



Wednesday, 9 January 2019

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Thursday, 17 January 2019

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Sykes

Councillor Thomas (D)

Councillor Tolchard

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 3 - 4)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 13 December 2018.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Licensing Act 2003 – An application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ** (Pages 5 - 66)
To consider an application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay.



Minutes of the Licensing Sub-Committee

13 December 2018

-: Present :-

Councillors Stocks, Sykes and Thomas (J)

32. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

33. Minutes

The Minutes of the meeting of the Sub-Committee held on 4 October 2018 and 25 October 2018 were confirmed as a correct record and signed by the Chairman.

34. Licensing Act 2003 – An application for a Premises Licence in respect of PPWH, 67 Torbay Road, Paignton, TQ4 6AJ

Members considered a report on an application for a Premises Licence in respect of PPWH, 67 Torbay Road, Paignton.

Written Representations received from:

| Name | Details | Date of Representation |
|-----------|---|------------------------|
| Police | Representation suggesting conditions should the application be approved | 19 November 2018 |
| Applicant | Representation agreeing to the conditions suggested by the Police. | 15 November 2018 |

Oral Representations received from:

| Name | Details |
|-----------|--|
| Applicant | The Applicant outlined their application and responded to Members questions. |

Decision:

That the application for a Premises Licence in respect of PPWH, 67 Torbay Road, Paignton be granted as applied for, subject to the additional conditions proposed by the Police and as agreed by the applicant.

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved to grant the licence having been satisfied that the additional conditions would promote the licensing objectives and seek to alleviate the concerns raised by the Police.

In concluding, Members noted there were no representations in respect of this application from any residents or any other Responsible Authority other than the Police.

Chairman/woman



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ**

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **17 January 2019**

Contact Officer: **Mandy Guy**
Telephone: **01803 208124**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence. The Premises is in the Cumulative Impact Area.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Crime and Disorder” and “Public Safety”.
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers appropriate for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above.

A brief description of the Review is as follows:

The application has been submitted by the Police and concerns matters relating to the Licensing Objective “The Prevention of Crime and Disorder”.

The grounds for Review as stated in the application are as follows:-

- 1) Breaches of the Premises Licence conditions were identified by the police and a member of staff from the Torbay Council Licensing Team only 2 weeks after the licence was granted.
- 2) The premises have been used for the sale and storage of a large quantity of smuggled goods, in contravention of Section 144 of the Licensing Act 2003.

Details of the application are shown in Appendix 1.

A copy of the current licence, including the plan of the premises is attached as Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

We have received a representation from Trading Standards in relation to the Licensing Objective “The Prevention of Crime and Disorder”. This is shown as Appendix 3.

We have also received a Representation from Public Health in relation to the Licensing Objective “Public Safety”. This is shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.

- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.

- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
- (a) the Applicant for the Review,
 - (b) the holder of the Premises Licence, or
 - (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have effect until the Appeal is either determined or withdrawn.

- 2.6 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the Appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

| | |
|------------|---------------------------------------|
| Appendix 1 | Application for Review |
| Appendix 2 | A copy of the Premise Licence |
| Appendix 3 | Representation from Trading Standards |
| Appendix 4 | Representation from Public Health |

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.



TORBAY COUNCIL
22 NOV 2018
COMMUNITY SAFETY

LICENSING ACT 2003

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Julie SMART, Police Licensing Officer for the Torbay area

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

| | |
|---|-------------------------------------|
| Postal address of premises or, if none, ordnance survey map reference or description Zakopane 16 Market Street | |
| Post town Torquay | Post code (if known) TQ1 3AQ |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Mr Wali Ahmed KHADER |
|---|

| |
|---|
| Number of premises licence or club premises certificate (if known) PL1130 |
|---|

Part 2 - Applicant details

I am Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)
- 2) a responsible authority (please complete [C] below)
- 3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Devon and Cornwall Police
Police Station
South Street
TORQUAY
Devon

Telephone number (if any)
01803 218900

E-mail address (optional)
Julie.smart@devonandcornwall.pnn.police.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

- 1) Breaches of the Premises Licence conditions were identified by the police and a member of staff from the Torbay Council Licensing Team only 2 weeks after the licence was granted.
- 2) The premises have been used for the sale and storage of a large quantity of smuggled goods, in contravention of Section 144 of the Licensing Act 2003.

Please provide as much information as possible to support the application (please read guidance note 3)

An application for the Grant of a Premises Licence in respect of this premises was received by the police on 6 October 2017. Prior to the submission of this application there had been no consultation from the applicant, Mr Wali Khader, or his agent, Ms June Clarke, in relation to this application. I subsequently met with Mr Khader and informed him that as the premises are situated within the Torbay Council Cumulative Impact Area the police would seek conditions prohibiting the sale of certain types of high strength alcohol due to complaints of anti-social behaviour caused by street drinkers in Market Street, Torquay.

On 24 October I sent an email to Mr Khader's agent advising her of the conditions that the police would seek in relation to Mr Khader's application. Ms Clarke indicated that she would discuss the matter with Mr Khader and get back to me as soon as possible. As I had not heard from Mr Khader or his agent by the last date of consultation, 31 October 2017, I prepared a police representation which was forwarded to Torbay Council Licensing Team.

During the afternoon of 31 October 2017 I received the attached email from Ms Clarke advising that her client accepted the condition re no single cans but did not accept the condition re no beer/cider/lager of 6.1% or greater. I rang Ms Clarke on the following Wednesday morning and advised her that the police had made a representation the day before as I had not heard from Ms Clarke prior to the cut-off date and we discussed the matter further. In relation to Mr Khader's comments that street drinkers don't drink polish cans I told her that the police have evidence in relation to 2 different areas within Torquay where they are definitely drinking Polish high strength beer/cider/lager products. With regards to his comments that this condition would seriously limit his range of beers, Mrs Smart informed her that another Polish shop in the same street has this condition and from going into this premises I had witnessed that that premises carries a wide variety of products. I explained that Ms Clarke and her client would be invited to attend a hearing and she said that she had already been instructed by her client to agree to the condition if the police continued to pursue the matter. I told Ms Clarke that the police would need agreement in writing which was subsequently provided to both myself and Torbay Council.

As agreement had been reached between the applicant and the police, the licence was subsequently granted by Torbay Council on 1 November 2017.

On 15 November 2017, only two weeks later, complaints were received by myself and Torbay Council Licensing Team that the premises were selling cans of beer/cider/lager with an abv of more than 6% in breach of the licence conditions. We also received complaints that the premises were selling bottles of spirits and tobacco which had been illegally brought into the country without UK duty having been paid.

At 2.00 pm on 15 November 2017 myself and Mr Shaun Rackley of Torbay Council Licensing Team visited the premise. At that time we noted the following cans of beer/cider/lager on display within the fridge area and on the floor below the fridge: Tatra 7.0% abv, Okocim 7.0% abv, Warka 6.5% abv and Debowe 7.0% abv. We also noted several single cans within this area and further noted that the plastic wrapping on several 4 can multi-packs had been ripped open.

Whilst we were looking at the display a member of staff came over and introduced himself. We explained the situation and he told us that they had just realised that these products shouldn't be on display and he said they had just been removing them. We asked to speak to Mr Khader, the Premises Licence Holder and DPS, and he arrived shortly after. We explained the situation to Mr Khader and he said that they hadn't sold any of these products.

We then carried out a full licensing compliance check and established the below:

- No record of CCTV checks
- No incident book
- No refusals book
- No barred customer log book,
- No signage requesting customers to leave the area quickly and quietly
- No waste bin outside
- No ID checking log book

- The till prompt worked for some types of alcohol but not all
- No challenge 25 signage
- No training records

Heated discussions took place, with Mr Khader blaming the situation on Torbay Council for failing to send him his copy of the Premise Licence. It was pointed out to Mr Khader that he had completed the application form with his agent and therefore he should be fully aware of the conditions that he needed to comply with. He was also informed that as agreement had been reached regarding other conditions in respect of the premises he should also have been aware of what those conditions were. I informed Mr Khader that he had committed offences under Section 136 of the Licensing Act 2003. Full details of the discussions I had with Mr Khader and his agent, Ms Clarke, are contained within the attached documentation at page 1.

You will see from these notes that Mr Khader agreed to cease the sale of alcohol until the matters identified had been rectified. Myself and Mr Rackley and were satisfied with this and gave Mr Khader suitable advice.

However, you will also notice from the notes that information was received by Mr Rackley that less than an hour after we left the premises, that alcohol had been sold by the premises. Although I cannot prove that the breaches identified had been resolved by the time of this sale, I considered it unlikely, particularly as ensuring the till prompt worked properly for all types of alcohol and producing training records would take a substantial amount of time to complete.

I subsequently discussed my concerns with Sgt Norsworthy and it was decided that the police would issue the premises with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001.

At 10.30 am on 16 November 2017 I attended the premise with PC Rebecca Willicott. Mr Khader at first denied that any sale had taken place the day before. However he subsequently admitted that his staff had sold alcohol to someone known to them. I again checked to see whether the conditions of the licence were being complied with and I again noted that certain conditions were not being met. A further heated discussion took place between myself and Mr Khader, and as PC Willicott was satisfied that the licence conditions were not being met she served him with a Section 19 Closure Notice, which is attached for your information at document 2.

With regards to bottles of spirits not bearing the UK duty paid stamp, I did not find any of these within the shop. However I subsequently contacted Trading Standards and HMRC, advising them of the allegations that had made in respect of this premises.

As a result of the Section 19 Closure Notice having been served, Mr Khader's agent, Ms Clarke, contacted Mr Rackley and copies of their email correspondence is attached for your information at document 3.

At 1400 hours on 22 November 2017 I again attended Zakopane, this time in the company of Sgt Norsworthy. We carried out a licensing inspection and Sgt Norsworthy was satisfied that the licence conditions were being complied with. He therefore he issued a Section 19 Cancellation Notice, a copy of which is attached at document 4.

Since November 2017 I have received at least 2 further complaints concerning allegations that these premises are selling non UK duty paid alcohol, cigarettes and tobacco. As this is not a policing matter, the information received was passed to Trading Standards and HMRC.

At the beginning of November 2018 I received a telephone call from a male who stated that he knew the premises were selling non duty paid tobacco and alcohol. He told me that the premises had a walkie-talkie system in operation where the staff in the shop request staff in another part of the building to bring the requested goods down. I again forwarded this information to HMRC. On this occasion Mr Paul Clark of HMRC contacted me and told me that HMRC officers had visited the premises in September of this year. However, it was noted that a specialist tobacco detection dog had given several clear indications whilst within the premises.

Mr Clark informed Mrs Smart that he was intending to re-visit the premises on Saturday 10 November 2018 and he said that he would be grateful if the police could assist by providing a couple of officers. Mr Clark subsequently liaised with PC Mike Haworth to arrange police resources and the premises were visited on that date.

As a result of that visit the below items were seized by HMRC:

Cigarettes – 478,120
Hand rolling tobacco – 137 kgs
Vodka -181.3 ltrs

In order to remove these items from the premises 3 vans were required.

A copy of an email that Mrs Smart received from Mr Clark is attached for you information at document 5. You will note that Mr Clark indicates that the items were located within a purpose built, highly sophisticated concealment within the premises which was identified by the tobacco detection dog. A walkie-talkie system was in use so that staff in the shop could communicate with staff in other areas of the premises. A man was found upstairs in possession of a black bag containing a mixture of brands of non-duty paid cigarettes and Mr Khader was also in possession of a packet of cigarettes, with the same brand being located within the concealment.

It appears that attempts were made to try to distract the detection dog by the placement of garlic and coffee grounds within the premises, but this attempt was unsuccessful. A large supply of small black bags was found, along with receipts from a cash and carry in Poland, a safe and a notebook with Kurdish writing. All these items were seized by HMRC.

Mr Khader was arrested and taken to Torquay Police Station where he was interviewed. Mr Clark has advised me that HMRC are continuing with their investigation into this matter.

I would point out that condition 9 under the heading The Prevention of Crime and Disorder on the Premises Licence states: "All purchases of alcohol and tobacco products must be made from reputable wholesalers and all purchases must be recorded. These records must be made available on request to the police or authorised officer."

As the alcohol and tobacco seized did not contain UK duty paid markings, it is the opinion of the police that they were not purchased from a reputable wholesaler and therefore this condition has not been met.

Have you made an application for review relating to the premises before

No

If yes please state the date of that application

Day Month Year

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate x
- I understand that if I do not comply with the above requirements my application will be rejected x

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature Julie Smart

Date 21-11-18

Capacity Police Licensing Officer

| | |
|--|-----------------------------|
| Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Julie Smart Police Licensing Officer Torquay Police Station South Street | |
| Post town Torquay | Post Code TQ2 5AH |
| Telephone number (if any) 01803 218900 | |
| If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) julie.smart@devonandcornwall.pnn.police.uk | |

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
505 EAST MATHIAS STREET
CHICAGO, ILLINOIS 60607

PHYSICAL CHEMISTRY

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SMART Julie 50403



Force Licensing Team > Licensing Items – Active > Zakopane Torquay

Item Type Visit - Multiagency
 Prem Name Zakopane Torquay
 Date Rec'd 15/11/2017
 Date Due
 Event Start Date 15/11/2017 14:15
 Event End Date
 Submitting Officer SMART Julie 50403
 Applicant Surname
 Applicant First Name
 Proposed DPS Surname
 Proposed DPS First Name
 Prem Street Market Street
 Prem District
 Prem Town Torquay
 Prem County Devon
 Prem Postcode
 Premises risk rating
 Hub Location EAST - Exeter
 Logic outcome Fail

Licensing Office Torbay

Allocated To Julie SMART

Item Report Summary Complaint received by Torbay Council that premises are selling beer/cider/lager in excess of 6.1% abv. Further complaint received that premises are selling spiritis that do not have the UK duty stamp on them.

Comments SMART Julie 50403 (22/11/2017 14:39):

1400 HRS 22/11/17 Sgt Norsworthy and myself visited the premises and carried out a check of all licence conditions. Sgt Norsworthy was satisfied that the licence conditions were being complied with and issued a S19 Cancellation Notice. Copy attached.

A copy of the Cancellation Notice has been forwarded to Torbay Council for their information. Copy attached.

No further action required.

SMART Julie 50403 (20/11/2017 14:56):



Telephone call received from Mr Khader this morning. He stated that he has done everything that he needs to do within the S19 and asked whether he can sell alcohol. I told him that he is certain is complying with the requirements then he can. He wanted me to go down and check that everything is ok today but I told him that it has to be done by a police officer and that myself and Sgt Norsworthy would attend at 2.00 pm on Wednesday afternoon. He stated that he wouldn't be there at that time, and I told him that if everything is ok a cancellation notice will be served but if there is a problem I will ring and let him know.

■ SMART Julie 50403 (17/11/2017 09:00):

Mr Khader's agent has now contacted Torbay Council questioning why the Section 19 Notice does not include the fact that the Premises Licence Summary is not on display. I didn't include this matter, or the failure to produce the Premises Licence, on the notice, as I was aware that Torbay Council had failed to send these documents out and therefore Mr Khader could not be held responsible for those matters. Copy email from Shaun to June Clarke attached for information.

■ SMART Julie 50403 (16/11/2017 11:59):

Attended premises just after 2.00 pm yesterday, 15/11/17. We noted the following cans on display within the fridge area or on the floor below the fridge:

Tatra 7.0% abv

Okocim 7.0% abv

Warka 6.5% abv

Debowe 7.0%.

We also noted several single cans and further noted that the plastic wrapping on several 4 packs had been ripped open.

Whilst we were looking at the display a member of staff came over and introduced himself. We explained the situation and he told us that they had just realised that these products shouldn't be on display and they had been removing them. He said we could check CCTV to establish that. We asked to speak to the PLH/DPS and a short time later Mr Wali Khader arrived. We explained the situation to him and he said that they hadn't sold any. We then carried out a full check of all conditions on the licence and established that there was no record of CCTV checks, no Incident Book, no Refusals book, no Barred Customer Log book, no signage requesting customer to leave the area quickly and quietly, no waste bin outside, no ID checking log book, the till prompt worked for some types of alcohol but not all, no Challenge 25 signage and no training records. Heated discussions took place with Mr Khader blaming the situation on Torbay Council for failing to send him his copy of the Premises Licence. It was explained that he had completed the application form with his agent and signed it therefore he should be aware of what he needs to comply with. He was also advised that we had reached agreement on other conditions and therefore he should be aware of

①

those. He stated that a lady from Torbay Council had telephoned him and advised him that the licence had been granted and would be sent to him by Wednesday of last week. I pointed out that despite him not receiving the licence, he should be complying with all the conditions every time he sells alcohol and these measures should all have been in place before he put alcohol on display. I advised Mr Khader that offences were being committed every time alcohol was sold at the premises and we needed to work out a way forward. Mr Khader then rang his agent, June, who dealt with the application and I spoke to her. She defended Mr Khader by again repeating that Torbay Council hadn't sent the licence out and therefore were responsible for situation but I told her what I had told Mr Khader, that the responsibility is his to comply from the moment the premises sells alcohol. June said that once she gets the licence from the Council she puts together a compliance pack and sends it to the premises and she hasn't been able to do so. I told her that regardless of that the premises needs to comply at all times. She asked me to authorise Mr Khader to continue selling alcohol and that other police forces and councils allow this type of situation for a new premises and sometimes it can take up to 3 months before everything is in place. I told her that this was unacceptable and I could not authorise a premises/person to carry out illegal activities. She continued to ask for more time and I asked her where within the licensing act it allowed this to happen. I advised her that I would be telling my line manager and it was likely that a Closure Notice would be served. She then asked to speak to Mr Khader, and they did so for some time. When he came off the phone he told myself and Shaun that the premises would not sell alcohol until the matters identified had been rectified. I used his phone to get a copy of the licence on so that they could read through it. Shaun advised him to go to a shop and buy some notebooks and head them "Incident Book", "Refuals Book" etc. Discussed location of the exterior bin and advised him that the council won't allow a bin to be placed on the pavement and he will have to afix it to the exterior wall of his premises or apply for a minor variation to remove the condition, but in the mean time he must comply.

This morning I received an email indicating that the premises had sold alcohol less than an hour after myself and Shaun left the premises yesterday afternoon, despite being told that they would not sell any. A copy of this email is attached.

Sgt Norsworthy is on leave today but I have discussed the matter with him, advising him that I wanted an officer to serve a Section 19 Closure Notice for breach of conditions and he agreed to this course of action.

At 1030 hrs I attended the premises with PC Rebecca Willicott. Mr Khader at first denied that any sale had taken place despite my warning re the commision of offences yesterday, however he subsequently admitted that his staff had sold to someone known to them. I again checked the conditions of the licence and again these weren't being complied with. With regards to beer/cider/lager of 6.1% and over there were no cans on display. I was satisfied with the compliance of that condition. Again heated discussions took

– Not attached as contains too much information requiring redaction – such as personal details of informant.

①

place and Mr Khader was served with the S19 Notice and advised that I will contact him and let him know the date and time of my visit next week.

With regards to the sale of products that don't have a UK duty stamp I could not find any of these within the shop. [REDACTED] has sent me photo's of the bottle she bought but there were none of those in the shop yesterday or today. With regards to the brand that the other complaints says is sold, there was one bottle on display but this did have a UK duty stamp. I will liaise with Trading Standards re this matter, and will consider disclosing this information to Customs.

Visit tasked NO
 LA Time Taken
 LO Time Taken 190
 Item Briefed
 Representation/Objection No
 Hearing No
 Status COMPLETE
 Attachments Zakopane Email from Shaun to June Clarke .msg
 ZAKOPANE EMAIL TO TORBAY COUNCIL RE S19 CANCELLATION .msg
 Zakopane S19 Cancellation Notice.pdf
 Zakopane S19 Closure Notice.pdf
 Zakopane Sale of alcohol on 151117 .msg
 Zakopane Vodka Not Duty Stamped .msg

Version: 4.0
 Created at 16/11/2017 11:59 by SMART Julie 50403
 Last modified at 22/11/2017 14:39 by SMART Julie 50403

Close



Devon & Cornwall Police
Building safer communities together



2

Form No.: L15
Rev. 06/2010

| | | |
|-----------|---------------|-------------|
| File No.: | Computer URN: | Minute No.: |
|-----------|---------------|-------------|

Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 16-11-17 10:30am

Person making the Notice: PC 7211 MILCOTT
Signature: *[Signature]*

Name (if applicable) and address of the affected premises:
ZAKOPANE, 16 MARKET STREET, TORQUAY, TQ1 3AQ

- Alleged unauthorised use of the premises:
- ① NO CCTV RECORD OF CHECKS CARRIED OUT.
 - ② NO INCIDENT BOOK
 - ③ NO REFUSALS BOOK
 - ④ NO BARRED CUSTOMER LOG BOOK.
 - ⑤ NO SIGNAGE RE CUSTOMERS LEAVING QUIETLY
 - ⑥ NO WASTE BIN
 - ⑦ NO CHALLENGE 25 POSTER.
 - ⑧ NO TILL PROMPT FOR ALL ALCOHOL
 - ⑨ NO TRAINING

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
PLH/DPS TO READ THROUGH CONDITIONS OF LICENCE
+ ENSURE THAT ALL ARE BEING MET.

The person (if applicable) on whom the Closure Notice has been served:
Name: *Wahid Khan*
Signature: *[Signature]*



Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.

3

SMART Julie 50403

From: Rackley, Shaun <Shaun.Rackley@torbay.gcsx.gov.uk>
Sent: 16 November 2017 15:09
To: ~~XXXXXXXXXXXX~~
Cc: SMART Julie 50403
Subject: RE: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

Hi June,

Thank you for your enquiry.

The Licensing Team operates under a call centre system, so if you have tried to contact the department there would have been a record, however I cannot currently find a trace that you have contacted us, or left a message.

When I visited the premises yesterday (15th November 2017) with a colleague from Police Licensing I left all of my contact details with Mr Wali Ahmed Khader (the premises licence holder and DPS), this included my work mobile number, so I have made it easy to be contacted direct.

Regarding the premises licence, this was sent out in the post yesterday so you should receive this in the post either today/tomorrow. As for displaying the summary, I cannot see this listed on the S19 Closure Notice which has been issued by the Police.

I would strongly argue that you were aware that the licence was granted on the 3rd November as a colleague (Mandy Guy) contacted you direct and informed you the licence was granted as applied for with the additional conditions agreed with Devon & Cornwall Police Licensing. I understand you organise for the 'Licensing Compliance Box' to be set up, but as you were aware the licence had been granted as applied for, this 'Compliance Box' could have been set up without receiving the premises licence. Alternatively you could have viewed our public register to view the licence and the premises Licence and summary could have been sent to the premises once received. It is not for me to comment on how you run the business, however, this seems to be the sensible solution. If the premises felt that measures were not in place and they had not received the correct information then the premises should not have been selling alcohol until the correct measures were in place.

If you do not receive the licence by Monday, please contact me directly as you now have my direct email address and I will ensure that a copy is delivered to the premises if required.

Regards

Shaun

Shaun Rackley
Licensing Officer
Torbay Council,
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel:-01803 208025
Fax:-01803 208854

Information in this message is confidential and may be legally privileged. It is intended solely for the person to whom it is addressed. If you are not the intended recipient, please notify the sender and please delete the message from your system immediately. The views in this message may be personal and therefore not necessarily those of Torbay Council.

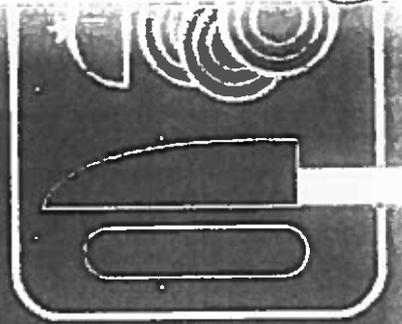
Food Safety and Licensing

@TorbayFSL



Community Safety

Tel: 01803 208025 www.torbay.gov.uk/licensing



3

From: Licensing
Sent: 16 November 2017 14:09
To: Rackley, Shaun <Shaun.Rackley@torbay.gcsx.gov.uk>
Subject: FW: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

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

From: June Clarke [redacted]
Sent: 16 November 2017 13:41
To: Licensing <Licensing@torbay.gov.uk>
Subject: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

Hello Licensing,

We are unable to contact your office direct.

My client from the above premises has recently been visited by the police who have served him with a list of non compliance. On the list she has given to the shop it is noted that the failure to display the summary is not on the list!

I have explained to the police that I cannot send his Licensing Compliance box to him until the Premises Licence is received as his forms part of the Training book.

Could you please advise as to when we can expect to receive this Premises Licence?

Kind regards

June

June Clarke

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

[redacted]
[redacted].com

4



Devon & Cornwall Police
Building safer communities together

Form No.: L15b Rev. 12/2012 (white)

| | | | | | |
|-----------|--|---------------|--|-------------|--|
| File No.: | | Computer URN: | | Minute No.: | |
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Cancellation of Closure Notice (Section 19 Criminal Justice and Police Act 2001)

Date and time of the Cancellation of Closure Notice: 22/11

Officer making the Cancellation Notice: SGT 3671 N

Signature: *[Signature]*

Station: HD

Name of officer serving the Cancellation Notice: SGT 3671 NORSWORTHY

Station: HD

Date and time served: 22/11/17 2:15 PM

Name (if applicable) and address of the affected premises:
ZAKUPANE, 16 MARKET ST. TOPSHAY.

Reasons (grounds) for cancelling the Closure Notice:
ALL CONDITIONS ON THE PREMISES LICENCE HAVE BEEN CHECKED AND THE PREMISES ARE COMPLYING.

The person (if applicable) on whom the Cancellation of Closure Notice has been served:

Name: WALI KHADER Signature: *[Signature]*

Address: ZAKUPANE, 16 MARKET ST. TOPSHAY

4

From: paul.clark [REDACTED]
Sent: 13 November 2018 12:23
To: SMART Julie 50403
Subject: Zahophane, 16 Market St, Torquay, TQ1 3AQ

Hi Julie,

Further to our telephone conversation.

We visited this shop on 10/11/18 and seized the following:-

Cigarettes – 478,120
HRT – 137kgs
Vodka – 181.3ltrs

On entering the premises, three of my Officers proceeded up the stairs to the first floor. They found a male carrying two small black plastic bags heading towards the stairs. He immediately put the bags on a table. On inspection, it was discovered that the bags contained a mixture of brands of non-duty paid cigarettes. When the male was asked about the contents, he made no reply and just shrugged his shoulders.

On entering the premises, I asked the owner, Wali Khader if he sold non-duty paid goods. He said no. I called Khader upstairs and asked him to explain the presence of the cigarettes. He said they were for the personal use of the man who had been carrying them.

There was a walkie-talkie behind the counter on the ground floor and a second walkie-talkie was in the possession on the male on the first floor. When asked about these, Khader said he used these to ask for stock to be brought to the shop floor.

A tobacco detection dog was deployed around the shop. It indicated the presence of tobacco behind a wall in the stock room on the first floor to the rear of the premises. On closer inspection, it was found that the panel moved when pressure was applied, which indicated the presence of a concealment held by an electro-magnet. Khader was brought up and asked what was behind it. He said he had no idea. I said we were going to gain entry to it and he said we could do what we wanted.

Entry was gained by using a 'key', where we found a large walk-in concealment. Behind the door was a bowl of pickled garlic and a tray of coffee grounds. This is where we found the goods. We also found a safe which we seized and also a notebook with Kurdish writing in it which we believe is his order/distribution book. This was also seized along with a number of receipts from a cash and carry in Poland. There was also a large supply of the small black bags mentioned above.

Khader was arrested and his mobile phone was seized. Also on his person was a packet of Regina Red cigarettes, a large quantity of which was discovered in the concealment.

Khader issued a prepared statement in Custody and when interviewed made no comment.

It would appear that the stock room had been constructed specifically to accommodate the concealment.

5

If you wish any further information, please let me know.

Kind Regards

[Redacted]

Paul Clark
Criminal Investigation Wales, West & N.I.

[Redacted]

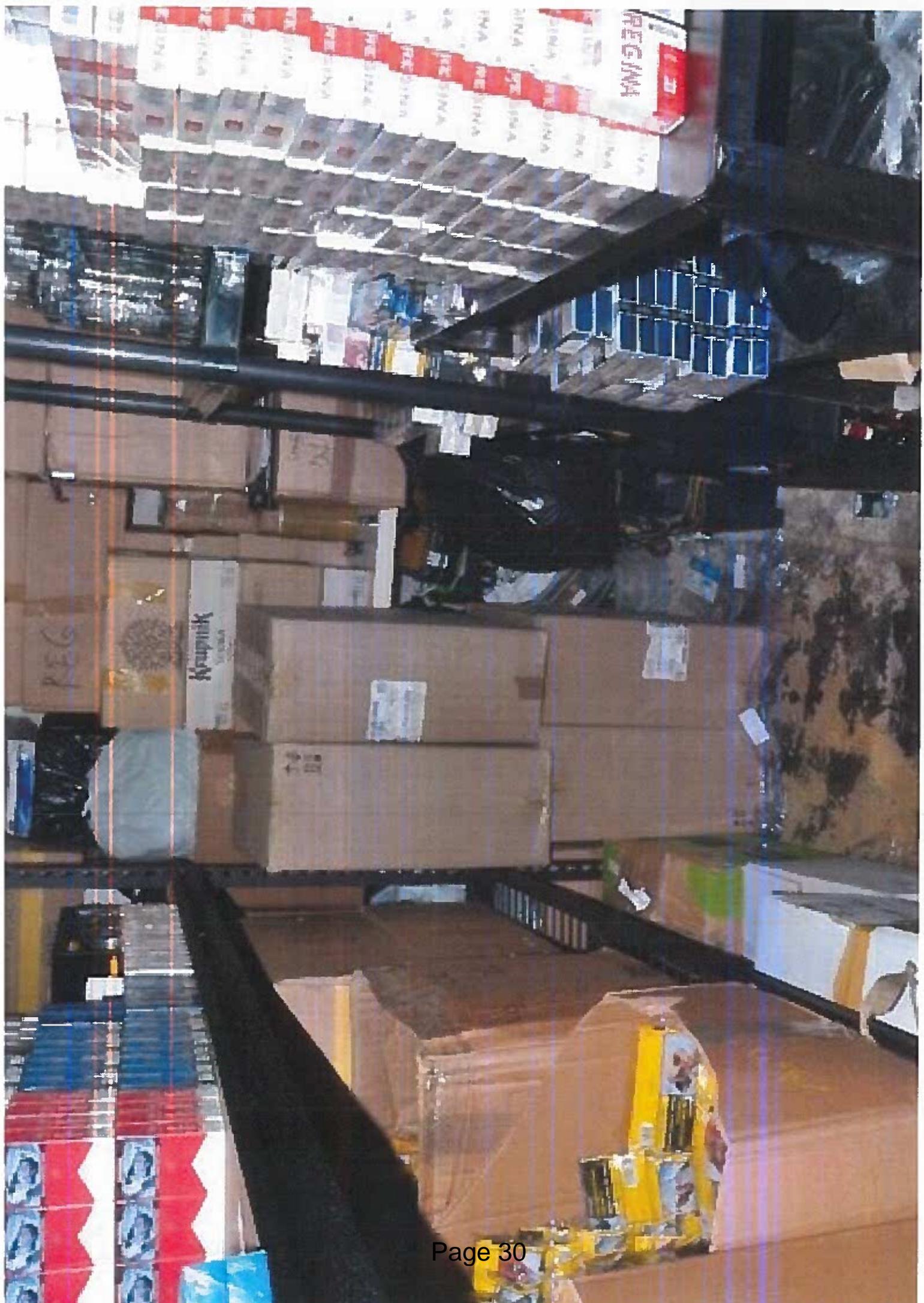
The information in this e-mail and any attachments is confidential and may be subject to legal professional privilege. Unless you are the intended recipient or his/her representative you are not authorised to, and must not, read, copy, distribute, use or retain this message or any part of it. If you are not the intended recipient, please notify the sender immediately.

HM Revenue & Customs computer systems will be monitored and communications carried on them recorded, to secure the effective operation of the system and for lawful purposes.

The Commissioners for HM Revenue and Customs are not liable for any personal views of the sender.

This e-mail may have been intercepted and its information altered.

[Redacted]



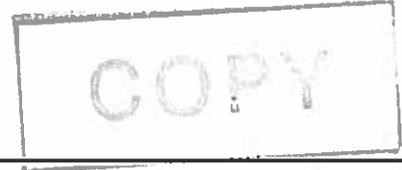
Licensing Act 2003
Premises Licence

1130

LOCAL AUTHORITY



Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR



Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Zakopane

16 Market Street, Torquay, Devon, TQ1 3AQ.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

| Activity (and Area if applicable) | Description | Time From | Time To |
|--|------------------|-----------|---------|
| M. The sale by retail of alcohol for consumption OFF the premises only | Monday to Sunday | 8:00am | 11:00pm |

THE OPENING HOURS OF THE PREMISES

| Description | Time From | Time To |
|------------------|-----------|---------|
| Monday to Sunday | 8:00am | 11:00pm |

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption OFF the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Wali Ahmed Khader

3 Barden Green, Leeds, LS12 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Wali Ahmed KHADER

3 Barden Green, Leeds, LS12 3TW.



Licensing Act 2003

Premises Licence

1130

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR
WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PERL/09312/17

Issued by Leeds



Steve Cox
Environmental Health Manager
15 November 2017



ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3)
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 4) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General

1. A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Devon and Cornwall Police. The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.
2. The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas as identified by Devon and Cornwall Police.
3. Recorded footage must be provided to a representative of any responsible authority on request. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.
4. The Designated Premises Supervisor must ensure that the CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.
5. The premises are secured with roller shutters at the front and rear and alarmed when closed.
6. Only 15% of the floor area will be used for the display of alcohol.
7. A Personal Licence Holder will be on duty at all times the shop will be open.
8. Purchasing records to be kept.



ANNEXES continued ...

9. All purchases of alcohol and tobacco products must be made from reputable wholesalers and all purchases must be recorded. These records must be made available on request to the police or authorised officer.

The prevention of crime and disorder

1. No super strength beers, lagers or ciders of 6.1% or above shall be sold from the premises.
2. No single cans of beers, lagers or ciders shall be sold from the premises.
3. All spirits will be stored and sold from behind the counter.
4. When the DPS is not on duty a contact telephone number will be available at all times.
5. An incident book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident book must be used to record the following:
 - (i) Any incident of violence or disorder on or immediately outside the premises
 - (ii) Any other crime or criminal activity on the premises.
6. A refusals book must be kept at the premises and must be used to record all refusals to sell alcohol for any reason. Where other age restricted products are sold at the premise, any refusals to sell such items to underage persons or persons who appear underage must be recorded. The details to be recorded must be as follows:
 - (i) Time, day & date of refusal
 - (ii) Item refused
 - (iii) Name & address of customer (if given)
 - (iv) Description of customer
 - (v) Details of i.d. offered (if shown)The refusals book must be made available for inspection by responsible authorities on request.
7. Barred Customer Log book will be used to record details of customers who have been asked to leave the premises.

Public safety

None

The prevention of public nuisance

1. The Management will monitor the exterior of the premises with the CCTV and use their best endeavours to disperse any persons who appear to be congregating outside the premises.
2. Signage requesting all customers to leave the area quickly and quietly and to respect the needs of local residents will be displayed at the exterior of the premises.
3. A waste bin will be provided at the exterior of the premises and regular checks of litter will be made and logged.

The protection of children from harm

1. A "Challenge 25" policy shall be operated at the premises at all times.
2. The premises will operate an ID checking log book for all suspected persons that appear to be under the age of 25.
3. A till prompt system will be installed on all the tills to alert the staff to check ID when alcohol has been scanned.
4. The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are a valid passport, a valid photographic driving licence, a PASS approved proof of age card, HM Services Warrant Card or other reliable photo I.D. that is approved for acceptance within the Home Office guidelines.
5. Signage for "Challenge 25" scheme shall be displayed at the premises.
6. A Personal Licence holder will be on duty at all times the premises is open to the public.
7. A documented on-going training programme shall be introduced for all staff in a position to sell, serve alcohol. No staff will be allowed to sell alcohol until they have undergone Age verification Training. The programme shall be made available for inspection at the request of Trading Standards, Licensing Authority Officers and Police. A written record



ANNEXES continued ...

shall be kept of the content of training.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

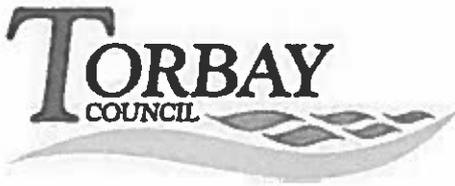
ANNEXE 4

PLANS

Copy attached to Licence.



LOCAL AUTHORITY



Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Zakopane

16 Market Street, Torquay, Devon, TQ1 3AQ.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

| Activity (and Area if applicable) | Description | Time From | Time To |
|--|------------------|-----------|---------|
| M. The sale by retail of alcohol for consumption OFF the premises only | Monday to Sunday | 8:00am | 11:00pm |

THE OPENING HOURS OF THE PREMISES

| Description | Time From | Time To |
|------------------|-----------|---------|
| Monday to Sunday | 8:00am | 11:00pm |

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Wali Ahmed Khader

3 Barden Green, Leeds, LS12 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Wali Ahmed KHADER

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Access is restricted only under the terms of the Licensing Act 2003



Licensing Act 2003

Premises Licence Summary

1130

Stephen Cox

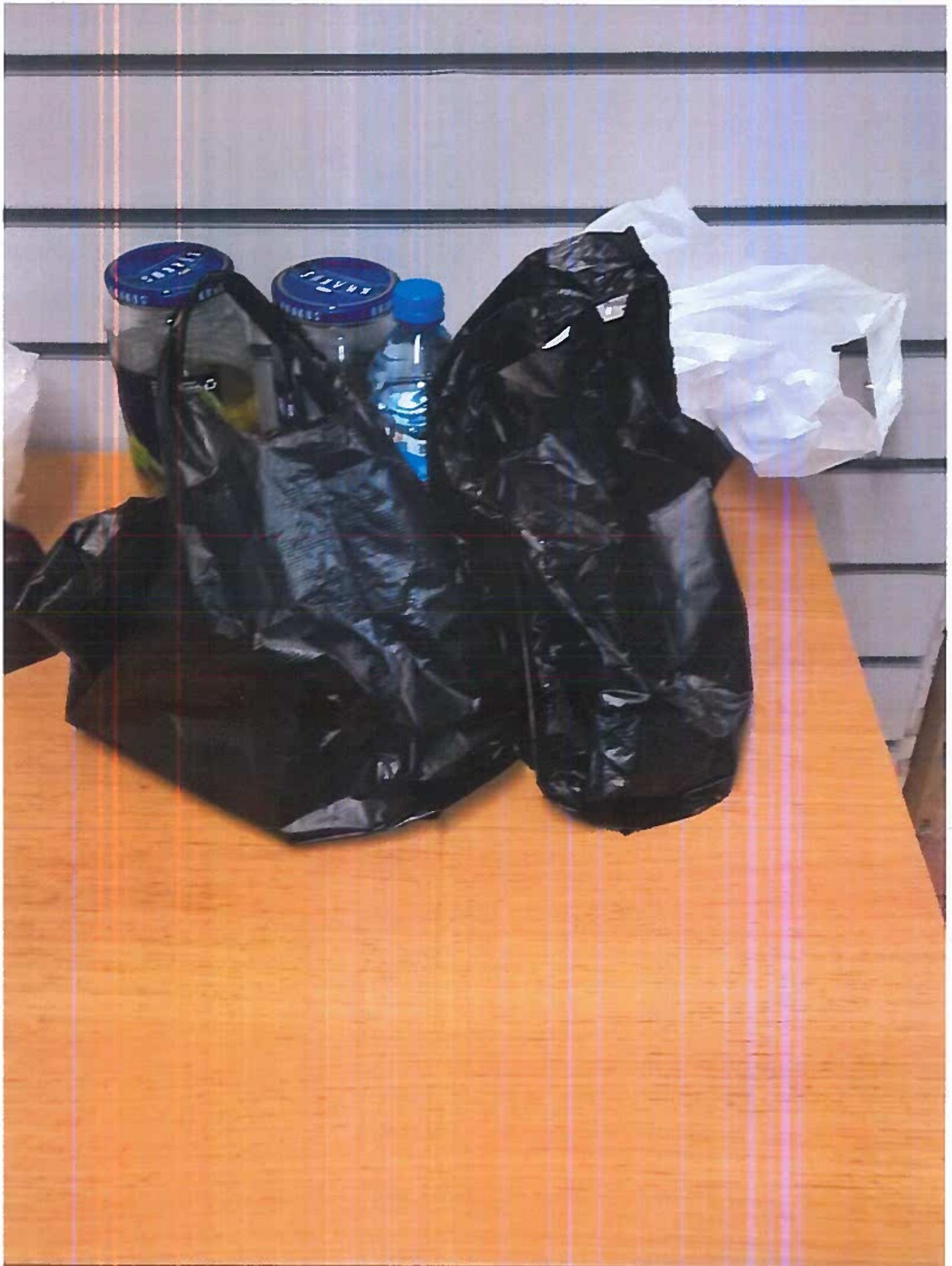
Steve Cox
Environmental Health Manager
15 November 2017

My name is Irene CAPEL and I am also known as Jay CAPEL. I am employed by Devon County Council as a part of the Devon and Somerset Trading Standards Service as a Trading Standards Officer. I was previously employed by Somerset County Council Trading Standards Service as a Senior Trading Standards Officer until the amalgamation and joint commissioning of the Devon County Council Trading Standards Service and the Somerset County Council Trading Standards Service in May 2013 and the Torbay Trading Standards Service in 2017. I have 18 years' experience in Trading Standards enforcement, including being the Lead Trading Standards Officer for age-restricted products which incorporates illicit tobacco and licensing issues. I am a duly authorised officer for the purposes of the Consumer Protection Act 1987.

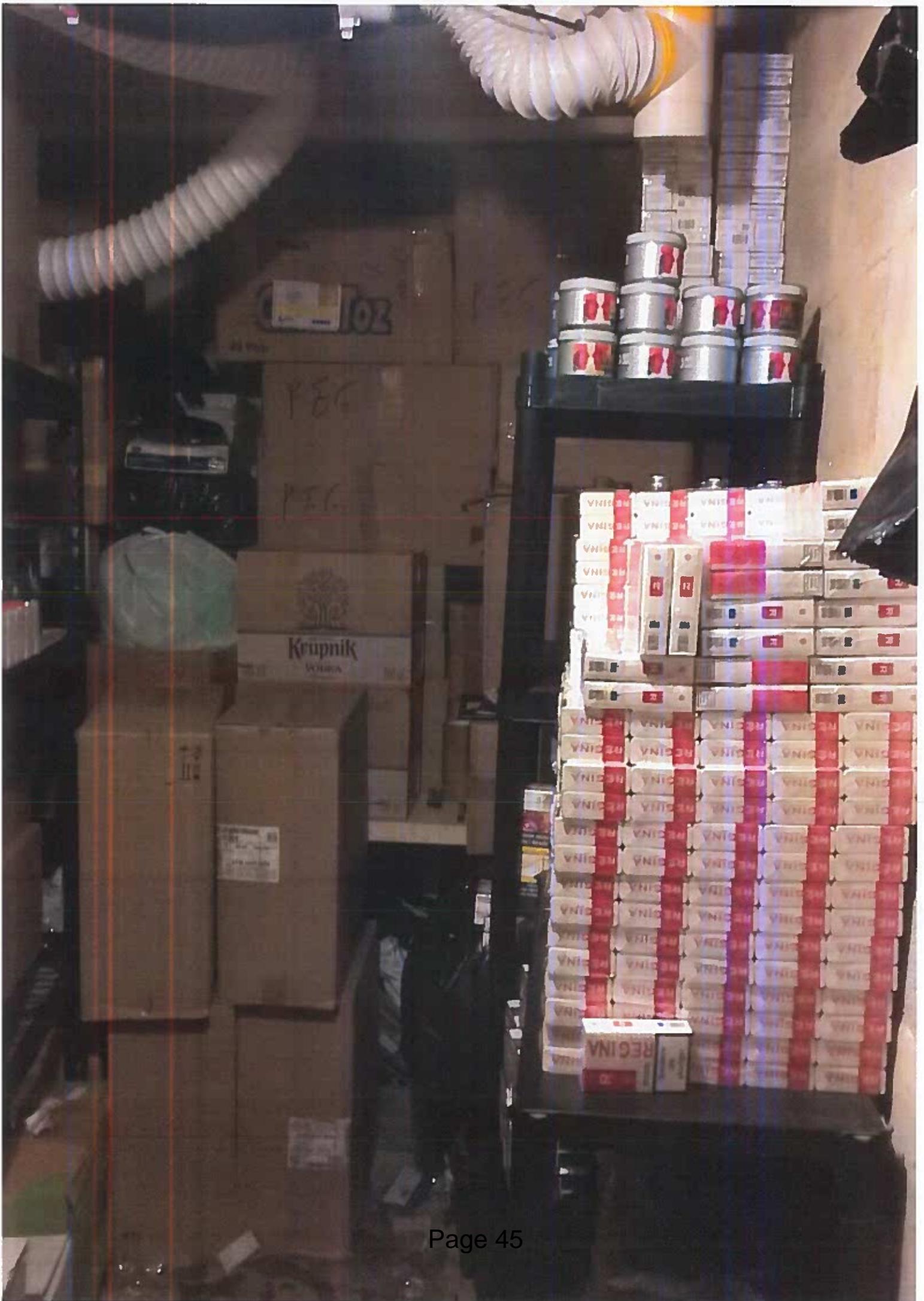
During the morning of 10 November 2018, I assisted Her Majesty Revenue and Customs (HMRC) officers in an operation at Zakopane, 16 Market Street, Torquay, Devon TQ1 3AQ. This operation was the consequence of intelligence received by this Service and HMRC that illicit tobacco was being sold from the aforementioned premises. This operation used specially trained search dogs who are trained to detect concealed tobacco. There was also a small number of cigarettes found on a desk in small black plastic bags which the owner of the premises, Mr. Wali Ahmed KHADER, claimed belonged to an employee. These cigarettes did not have the necessary fiscal duty paid mark. Later that morning I was told by an HMRC officer that the dogs had indicated to a wall in the storage area upstairs and subsequently tobacco products, cigarettes, hand rolling tobacco (HRT) and vodka were found in a chamber behind this wall. I have attached photographs taken by myself on a mobile telephone of the tobacco as found insitu. These photographs have not been altered or enhanced.

I was later informed by HMRC that in total an estimated 478,120 cigarettes (an estimated 23,000.00 x packets of 20 cigarettes), 137 Kgs of HRT and 181.3 litres of vodka were seized from the premises. Currently this Service is making enquires as to whether any of these tobacco products are counterfeit with regards to possible trade mark offences.

I am willing to support any action deemed necessary and I am prepared to attend a Licensing Committee hearing.

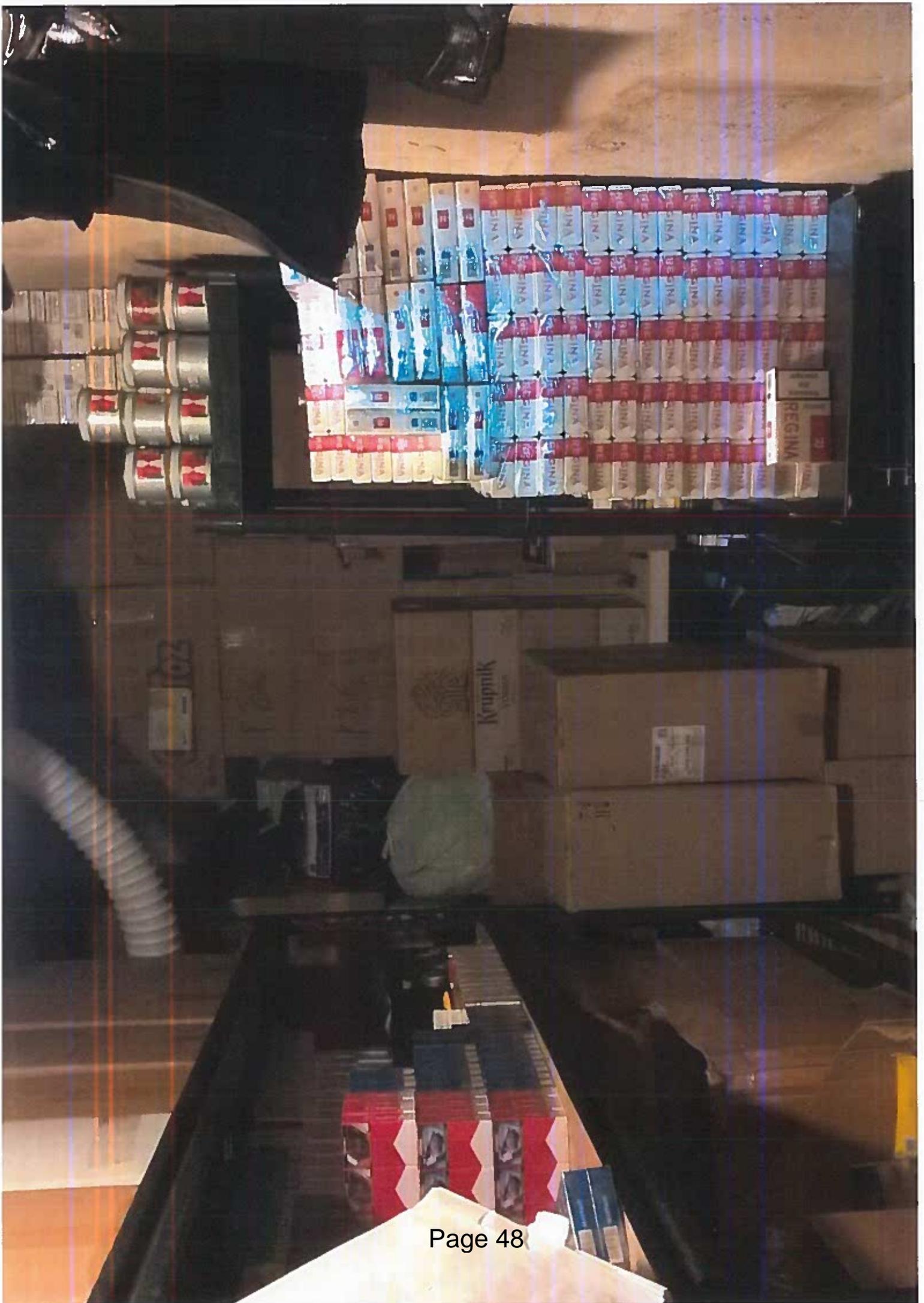


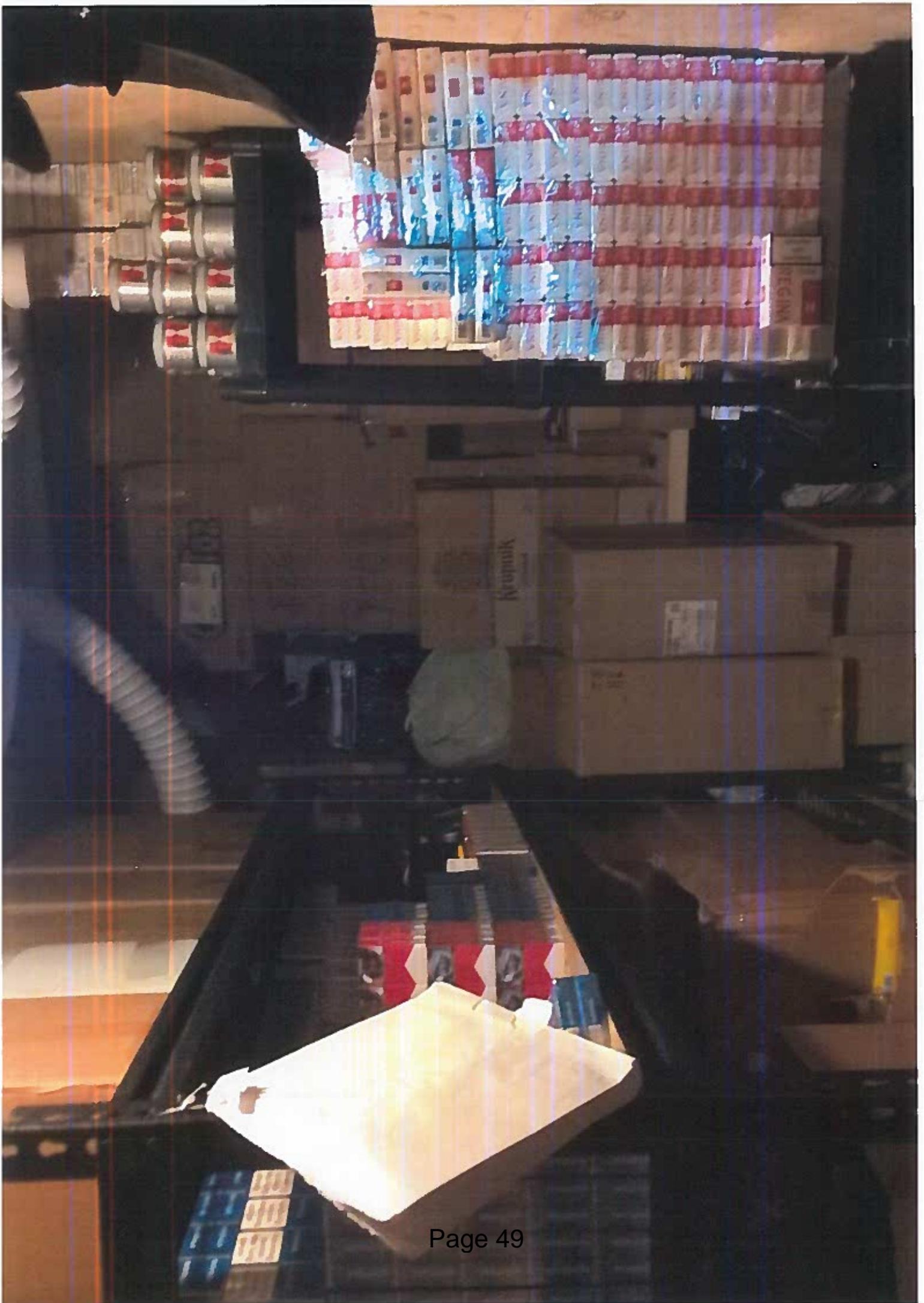




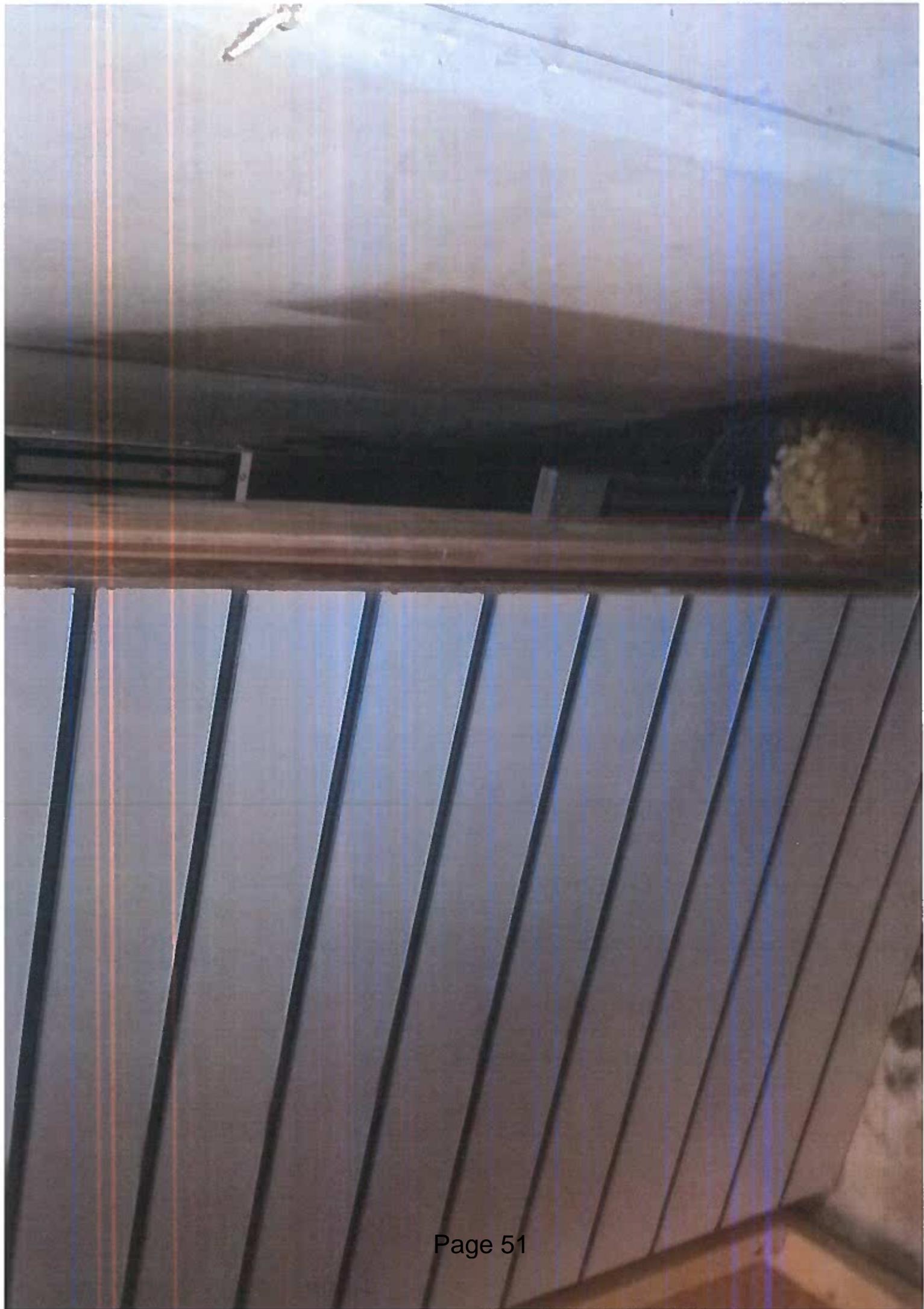




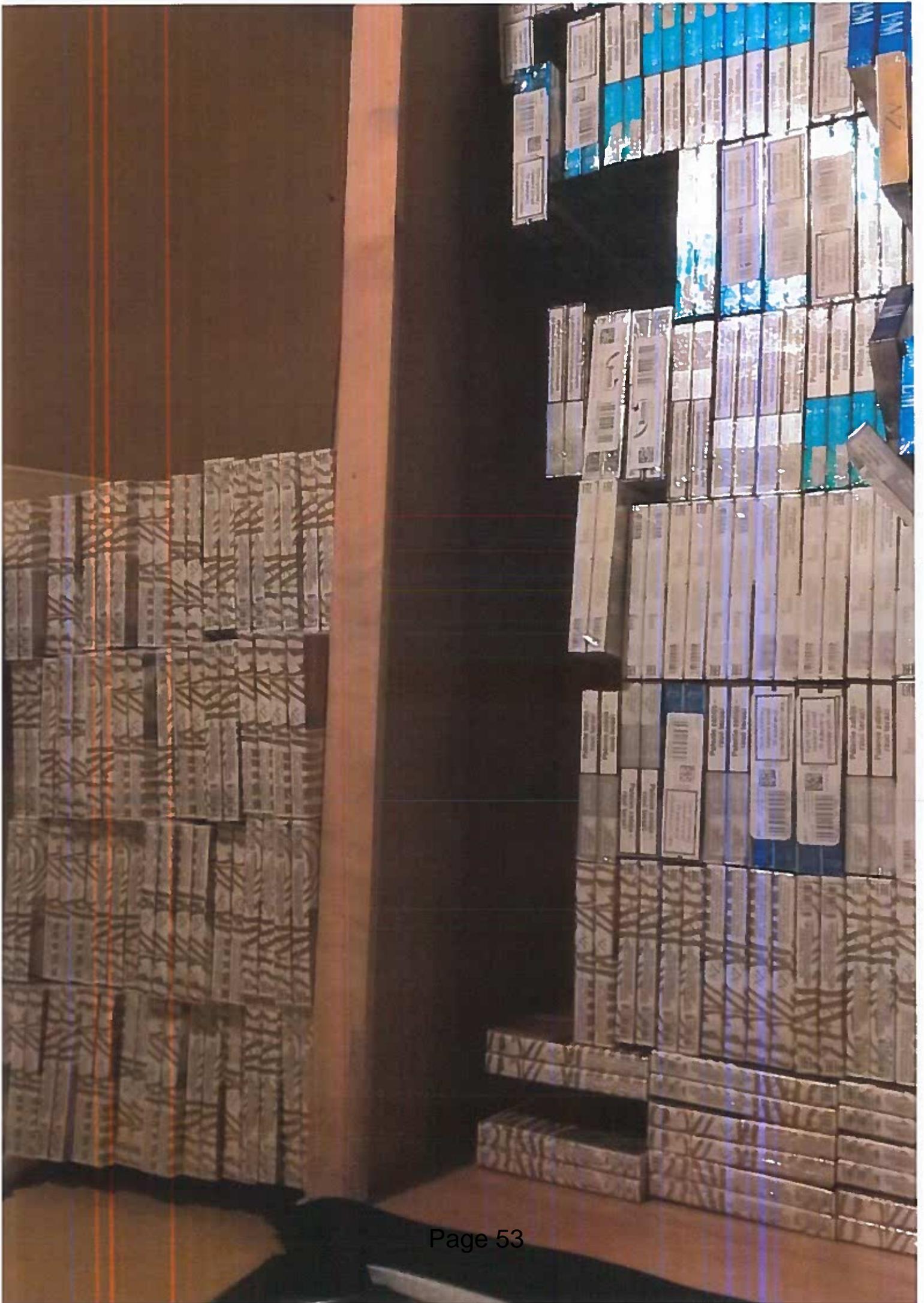








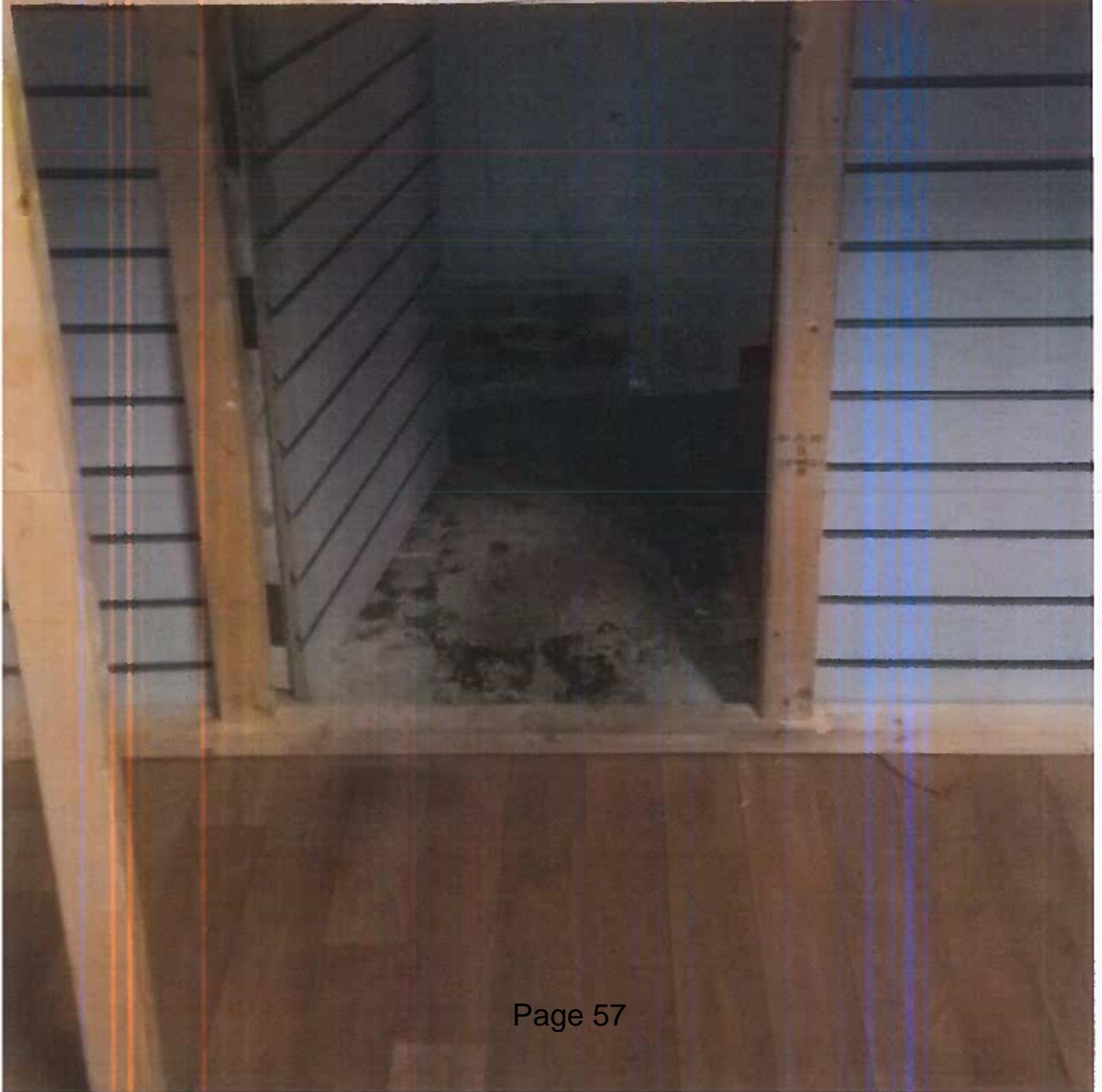




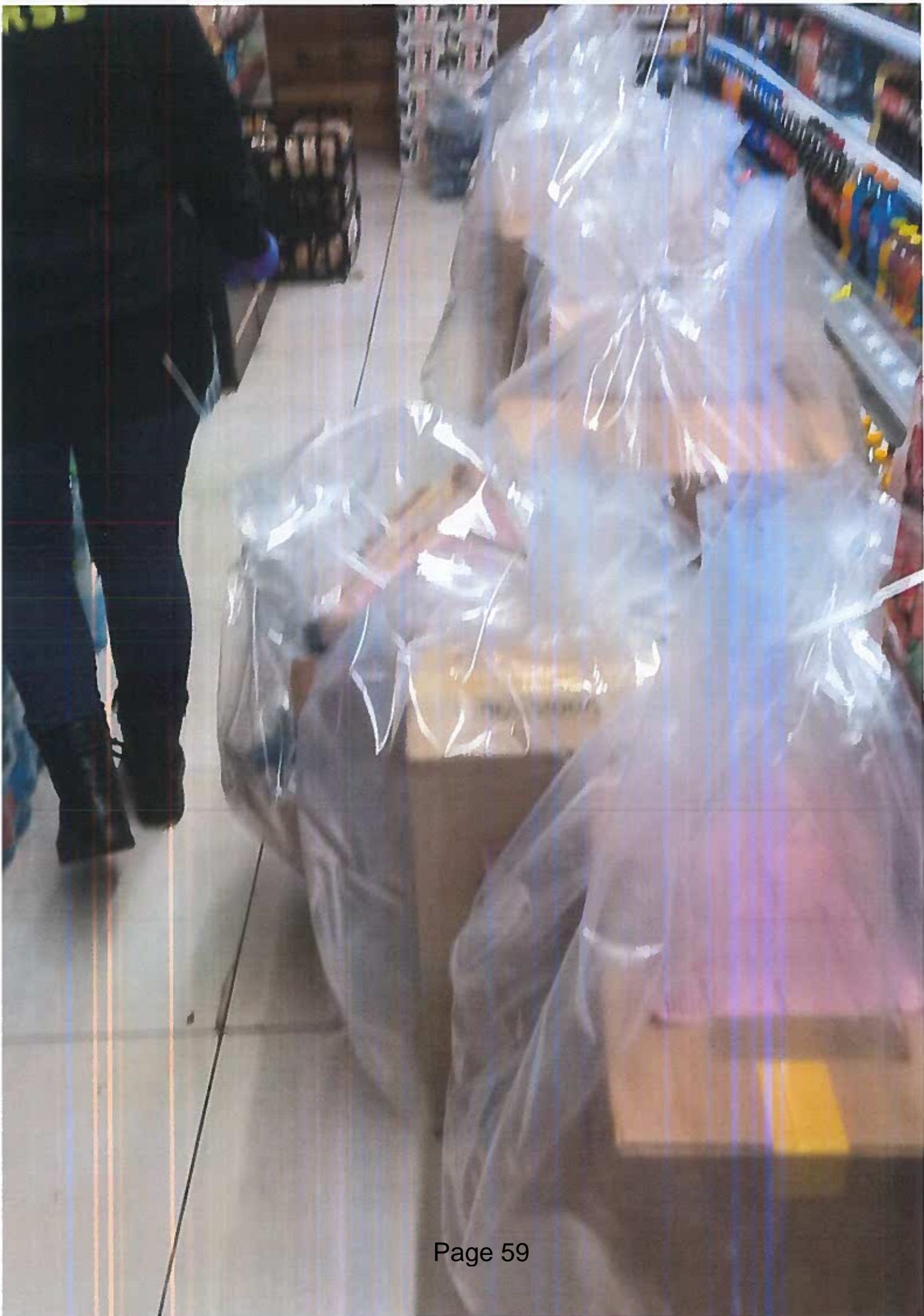










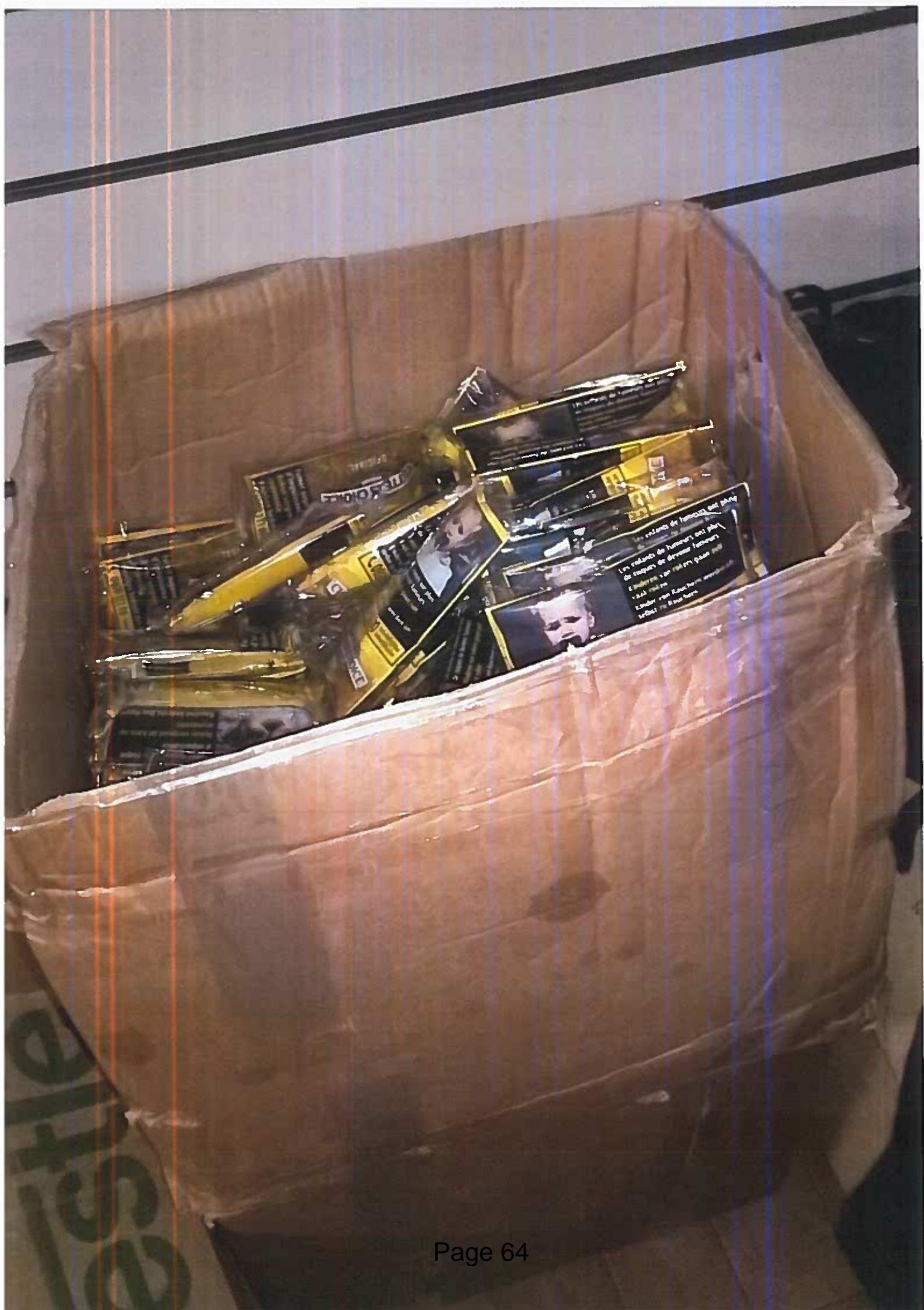












PUBLIC HEALTH COMMENTS

| | | | |
|--------------|----------------|-----------------------------|--------------|
| To: | Licensing Team | Service Request No.: | PL1130 |
| From: | Public Health | Contact: | Jude Pinder |
| | | Land line: | 01803 207388 |

| | | |
|--------------------------|--------------------------------------|---|
| Subject: | Application for New Premises Licence | |
| | Variation application | |
| | License Review | v |
| Premises Name: | Zakopane | |
| Premises Address: | 16 Market Street, Torquay | |

| | |
|---|---|
| 1. I have no comments to make on the above application | |
| 2. The application does not meet the following licensing objectives | |
| I. Prevention of crime and disorder | |
| II. Protection of children from harm | |
| III. Public safety | v |
| IV. Prevention of nuisance | |

Reasons (please list those aspects of the application or variation that give you reason for concern and why you have these concerns)

I would like to make a representation in respect of this licensing review in relation to section 3.2 (a) (i) of the Torbay Council Licensing Statement of Principles 2016-2021 which requires the applicant to "Assess the risks to the public, staff and others associated with operating the Premises or event in accordance with their submitted Operating Schedule and measures implemented to reduce those risks".

My concerns lay in respect of the evidence from the Police (contained within the review documentation) that the licensee was stocking alcohol which has not had UK import duty paid and concern that they had not been purchased from a reputable wholesaler and that this activity poses a risk to public safety.

From a Public Health perspective there are risks to the local population of consuming potentially illicit alcohol.

Illicit alcohol can be identified by it having an unfamiliar brand name, the price may be significantly lower, it may have an unusual taste or smell, it may have low quality labelling and packaging, there may be no 'UK Duty Paid' stamp and it may not have manufacturer details.

Buying illicit alcohol can be dangerous and poses a real risk to health because these goods may not comply with the strict quality standards used by legitimate brand manufacturers. Counterfeit alcohol may also contain hazardous substances and of most concern – methanol. Consumption of methanol can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol may cause permanent blindness.

Whilst there is no evidence in the submission that the alcohol found in the premises has been linked to any individual health incidents in the local population we do not have the resources or infrastructure to directly correlate these events and confirm whether there was any impact of harm or not from consumption of the goods seized.

The only way to protect the public from the health harms associated with illicit alcohol consumption is through proactive approaches and relying on the sellers of alcohol to comply with the safety restrictions

in place to protect public safety, including-

- Buying alcohol with UK duty tax paid (the same risks apply to tobacco although this is not a licensed product).
- Buying alcohol from reputable wholesalers.
- Operating within recommended schemes such as 'Challenge 25' (to protect young people)
- Operating within special restrictions such as the Special Saturation Policy (Appendix 1 of Licensing Statement of Principles 2016-2021, Torbay Council) – to protect residents against anti-social behaviour and our vulnerable street drinking population.

If these proactive processes are not in place then there remains a risk to public safety.

| | | | |
|----------------|---|--------------|------------|
| Signed: |  | Date: | 13/12/2018 |
|----------------|---|--------------|------------|