2021 but there had been no previous issues or complaints in relation to the premises.
- o) That his recommendation to the Committee was the impose a period of suspension to ensure all matters were dealt with and that there is adequate supervision at the premises. He would also support revocation of the licence which would ensure a complete overhaul and new management of the premises.

The Chair then invited WMP to make a submission, Chris Jones, on behalf of WMP made the following points: -

- a) That illicit spirits could not have been purchased through a legitimate retailer, so where were they purchasing them.

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- b) The spirits were kept on a shelf in the rear storeroom, away from legitimate stock suggesting the PLH was fully aware they were illicit and needed to be easily identified, away from regular legitimate stock.
- c) There were obvious public health concerns, particularly with seals being tampered with.
- d) There were also illegal vapes on sale which did not comply with British standards and contained higher levels of dangerous compounds.
- e) The UK Government did not receive tax for non-duty paid/illicit products which impacted the 'public purse'.
- f) The complainant and the brand were also affected. It put legitimate business at risk.
- g) The premises was acting in a way solely to maximise profit and due to the seriousness of the review application and the concern regarding illegal and irresponsible operation WMP requested that the licence be revoked as they had no confidence in the management of the premises to trade in a manner that promoted the licensing objectives.

The Chair then invited PH to make a submission. Sherine Edwards-Dodd, made the following statements on behalf of PH: -

- a) Vapes which were not regulated have a particular risk to health: higher nicotine resulting in increased dependence. They could not be sure what was in them.
- b) Research showed that that vapes were harmful to health.
- c) PH were also concerned that children were experimenting with vapes, which could impair their cognitive function and increase the risk of respiratory conditions such as asthma.
- d) Some vapes also contained Cannabis.
- e) Vapes also carried risks of potential poisoning.

The Chair then invited the PLH, Ramesh Srisena to make his submission. He made the following points (please note - during Ramesh Srisena's submissions the Chair lost connection and she asked that Ramesh Srisena repeat his submission): -

- a) That he took over the premises, from his nephew, 18 months ago.
- b) That everyone sold the same vapes.
- c) He kept all stock in his shop, and no one sent him any warning letters or information about vapes. If he knew they were illegal he would not have sold them.

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- d) That no one told him the liquor was illegal and the products had UK labels, so he thought they were fine to sell in the shop.
- e) He managed the premises on his own.
- f) It was the first time he had made a mistake, and he would not do it again.
- g) He never had illegal wine or cigarettes in his premises.
- h) He was not happy about what had happened, but it was the first incident.
- i) It happened by mistake.
- j) It would never happen again in the future.
- k) He struggled to read and write due to the language barrier.
- l) That he promised it would never happen again.
- m) The alcohol liquor came from the Landlord.
- n) He did not know the law had changed regarding e-cigarettes and vapes.
- o) He was sorry for his mistake.

Members asked questions and Ramesh Srisena responded: -

- a) That he had been running the business for 18 months after taking over from his nephew. However, the licence was in his name.
- b) He only read the licence conditions when the licence was first issued. Therefore, he had not looked at them for some time.
- c) He worked with his nephew in the premises before he took over.
- d) That the licence was issued in 2014 or 2015 and he had not read the licence conditions since then.
- e) The alcohol was not separate and if he knew it was illegal why did he not hide it.
- f) He had a personal licence.
- g) He used the licence to start a business with his nephew, who left about 18 months ago when he took over.
- h) The alcohol was in different areas depending on the size of the bottles.
- i) He did not try to hide the bottles.

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- j) He had not had any further training because he knew 90% of what he should be doing.
- k) He did not sell to minors and did not sell illegal products.
- l) It was a mistake, he did not intent to do anything wrong.
- m) He had official training in 2014/2015 but had not undergone any further training since.
- n) English was not his first language.
- o) He could read and write but struggled with 'strong words' and some of the legal words. He could speak and write socially.
- p) He promised it would never happen again.
- q) He understood all the representations made at the hearing but did struggle a little with some of WMP submissions as he used 'strong words'.

The Chair invited all parties to make a brief closing submission. Sherine Edwards-Dodd, on behalf of PH, made the following closing statements: -

- She had nothing to add but she sympathised with the PLH due to the language barrier. However, it was not an excuse to get out of the problems that occurred at the premises.

The Chair invited Martin Williams of TS to make a brief closing submission, he simply added the TS did interview Ramesh Srisena under caution, but that was under criminal proceedings in relation to the matter.

The Chair then invited Chris Jones, WMP to make a closing submission and he made the following closing statements: -

- The premises had not provided any plausible mitigation for the incidents.
- The PLH had training and had read the licence conditions which indicated the need to ensure all alcohol was UK duty stamped – a condition that was obviously breached.
- There was some discrepancy over where the illicit bottles were stored, however TS and the complainant both confirmed that the bottles were not stored in the same place as the legitimate alcohol. Which indicated that the PLH was aware the alcohol was not legitimate.
- WMP stressed the seriousness of the application and requested that the licence be revoked as WMP had no confidence in the premises to operate in a way that promoted the licensing objectives.

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Ramesh Srisena, the PLH was then invited to make a closing submission and as such, he made the following closing statements: -

- That it was a mistake and would never happen again.
- He apologised for his mistakes.
- He now understood the rules and would not let it happen again.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and, following the announcement of a short decision, a full written decision was sent to all parties as follows;

8/100623

### **RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by World Wine Store Limited, in respect of Wine O’Clock, 4 Silver Street, Kings Heath, Birmingham B14 7QU, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that the licence be suspended for a period of six weeks, in order that the licence holder should take the opportunity to review all practices and procedures, refresh training and the management arrangements, and thereafter resume trading in a manner which is capable of upholding the licensing objectives in the Act.

The Sub-Committee's reasons for suspending the licence are due to concerns raised by the responsible authorities, led by the Chief Officer of Weights and Measures of the City Council, who was represented at the meeting by an officer from Trading Standards. West Midlands Police and Public Health (of the City Council) also attended.

All three of the responsible authorities made submissions as per their documents in the Committee Report, relating to illicit products which had been discovered inside the premises when Trading Standards visited. The visit had followed a complaint made by a member of the public, who had suspected that vodka bought at Wine O’Clock was illicit. Officers who attended at the premises discovered quantities of illicit alcohol and illicit vape products, on display for sale to customers. The Sub-Committee was aware that the stocking of illicit products in licensed premises was a serious risk to the upholding of the licensing objectives.

It was the recommendation of Trading Standards that the Sub-Committee should consider imposing a period of suspension of the licence in order for the matters of concern to be taken into hand. Trading Standards stated that they would also support a revocation of the licence, “in order that matters can be sufficiently turned around under new management and that in the future the shop does not pose a risk to the public and generate customer complaints as in this case, that may lead to more harmful outcomes in the future”. The Sub-Committee noted these two recommendations.

The Sub-Committee then heard from West Midlands Police who highlighted the irresponsible style of trading and breach of operating conditions (as per their



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document in the Committee Report), and observed that both of these were a risk to the crime prevention objective. The Police recommendation was for revocation.

Public Health also addressed the Sub-Committee regarding the public safety aspects of illicit vape products, as per their document in the Committee Report. Public Health stated that they supported a suspension of the licence as an appropriate sanction.

The Sub-Committee then heard from the director of the licence holder company, who was also the designated premises supervisor. He had taken over the shop from his nephew, one and a half years ago. He confirmed that the failings regarding illicit products had been entirely unintentional. Regarding the alcohol, he remarked that he had thought the products were legitimate, as they had a UK label on them. He described it as a “first time mistake”, and assured the Sub-Committee that he would ensure that it would never happen again.

He explained that he had a language barrier regarding reading and writing English, and commented that he had got “a little bit confused” regarding the requirements. The Sub-Committee noted this. He added that recent events had been a good lesson for him, and that he had never before faced any problem in trading. He was new to the business and was keen to learn the lesson.

He stated that the illicit alcohol had come from another person who had hosted a wedding party for his daughter some years ago. That person had told the licence holder that the alcohol had been purchased legally in the UK - from a cash and carry, and a local shop. The licence holder assured the Sub-Committee that he would not do this again. He apologised and asked the Sub-Committee to note that the business was his livelihood.

He stated that the premises licence was in his name (ie his company name). He accepted that he had not recently read the conditions of the licence and apologised, but confirmed that at the time the licence was issued he had read the conditions, and moreover he had followed all the training requirements for personal licence holders in 2014/2015.

He showed the Sub-Committee the layout of the shop via his laptop camera, and stated that alcohol products were put out on display, and not hidden, remarking that only a person wishing to trade in illicit products would hide them. He confirmed that he ran the shop alone and assured the Sub-Committee that he checked age-related ID properly and never sold cigarettes to underage persons. He again assured the Members that the recent mistakes would not happen again.

When the responsible authorities made their closing submissions, Public Health said that they had some empathy for the licence holder regarding the language difficulty, but felt that this did not excuse the issue around the strength of the vapes that were being sold, or the sale of alcohol that he had taken from somebody else. Trading Standards confirmed that the licence holder had been interviewed and had answered questions in English.

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West Midlands Police considered that the licence holder had not offered any plausible mitigation for the illegal and irresponsible operation of the premises. They further noted that Trading Standards had found that some of the seized bottles of alcohol were not displaying a UK duty stamp.

The Sub-Committee was aware that, under paragraph 11.20 of the Guidance issued by the Secretary of State under s182 of the Act, it should seek to establish the cause of the concerns that the representations identified, and that the remedial action taken should generally be directed at those causes, and should always be no more than an appropriate and reasonable response to address the causes of concern that had instigated the Review. A “proportionate response” was what was recommended by the s182 Guidance.

Bearing this in mind, the Sub-Committee reflected carefully on the guidance given in paragraph 11.20 when making its decision. The recommendation of the Police had been immediate revocation; however, the Members noted that both Trading Standards (who had brought the Review before the Sub-Committee), and Public Health, considered that a suspension would perhaps suffice.

Having heard from the director of the licence holder company himself, the Sub-Committee noted that he had not made excuses, had apologised, and had made it clear that the failings would not be repeated. Whilst mindful that revocation had been recommended by the Police, who were the experts in the prevention of crime and disorder, the Sub-Committee felt that it would be draconian to remove the director’s livelihood after he had stated that he would ensure that operating standards improved.

The Sub-Committee therefore felt that the best course was to follow the recommendation of two of the responsible authorities, and to permit the licence holder to retain the licence. The Sub-Committee determined that the matter could be dealt with by way of a suspension of the licence. The Members considered that a period of six weeks would be sufficient for the licence holder to review and refresh all aspects of his operating style, such that he could resume trading in a manner capable of upholding the licensing objectives in the Act.

The Sub-Committee gave consideration as to whether it should modify the conditions of the licence or remove the designated premises supervisor, but was not satisfied, given the licence holder’s assurances that he would improve the operating style, that this was necessary.

In reaching this decision, the Sub-Committee has given due consideration to the City Council’s Statement of Licensing Policy, the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received and the submissions made at the hearing by the licence holder and by those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the

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Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is determined.

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**EXCLUSION OF THE PUBLIC**

9/100624

**RESOLVED:-**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3.

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Chair