

**TAMESIDE METROPOLITAN BOROUGH COUNCIL**

**STATEMENT OF WITNESS**

(Criminal Procedure Rules, r 27.1(1);  
Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

STATEMENT OF: Nicola Briers

Age of Witness (if over 18 enter over 18): Over 18

Occupation of Witness: Trading Standards Officer

I am the above person. I am employed by Tameside Metropolitan Borough Council as a Trading Standards Officer within the Public Protection Division, based at the Tame Street Depot, Tame Street, Stalybridge, Tameside, SK15 1ST.

I have been employed by Tameside MBC as a Trading Standards Officer since December 2002. One of my duties within this role is to enforce the law relating to consumer protection legislation. I am an Authorised Officer for the purposes of the Tobacco and Related Products Regulations 2016 and The Standardised Packaging of Tobacco Regulations 2015.

Tameside MBC Trading Standards Department in its capacity as a responsible authority wish to submit this statement to support the review of a premises licence under S51 of the Licensing Act 2003 for Maria and Phillips, 7 Stockport Road, Hyde, SK14 1RH. Tameside Trading Standards submit that this premises is not promoting the following licensing objectives:

- **Product Safety** – this premises has been involved in the sale / supply of illicit tobacco and non-complaint e-cigarettes. The e-cigarettes have not been approved for supply by the Medicines and Healthcare products Regulatory Agency and therefore their compliance with the product safety requirements in the Tobacco and

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Briers*

**Continuation of witness statement of:**

**Page 2 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

Related Products Regulations 2016 have not been verified. Some of the illicit tobacco seized does not contain the required health warnings in English.

- **The Protection of Children from Harm** – The labelling requirements in the Tobacco and Related Product Regulations 2016 and the Standardised Packaging of Tobacco Regulations 2015 have been designed to reduce the appeal of tobacco products (particularly to young people) and to ensure the health warnings are prominent as possible. The illicit tobacco seized / test purchased from this premises did not comply with these regulations. The cheaper price charged for the illicit tobacco make them more affordable and therefore more appealing / available to children.
- **The Prevention of Crime and Disorder** - the sale of non-complaint e-cigarettes is an offence under the Tobacco and Related Product Regulations 2016. The sale / supply of illicit tobacco is an offence under the Tobacco and Related Product Regulations and the Standardised Packaging of Tobacco Products Regulations 2015.

On 28<sup>th</sup> June 2021 Tameside Trading Standards received a complaint stating that the premise was selling illicit tobacco, selling tobacco to children and also selling single cigarettes. I exhibit the complaint as **MP/NB01**

As a result of the complaint I visited the premises on the 8<sup>th</sup> July 2021 with my colleague Tim Watson. During the visit I spoke with shop worker Andrew Bridge. Six pouches of foreign labelled Amber Leaf hand rolling tobacco found in the back store room was seized. I exhibit a photo of the tobacco seized as **MP/NB02**. The supply of foreign labelled tobacco is an

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 3 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

offence under the Tobacco and Related Product Regulations 2016 as they do not contain the required warning statements in English. They also breach the Standardised Packaging of Tobacco Products Regulations 2015 as they are not packaged in the permitted colour of Pantone 448C (drab dark brown). An example of standardised packaging can be seen in exhibit **MP/NB03**.

Other issues found during the visit were as follows:

- No tobacco notice on display contrary to Children and Young Persons (Protection from Tobacco) Act 1991
- No refusals book was in place – whilst this is not a condition on the premises licence, maintenance of a refusal log will help demonstrate that the premises is actively refusing sales and they have an effective system in place. A refusal book was provided to Andrew Bridge at the time of the visit.
- Many items in the shop were not priced contrary to The Price marking Order 2004. I advised that all items must be priced either individually on the shelf edge or via a price list.

I exhibit a copy of the visit record as **MP/NB04**.

On the 13<sup>th</sup> July 2021 a warning letter regarding the sale / supply of foreign labelled tobacco and signing over form was sent to the licence holder (Ms Erica Demetorova). I exhibit a copy of the letter and form as **MP/NB05**. On 24<sup>th</sup> August 2021 I received the completed signing over form which I exhibit as **MP/NB06**.

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 4 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

On 9<sup>th</sup> November 2021 I received an email from the Designated District Licensing Officer for Greater Manchester Police stating that the premises was selling high strength vapes to school children. I exhibit the email as **MP/NB07**.

In December 2021 Tameside Trading Standards sent a letter to over 200 retailers where e-cigarettes were likely to be sold to advise them of the law relating to the sale of e-cigarettes in particular the requirement of the tank size of disposable e-cigarettes and their obligations regarding underage sales. I can confirm that this letter was sent to Maria and Phillips, 7 Stockport Road, Hyde. I exhibit a copy of this letter as **MP/NB08**.

On the 14<sup>th</sup> February 2022 a test purchase operation was carried out in conjunction with a test purchaser working on behalf of the Red Snapper Group. The test purchaser visited Maria and Phillips and purchased a packet of Richmond Superking for £5. The test purchaser observed that cigarettes were obtained from a jacket hanging up in back stock room. I exhibit a copy of the test purchase sheet as **MP/NB09** and a photo of the cigarettes purchased as **MP/NB10**. On examination of the cigarettes they were found not to be packaged in the required packaging contrary to the Standardised Packaging of Tobacco Products Regulations 2015.

On 17<sup>th</sup> February 2022 Trading Standards visited the premises with officers from Greater Manchester Police. One packet of Amber leaf hand rolling tobacco was found in the pocket of a jacket hung behind the counter. I exhibit a copy of the visit record and seizure record

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 5 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

from the visit as **MP/NB11 and MP/NB12** and a photo of the tobacco seized as **MP/NB13**.

This again was foreign labelled and cannot legally be supplied in the UK.

This test purchase and seizure highlights that the business has not headed the warning given in the letter sent to them on the 13<sup>th</sup> July 2021.

On 27<sup>th</sup> June 2022 I sent a letter to the licence holder (Ms Erica Demetorova) and the Designated Premises Supervisor (Thomas Joy) detailing the issues found at the premises and my concerns that they were not promoting the four licensing objectives. I requested that the licence holder and DPS attend a meeting on the 7<sup>th</sup> July 2022 at the Council Offices to discuss an amendment to the premises licence conditions. I exhibit this letter as **MP/NB14**

On 5<sup>th</sup> July 2022 I received a phone call from Mr Joy stating that the licence holder could not attend the meeting as she was out of the country. I asked Mr Joy when the licence holder would be able to attend a meeting and a further meeting was arranged for 27<sup>th</sup> July 2022.

On 26<sup>th</sup> July 2022 I received a phone call from Mr Joy to inform me that the licence holder was still out of the country and could not attend the meeting the following day. I sent a letter to Mr Joy on the same day with a new appointment of 23<sup>rd</sup> August 2022. I exhibit this letter as **MP/NB15**. On the 11<sup>th</sup> August 2022 I received a phone call from Mr Joy stating that again the licence holder was unable to attend the meeting on 23<sup>rd</sup> August 2022. A new appointment was made for the 30<sup>th</sup> August 2022 however I explained to Mr Joy that this appointment had now been cancelled twice and this would not be re arranged again.

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 6 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

On the 30<sup>th</sup> August 2022 Mr Joy attended the council offices for the meeting with Regulatory Compliance Officer Rebecca Birch and myself in attendance. The licence holder (Ms Erica Demetorova) did not attend and therefore we were unable to amend the licence conditions for the premise. Mr Joy indicated that he no longer wanted to be the DPS for the premises and that 'Shaun' was looking to become the DPS. We advised Mr Joy that he must be involved in the day to day running of the business. If he did not have control of the business alcohol should not be sold until the DPS is transferred to 'shaun'. I exhibit a copy of the record from this meeting as **MP/NB16**. During this meeting Mr Joy was given a warning letter for the packet of hand rolling tobacco seized on 17<sup>th</sup> February 2022 and he signed this over to the department. I exhibit a copy of the warning letter as **MP/NB17** and a copy of the signing over form signed by Mr Joy as **MP/NB18**.

On 4<sup>th</sup> September 2022 a further test purchasing exercise was carried out and a packet of Richmond Superking size was purchased for £5. The cigarettes were retrieved from under the counter and money paid for the cigarettes placed in the till. I exhibit a copy of the statement for the test purchase as **MP/NB19** and a photo of the cigarettes purchased as **MP/NB20**. Again on examination of the cigarettes were found not to be packaged in the required packaging contrary to the Standardised Packaging of Tobacco Products Regulations 2015

On 5<sup>th</sup> September 2022 I received a phone call from Zishan Ali Shaikh 'shaun' to inform me that he has completed the training to become a personal licence holder. He advised that the

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Birch*

**Continuation of witness statement of:**

**Page 7 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

course provider would send his application to Tameside to become a personal licence holder.

A warrant to enter the flat above Maria and Philips was obtained on 20<sup>th</sup> September 2022. A visit was carried out on the 13<sup>th</sup> October 2022 with officers from Trading Standards, Greater Manchester Police and a tobacco detection dog. During the visit the entry warrant was executed for the flat and 37 packets of illicit tobacco were found and seized. These were of various brands, 8 packets of Richmond Super King, 19 packets of Marlboro, 10 packets of Gold Leaf I exhibit photos of these as **MP/NB21, MP/NB22 AND MP/NB23**. Again the cigarettes were seized as they did not comply with the Tobacco and Related Product Regulations 2016 and The Standardised Packaging of Tobacco Products Regulations 2015.

The shop was also searched and one opened packet of Benson and Hedges was seized from the area between the shop counter and the back room. Officers also found 66 Elux 3,550 e-cigarettes on sale which were also seized as they did not comply with the Tobacco and Related Products Regulations 2016. Under Regulations 48 of the Tobacco and Related Product Regulations 2016 a person is guilty of an offence if they produce or supply a disposable electronic cigarette with a tank capacity exceeding 2ml. These e-cigarettes have also not been published on the register of complaint products by the Medicines and Healthcare Products Regulatory Agency (MHRA), which is also a requirement under the Regulations. The seizure of these e-cigarettes highlights that the business had not followed

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 8 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

the advice in the letter sent to them in December 2021 exhibit **MP/NB06**. I exhibit a copy of the visit record and seizure record as **MP/NB16 and MP/NB17**.

The labelling requirements in the Tobacco and Related Product Regulations 2016 and the Standardised Packaging of Tobacco Product Regulations 2015 have been designed to reduce the appeal of tobacco products (particularly to young people) and to ensure that required health warnings are as prominent as possible. The seizures / test purchases made from this premises highlights a disregard by the business of their legal responsibilities and a pattern of behaviour that suggests a desire to profit from the supply of illicit tobacco. The evidence highlighting the cheap prices charged for these products also suggests that their aim is to promote the supply of tobacco to customers for which genuine (fully taxed) products may be unaffordable, which may include children under 18. Again, this suggests a willingness to breach legal provisions for commercial gain.

In support of this application I refer to Chapter 11 of the Home Office document '*Revised Guidance issued under section 182 of the Licensing Act 2003*' (April 2018), which contains a section titled '*Reviews arising in connection with crime*'. Paragraph 11.27 (pages 93-94) lists types of criminal activity that should be treated seriously in relation to licensed premises and one of these is the use of the premises *for the sale or storage of smuggled tobacco and alcohol*. Some of the tobacco seized from this premises has foreign labelling and is therefore clearly not intended for the UK market. The cigarettes test purchased from the premises cost £5 each. The cost of a legal packet of cigarettes in the UK is currently around £10. The duty on a packet of cigarettes is at least £5.26. It is therefore reasonable to suspect that it has

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*



**Continuation of witness statement of:**

**Page 9 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

been illegally smuggled into the country without the full UK Excise Duty being paid. As outlined in this application, in supplying and possessing for supply these products, the premises are also committing criminal offences under the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Products Regulations 2015.

Also of relevance to this application is Paragraph 11.28 of the Home Office guidance, which states;

*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.***

Tameside MBC also believes that the possession and evidence of supply of this illicit tobacco poses a risk to the safety of consumers purchasing the products. Therefore, this application is also submitted in relation to the licensing objective 'Public Safety', on the following grounds:

-Some of the products seized/purchased did not contain the required health warnings in English or in compliance with the Tobacco and Related Products Regulations 2016. This, in

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 10 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

addition to the cheaper prices charged, could lead to the promotion of the tobacco to users, including children, who may otherwise choose not to purchase and smoke it.

-The illicit nature of the tobacco products seized/purchased means that the source of supply to the business is unable to be verified and therefore it is reasonable to suspect that the products may have been manufactured specifically for the illegal market. Therefore, it is unknown whether the products have been manufactured using safe manufacturing processes and whether they contain any hazardous ingredients.

There have also been illicit products found previously by other Trading Standards authorities that have been found to be unsafe under the General Product Safety Regulations 2005, due to not complying with a mandatory safety standard (EN 16156) for cigarettes that requires them to be self-extinguishing if left unattended or not inhaled from after a set period of time. This standard came into force in November 2011 as a result of a high number of house fires being attributed to smoking. As above, the unknown supply chain for the products in question means that their compliance with this standard is unknown and they may therefore present a fire hazard.

Finally, the seizure of e-cigarettes on 13<sup>th</sup> October 2022 is also relevant to the 'Public Safety' licensing objective. The brand/model of e-cigarettes seized have not been approved for supply by the Medicines and Healthcare products Regulatory Agency and therefore their compliance with the product safety requirements in the Tobacco and Related Products Regulations 2016 have not been verified. Where a retailer fails to establish the legal

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*

**Continuation of witness statement of:**

**Page 11 of 11**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s5B)

compliance of e-cigarettes they are supplying there is the potential that they are exposing their customers to unsafe products. The seizure in question highlights a failure of this business to carry out this check, despite being previously advised by this department (by letter) of the requirement to do so.

**This statement, consisting of 11 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 22<sup>nd</sup> November 2022**

**Signed** *N. Buis*