

Minutes of the Statutory Licensing Sub-Committee

7 August 2025

-: Present :-

Councillors Douglas-Dunbar, Foster and Chris Lewis

12. Election of Chairman/woman

Councillor Douglas-Dunbar was elected as Chairwoman for the meeting.

13. To consider an application for a Review of a Premises Licence in respect of Zakopane, 16 Market Street, Torquay

Members considered a report on a review of a Premises Licence in respect of Zakopane, 16 Market Street, Torquay.

Written Representations received from:

| Name | Details | Date of Representation |
|----------------------------------|--|------------------------|
| Trading Standards | Application for a Review of the Premises Licence and various supporting documentation. | 18 June 2025 |
| Lead Auditor Children's Services | Letter of representation in support of the application for the Review of the Premises Licence. | 23 June 2025 |

Additional Information:

Upon the publication of the agenda the following documents were circulated to all parties:

- Email correspondence between Mr Salah's Legal Advisor, Trading Standards and the Police, circulated on 1 August 2025;
- Witness statement (exempt) circulated on 1 August 2025;
- Two witness statements (exempt), report from a Licensing Consultant and training presentation circulated on 1 August 2025;
- Statement of Truth and appended Premises Licence circulated on 5 August 2025; and
- Heart of the South West Trading Standards Service Witness Statement dated 5 August 2025, Heart of the South West Trading Standards Service Witness Statement dated 6 August 2025, Witness Statement dated 4 April 2025, statement from an illicit tobacco control officer undated were all Circulated on 6 August 2025.

Upon commencement of the Hearing, the Applicant and Mr Salah's Legal Advisor were asked provide to submissions regarding whether the Sub-Committee would need exclude the press and public in order to hear their evidence. The Applicant confirmed their oral representation could be heard in public. Mr Salah's Legal Advisor advised he would need to share a small element of his oral submission in private. The Sub-Committee agreed to hold the majority of the Hearing in public and would exclude the press and public when necessary.

Oral Representations received from:

| Name | Details |
|-------------------------------------|--|
| Applicant (Trading Standards) | The Applicant outlined their application for a Review of the Premises Licence and responded to Members questions. |
| Lead Auditor Children's Services | The Lead Auditor Children's Services outlined their support for the application for a Review of the Premises Licence and responded to Members questions. |
| Mr Salah's Legal Advisor | <p>Mr Salah's Legal Advisor set out his response to the application for the Review of a Premises Licence and responded to Members questions.</p> <p>Note: during Mr Salah's Legal Advisor's oral submission the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information, as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).</p> |

Decision

That the Premises Licence in respect of Zakopane, 16 Market Street, Torquay be revoked.

Reasons for Decision

Having carefully considered all the written and oral Representations, Members of the Statutory Licensing Sub-Committee unanimously resolved to revoke the Premises Licence having been satisfied, having considered all the evidence before them, that the Premises Licence Holder, Mr Salah had demonstrated a sustained failure to uphold the Licensing Objective, The Prevention of Crime and Disorder and was not a fit and proper person to hold a Premises Licence.

Members heard from Officers from Trading Standards, who, as a Responsible Authority, had brought the Premises Licence Review, that two enforcement visits had been carried out at the premises, the first in 2023 where 1120 cigarettes were seized (56 packets) which included counterfeit products, non-duty paid, and non-regular brands manufactured for black market sale. These were found within Mr Salah's office, reached via an integral staircase rising from the shop floor. In addition, 929 illegal vapes were seized from behind the shop counter.

Whilst Mr Salah admitted that the cigarettes had been purchased by him, his submission was that these were for personal use, as he was a heavy smoker at that time. Members did not find this explanation to be plausible given the large quantity, and selection of brands seized, and found it odd that these would be stored in his office and not at his place of residence.

The storage of illegal vapes behind the counter, were by Mr Salah's admission, for the purpose of sale only, though he denied any knowledge that they were illegal. This prompted a comprehensive advice letter to be provided to Mr Salah in October 2023, and a further letter in January 2025 by Trading Standards officers with signposting to a plethora of compliance advice and a toolkit for use by businesses. Members were later to hear from Mr Salah, when questioned, that he had not taken any positive action upon receipt of this expert advice, and Trading Standards Officers confirmed that at the time of delivering the letter in October 2023, further illegal vapes were seized from the shop floor indicating that, further to their enforcement visit some months prior, Mr Salah had made no attempts, through his own efforts, to ensure regulatory compliance.

Members found this lack of engagement to be indicative of a disregard for regulatory responsibilities, and an undermining of the Licensing Objective, The Prevention of Crime and Disorder.

A repeated positive test purchase for illegal tobacco products in early 2025 prompted a further enforcement visit in March 2025, where a large quantity of illegal tobacco and counterfeit products were seized (4860 illegal cigarettes and 228 pouches of illegal tobacco) from both bedrooms within the flat above the licensed premises, sub-let by Mr Salah to an employee. Despite hearing that 3 persons were living in the upstairs 2-bedroom flat, no personal belongings could be seen in any of the photographs supplied by Trading Standards taken at the time of the enforcement visit and submitted as evidence.

Mr Salah was unable to provide purchase receipts for the oversized vapes or traceability to a reputable retailer, claiming that they had been brought from a wholesaler in London and that the paperwork was not required to be kept. Members found it to be unacceptable that as a responsible Premises Licence Holder Mr Salah would not be able to determine from his own inspection the legality of a tobacco or vaping product or would not be concerned to do so, given the danger posed by illegal tobacco and vapes.

Aside from the counterfeit cigarettes and illegal goods found at the premises, Members also heard that a positive underage sale test purchase had been undertaken in January 2025. Whilst Mr Salah showed some remorse for this, it represented a breach of a condition on his premise licence to operate the Challenge 25 scheme. Members noted in this regard, officers found the licensed premises refusal log not to have been completed since November 2024.

Members heard an oral Representation from Children's Safeguarding who as a Responsible Authority were extremely concerned to hear of the failed underage sales test purchase and impressed upon Members the dangers of selling of alcohol to underage persons, which could ultimately respect in poorer life prospects. In her

expert opinion, to allow an underage alcohol sale was completely unacceptable behaviour for a Premises Licence Holder.

Whilst comprehensive staff training had recently taken place, it was clear to Members that this was in response to the premises licence review being brought. Prior to that, Members determined that Mr Salah had not taken his responsibilities as either Premises Licence Holder or Designated Premises Supervisor seriously.

Members remained mindful of the Licensing Authority's role as set out under section 11.27 and 11.28 of the Revised Guidance issued under section 182 of the Licensing Act 2003, which states

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- for the sale and distribution of illegal firearms;*
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- for prostitution or the sale of unlawful pornography;*
- by organised groups of paedophiles to groom children;*
- as the base for the organisation of criminal activity, particularly by gangs;*
- for the organisation of racist activity or the promotion of racist attacks;*
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;*
- for unlawful gambling; and*
- for the sale or storage of smuggled tobacco and alcohol.*

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

In coming to their decision, Members were mindful that their role was not to determine guilt or innocence but to ensure the promotion of the Licensing Objectives, and unanimously determined that on the balance of probabilities, Mr Salah had been party to the concealment and sale of illegal goods within his licensed premises and within the flat above, had allowed this to continue despite a warning given to him in 2023.

Members considered it to be impossible for Mr Salah not to have been aware that this illegal activity was taking place, given that he was on the premises 5 days per week. Additionally, Mr Salah was also the landlord to the upstairs accommodation, which had direct access from the licensed premises, and said to be the only way of access /

egress by Trading Standards Officers, aside from a fire escape route. Mr Salah's actions and omissions had failed to promote the Licensing Objective 'The Prevention of Crime and Disorder', and he had not demonstrated the level of responsibility reasonably expected of a Premises Licence Holder.

Mr Salah's explanations had been inconsistent and contradictory, particularly regarding his presence in the shop and his awareness of staff conduct. He appeared to deflect responsibility onto others, despite being the Premises Licence Holder and Designated Premises Supervisor and having nine employees working under him.

Members found him to be lacking in credibility and did not find him to be believable in his account.

Members found that Mr Salah's action of continuing to purchase illegal tobacco, even for personal use, demonstrated a disregard for the law and Licensing Objectives. This to them, was not the behaviour of someone who took their responsibilities as a Premises Licence Holder seriously. Members gave careful consideration to placing additional conditions on the premises licence, as proposed by Mr Salah's solicitor but unanimously agreed with the submission of the experienced Trading Standards Officer, that those proposed should not need to be said, and in any event, they related partly to a non-licensable activity i.e. the sale of tobacco related products. This coupled with Members complete lack of confidence that the Premises Licence Holder, or staff employed by him, would comply with any additional conditions or uphold the Licensing Objective 'The Prevention of Crime and Disorder' led Members to conclude that revocation was the only appropriate option available to them in the circumstances, so as to alleviate their concerns and that of the Responsible Authorities.

Chair