

# Public Document Pack

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**Date:** 16 June 2015

**TO: Councillors Hunter, Hutton and Roberts**

**Our Ref:** BJ

**Your Ref:**

**Direct Line:** (01253) 477157

**Email:** lennox.beattie@blackpool.gov.uk

Dear Councillor

**Licensing Hearing – Premier Store**

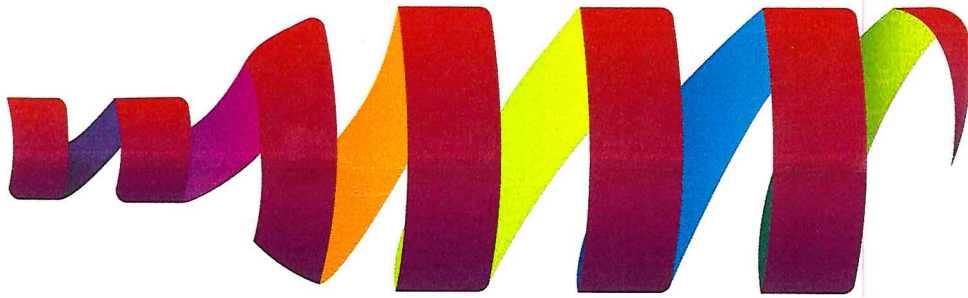
Please find attached additional evidence submitted by the applicant.

Please bring this information with you to the meeting on Wednesday 17<sup>th</sup> June 2015.

Yours sincerely

On behalf of the Head of Democratic Governance

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## LICENSING MATTERS

you serve • we protect

### NEW PREMISES LICENCE HEARING

17<sup>TH</sup> JUNE 2015

PREMIER STORE  
168 ASHFIELD ROAD  
BISPHAM  
BLACKPOOL  
FY2 0LA

### SUPPORTING DOCUMENTATION

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## **Section 1 - The Applicant**

Mr & Mrs Nelson have almost 20 years' experience of the convenience retail trade. The stores they have owned have all been general convenience stores with the benefit of full alcohol sales. Prior to the Licensing Act 2003 they held Justices Licences issued by the Magistrates Court.

They purchased their first store in approximately 1997 in Red Bank Road in Bispham which they owned and ran until it was sold 8 years later.

In 2003 they opened Bargain Booze in Lytham and then in April 2005 they opened the Thorougoods store in St Anne's. Both these store are still owned by Mr & Mrs Nelson.

Mr & Mrs Nelson have run their businesses in the Blackpool and Fylde area without any problems or complaints and enjoy excellent relationships with the authorities and local community.

As their 2 eldest children (aged 21 and 23) have been employed in the family business the ability to expand the business has been a possibility. Now with years of experience themselves and a desire to manage their own stores, the purchase of the store at 168 Ashfield Road is the initial step into developing the business for the new generation.

## **Staffing & the DPS**

The DPS on the application is named as Michelle Nelson but the intention will be to change that to a current manager, Matthew Jenkins. Matthew has been employed by the company for 6 years and is a very trusted member of staff. He lives in Bispham and will take over as full time manager of the store should the licence be granted.

## **Services Offered**

### The Store

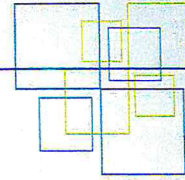
The business has been accepted as part of the Londis franchise and will receive the support and professional standards that brings with it. The products and services offered will consist of a full convenience range from newspapers, frozen food, toiletries, alcohol, cigarettes and a cash machine.

### Equipment

The store will benefit from a full digital CCTV system which will cover all areas. Panic alarms will also be installed.

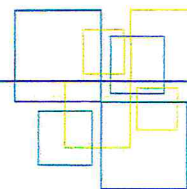
# SECTION 2

## licensing and due diligence



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## TEST PURCHASING

Test Purchasing is when the Police and Trading Standards officers send people under 18 years of age into a shop to check that they are complying with the law. They are supported fully by the government and are allowed by law, they are not a trap.

The procedure that is followed ensures that the Test Purchase is conducted fairly and more importantly with a certain guarantee that any shop that fails will face a conviction should the matter end up in court. The young persons used to buy the alcohol are usually aged well below 18 years of age (usually 15) and look their age. A Trading Standards or Police Officer will be in the shop to witness the sale but it is now common for the youth to carry a hidden video camera and record what happens. They do both of these things so that if the case goes to court they have the evidence to prove that the sale took place.

Remember that a test purchase is different to a 'real life' situation and the warning signs you will learn about, such as nervousness, will not necessarily be obvious. This is because the child is not breaking the law but instead is doing something he or she has been instructed to do by a Police Officer or a Trading Standards Officer. It makes test purchases difficult to deal with so being alert is essential at all times.

If the young person is successful at obtaining alcohol, Trading Standards or the Police can deal with the sale in any way they see fit using any of the penalties that have been described above.

## SIGNS THAT A PERSON MAY BE UNDERAGE

Being able to recognise when a person may be underage is a very important part of your job. Sometime it is not easy to determine if a person is under age so the points below will help you to do this.

### Physical Appearance

Clearly the major give away as to a person's age is their appearance. It is much easier for girls than boys to enhance their appearance and make themselves look older than they are. They do so by wearing excessive make up, high heels to make them appear taller and by wearing more mature clothing. Boys often look younger than girls. They may try to conceal their faces by wearing a 'hoody' or cap but the most common way that staff fall into the trap of believing that a boy is older is when they are unusually tall for their age. Boys of 14 or 15 years old can be over 6ft in height. **Do not try to judge ages and do not be deceived by appearances!**

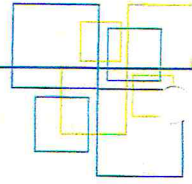
### Body Language

Body language can be a giveaway that a person is only young. Signs of nervousness such as stuttering, giggling and not being able to keep still are signs to look out for. On the other hand, over confidence, aggressiveness or being rude and uncooperative can sometimes be suspicious. Either way, when a person is attempting to deceive they rarely find it easy to make eye contact.

### Product being purchased

Be aware of the products that young people like to drink. If it is a product which is likely to be favoured by the underage, such as alcopops or cider, be particularly careful.





### Product quantity & price

Young people do not work and rarely have the funds to buy a large quantity of goods or products that are in the higher price brackets. Your suspicions should be raised if a person who looks young is buying a single bottle or can of a cheaper product.

### Payment method

Adults usually pay for their goods with cash from a wallet or purse, a cheque or a credit or debit card. People who buy their goods in this way are therefore less likely to be underage. On the other hand young people are more likely to pay for goods with cash and change. Large quantities of loose change can be an indication of an underage person as it may be the result of a collection.

## THE 'CHALLENGE 21' SCHEME

The 'Challenge 21' scheme is now a nationally accepted way of avoiding making a sale to underage persons. It was introduced because it was recognised that it can be very difficult to assess the age of a young person and to identify accurately whether someone is 17, 18, 19 or 20, but is usually easier to determine whether someone is over 21. Your store has adopted the 'Challenge 21' scheme and you must follow it at all times.

### what does 'challenge 21' mean?

If you suspect a young person is under 21 years of age, then you must ask them for identification to prove to you that they are aged over 18. If the person cannot prove their age you must explain the scheme to them and refuse to serve them alcohol. Under no circumstance must you decide to sell because it seems the easier thing to do at the time!

The 'Challenge 21' scheme, if used correctly at all times, will protect you & your job and young people by ensuring that only those over 18 can buy alcohol.

## ACCEPTABLE IDENTIFICATION

There are many different ways a person can prove their age by using documents or cards. However, for purchasing alcohol most of them are unacceptable. For example, a birth certificate or national insurance card have no photograph on them and can be passed around between friends. Student Union cards or bus passes can easily be made on a computer. There are also many different fake proof of age cards in existence that can be paid for over the internet.

Because of this there are therefore only 2 forms of identification that you should accept as proof of age which are detailed below:

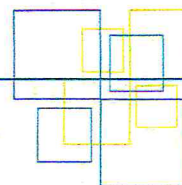
- 1) Photocard Driving Licence
- 2) Passport

**Do not accept anything else!!**





# licensing and due diligence



## HOW TO CHECK I.D. AND WHAT TO LOOK FOR

### general

When you are checking identification it is important that they are checked thoroughly. The items to be checked are:

- The date of birth. You will need to work out whether a person is 18. If you need help, ask!
- That the photograph matches the holder. Look carefully, DO NOT just glance.
- That it is current and valid
- That it is not fake and has not been tampered with.

DO NOT simply allow a customer to present a form of ID to you in a wallet. The identification can easily be obscured and may lead to mistakes. If a customer does this politely ask them to remove the identification from the wallet and check it thoroughly.

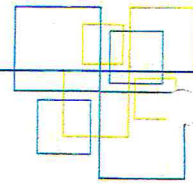
If after seeing the identification produced you still have a doubt, refuse the sale.

### passports

This is the best form of identification to establish a person's age. Passports are rarely fake and can usually be relied upon for identification. The only problem, if the passport was obtained years ago by the holder, may be if the person's looks have changed and are different from the photograph. If in doubt ask a colleague's opinion or refuse the sale.



# licensing and due diligence



## photocard driving licences

The photocard driving licence is an acceptable way for a person to prove their age. Beware however as there are many fake driving licences in circulation. The driving licence has also recently been changed and it now has many different features. We have therefore separated the information relating to driving licences into the old and the new as you will need to be aware of the different things to look out for.

### old driving licence

The points to look out for are:

- The vast majority of driving licence fakes which are obtained over the internet do not say 'Driving Licence' on them. They state that they are a 'National Identity Card'. Look carefully for the wording and if it does not say 'Driving Licence', DO NOT ACCEPT IT.
- The licence will have the words DVLA printed all across the bottom half of the licence.
- If you have an ultra violet light in the store (usually used for checking for fake £10/£20 notes), you will clearly see the Royal Crest stamped in several places over the front of the licence. If the card is genuine this is very clear to see.
- On the back of a genuine driving licence there is a grid showing the categories of vehicle the holder is permitted to drive. This has small pictures of cars and vans.



13	14	15	16	17	18
Category	Code	Issue Date	Valid Until	Valid Until	Valid Until
A	05	05-12-95	12-02-20		
B	05	05-07-95	12-02-20		
BE	05	01-07-98	12-02-20		
B1	05	01-07-98	12-02-20		
C1	05	01-07-98	12-02-20		
C1E	05	01-07-98	12-02-20		
D1	05	01-07-98	12-02-20	107	
D1C	05	01-07-98	12-02-20	101	
D1C	05	01-07-98	12-02-20	101, 119	
f, k, l, n, p	05	01-07-98	12-02-20		

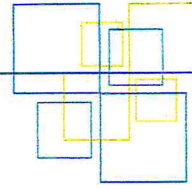
### new driving licence

The new licence is similar in appearance to the old but it has better security features. The main changes are:

- The photograph is black and white instead of colour
- A hologram is on the front close to the right hand side of the photograph. This is a steering wheel that appears to turn as you tilt the card in different directions.
- A new security feature is an image on the front of the licence underneath the photograph that changes both shape and colour depending on how you tilt the licence. On full (pink) licences you will see a blue road sign that changes to a black triangle and on a provisional licence (green) it is a red road sign changing to a black triangle.



# licensing and due diligence



- On the back of the licence there is a steering wheel that changes in colour from green to gold depending on how you fill the licence.
- If you have an ultra violet light in the store (usually used for checking for fake £10/£20 notes), place the driving licence under it. You will clearly see 4 flowers on the top right hand corner of the licence. These are a thistle, a daffodil, a rose and a clover. The Royal Crest is can also be seen on the right hand side of the card. If the card is genuine these are very clear to see.

## beware of fake driving licences



Driving Permit not a Driving Licence



Age I.D. not a Driving Licence



National I.D. not a Driving Licence

## COMPLETE THIS EXERCISE

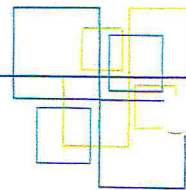
1. IF SOMEONE CLAIMS THAT THEY ARE 18 TODAY, ON WHAT DATE WERE THEY BORN?
2. GO AND FIND A DRIVING LICENCE AND CHECK IT FOR ALL THE POINTS THAT YOU HAVE BEEN TOLD ABOUT. IF YOUR STORE HAS AN ULTRA VIOLET LIGHT PUT THE DRIVING LICENCE UNDERNEATH IT AND SEE THE MARKINGS.
3. COMPARE THE DRIVING LICENCE TO THE PICTURES YOU HAVE SEEN IN THIS MANUAL OF THE FAKE LICENCES.

You have now completed Session 2 & will be tested on your knowledge.

- Make sure that you have not only read but understood the session information.
- If you are unsure of anything take a moment to go over what you have just read.
- If you do not understand something ask your trainer.



# licensing and due diligence



## signs that a person may be drunk

There are many different stages & signs of drunkenness. Depending upon how much alcohol a person has consumed will govern the way they behave. Below is a general overview of the stages of drunkenness:

### Stages of drunkenness

1. **Merry** - Feeling more alert, cheerful and sociable.
2. **Uninhibited & carefree** - Feeling more relaxed but judgement starts to become impaired. People still feel they are acting normally but they begin to make mistakes as it takes longer for them to react to situations.
3. **Losing control** - Alcohol begins to have negative effects. Drinkers become careless and start to act in a way that they would not normally do. At this point some people can become aggressive or depressed. The problem at this point is that some people lose the ability to know when to stop drinking.
4. **At risk & vulnerable** - All actions, such as seeing, talking and moving, become more and more difficult. People often do not know where they are and can injure themselves or become unconscious. They can also do things they cannot remember afterwards. This level of intoxication is never a good idea and people can come to serious harm.

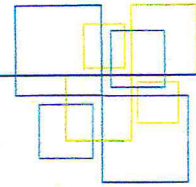
### Signs of drunkenness

You have a duty not to serve alcohol to a person who is already drunk. The early stages of intoxication as detailed above (1 and 2) may be difficult to spot. However, it will be easier to recognise a person in the later stages (3 and 4). The signs you need to look for are:

- Loss of physical co-ordination (knocking things over and bumping into things)
- Slurred speech
- A person speaking too loud or too fast
- Slow reactions
- Staggering or inability to walk
- Glazed eyes
- Nausea & vomiting
- Loss of consciousness

You will learn in more detail about alcohol and its effects in the next session.





### how to deal with a person you suspect to be drunk

Remember that a drunken person can be far more volatile, potentially abusive and violent. They are often unreasonable & argumentative. Refusal in this situation can sometimes lead to conflict if handled incorrectly. It is however important to remember that some symptoms of drunkenness such as slurred speech can be a symptom of a medical condition. You need to establish also that they are unsteady on their feet, their eyes appear glazed and they smell of alcohol.

In dealing with a drunken person, use everything you have learnt about refusing a sale of alcohol to an underage person and apply it. The main points are listed below:

- **Be alert** - Monitor the premises & deal with a suspected drunken person quickly. For example, if you can view someone you suspect may be drunk approaching the premises, it is better to not allow them entry in the first place.
- **Refuse the sale** – be polite and stand your ground - It is important that you defuse the situation by staying calm and showing the person that you do not want any trouble. The most important thing NOT to do is respond back to the person with aggression. Do not get drawn into an argument or antagonise your customer by getting annoyed or aggressive. Apologise and keep yourself in a safe position at a distance to the person in case they become violent.
- **Avoid blame** - Point out to them that you could lose your job by serving them in their present condition and advise them to return at another time. If they do claim a medical condition ask them to bring a letter from a doctor or pharmacist.
- **Get help from your colleagues** - Your personal safety is of the utmost importance in these situations when dealing with a difficult situation, such as dealing with a drunken person, alone. Call for your manager or supervisor if they are in the shop as this will often defuse a situation. Call for the police if the customer becomes aggressive or will not take "no" for an answer.
- **Make an entry in the refusals and incident register** - Do this once the customer has left the premises. Report any incident where you have felt threatened and/or intimidated.
- **Remember you have a responsibility under the law not to sell alcohol to a person who is drunk** - As the salesperson dealing with that customer, it is your responsibility, not that of any other person in the shop, to make the decision about whether a sale should be made. Your decision is final. Once you have made the decision the Shop Manager, DPS or any other supervisor should not interfere to overturn it.



## INITIAL STAFF TRAINING CHECKLIST

Staff Name

Date commenced

**Staff Training Package**

**Date Completed**

<p><b>Session 1</b> – The law &amp; understanding who is in charge</p>	<input style="width: 100%; height: 20px;" type="text"/>
<p><b>Session 2</b> – Underage drinking, Identification &amp; Test Purchasing</p>	<input style="width: 100%; height: 20px;" type="text"/>
<p><b>Session 3</b> – How to deal with underage drinkers &amp; 'Proxy' purchases</p>	<input style="width: 100%; height: 20px;" type="text"/>
<p><b>Session 4</b> – Dealing with people who are drunk and the Refusals &amp; Incident Register</p>	<input style="width: 100%; height: 20px;" type="text"/>
<p><b>Session 5</b> – Alcohol &amp; its effects &amp; other age restricted sales</p>	<input style="width: 100%; height: 20px;" type="text"/>

I, being the DPS or Premises Licence Holder, certify that the above named person has completed the staff licensing training to a satisfactory level and can now be authorised to make sales of alcohol to customers.

Name \_\_\_\_\_ Position \_\_\_\_\_

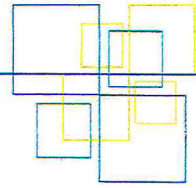
Date \_\_\_\_\_ Signature

**Forms to be completed & signed**

- Form 2 - 'Challenge 21' Policy & Store Policy
- Form 3 - Issued with Certificate for completion of training
- Form 4 - Authority to sell alcohol form

FORM 1

# licensing and due diligence



## SESSION 1 KNOWLEDGE CHECK

### Scenario

A gang of underage youths gather directly outside your premises. They are drinking alcohol, being very noisy and use abusive language to customers entering the shop. They are dropping litter and causing annoyance to the local people.

- 1 Such annoyance and behaviour undermines 2 of the 4 licensing objectives. Which 2 licensing objectives are they?

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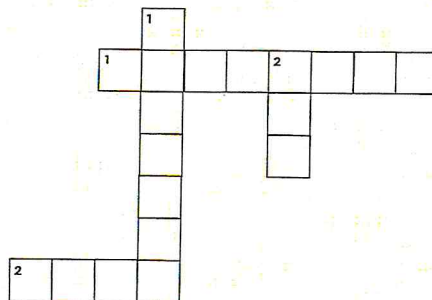
(1 point for both)

- 2 If such a situation became a common occurrence, a review of the premises licence could take place. At the review name 1 course of action that could be taken against the premises licence holder.

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(1 point)

### 3 Mini Crossword



#### Across

1 A — licence holder has the authority to make or authorise the sale of alcohol (8).

2 A — of alcohol must not be made outside the hours specified on the premises licence (4).

#### Down

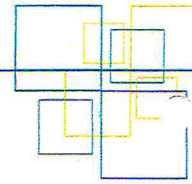
1 Due diligence is a — in law (7).

2 Our shop is authorised to make — sales of alcohol only (3).

(4 points)



## licensing and due diligence



4 The Licensing Act 2003 created Premises Licences. What do they authorise to take place on a premises?

\_\_\_\_\_ (1 point)

5 All stores have the same permitted trading hours for the sale of alcohol. True or false?

\_\_\_\_\_ (1 point)

6 If a sale to an underage person takes place, how can the DPS use the defence of due diligence to avoid prosecution?

- A. By showing that the sale was a one off, the procedures were in place and under normal circumstances it would not have happened.
- B. By producing their premises licence
- C. By showing that the person who sold was over 18

(1 point)

7 Where should the summary of the premises licence be kept?

\_\_\_\_\_ (1 point)

8 The Designated Premises Supervisor is there to:

- A. Make sure staff work according to company policy
- B. Be in charge if the owner is on holiday
- C. Be in day to day control of the premises & provide a single point of accountability for any problems

(1 point)

9 What is important about the conditions on a premises licence?

- A. They are flexible and can be used when the owner wants
- B. They are binding in law and must be followed at all times
- C. They only last for 6 months

(1 point)

10 Every person who sells alcohol needs a Personal Licence. True or False?

\_\_\_\_\_ (1 point)





# SECTION 3

DATE	TIME	DETAILS OF PERSON REFUSED OR INCIDENT (Description, name, any other relevant information)	REASON FOR REFUSAL	TYPE OF PRODUCT ATTEMPTED TO BUY (include specific brand)	OTHER INFORMATION OR OBSERVATIONS	STAFF MEMBER

Checked by DPS on: .....

Signed: .....

SECTION 4

13th May 2015

2a Brighton Avenue  
Thornton-Cleveleys  
Lancashire  
FY5 2AA  
DX 27915 Cleveleys

Mr C Marquis-Carr  
Roland Robinsons & Fentons  
17039 BLACKPOOL 1

Telephone 01253 850777  
Fax 01253 850780

Email : info@ormrods.co.uk  
www.ormrods.co.uk

Email: geoff.ormrod@ormrods.co.uk

DD: 01253 861032

Our Ref: GGO/GGO/001112-13-0/2916

Your Ref: CSMC makj 60014/64 Craggy Ltd

Dear Sirs

**168 – 170 Ashfield Road Blackpool**  
**Our client Mr Russell Neve; Your client Craggy Ltd**

We are instructed by Mr Neve the owner of the above property. He has passed to us your letter of 12<sup>th</sup> March 2015 addressed to Mr Vipudshan the current occupier of the property.

The purpose of this letter is to advise you that Mr Neve does not accept that your client has any valid grounds to object as you say and to explain the reasoning behind his rejection in accordance with the Civil Procedure Rules Practice Direction on Pre-Action Conduct.

You will appreciate that there is no specific protocol in place in relation to disputes such as these but the purpose of this letter is to clarify our client's position and to give you the opportunity to respond.

We would be obliged if you could respond within 14 days of the date of this letter.

We shall deal with the matters in the order in which you deal with them in your letter for ease of reference.

1. The covenant in the conveyance of 31 March 1964 ("the Fieldings Covenant")
  - 1.1. For the reasons set out here we do not believe the covenant is binding in any event and the comments we make below are made without prejudice to that contention.
  - 1.2. You do not state that your client has the benefit of the covenant or give any explanation as to how it might have become entitled to the rights of R Fielding and Son (Builders) Ltd.
  - 1.3. We are not aware that your client has obtained such rights. In any event that company was acquired by Costain in or about 1969 and no longer appears on any documents at Companies House. It has presumably been dissolved. Your client would have to demonstrate a separate acquisition of those rights.
  - 1.4. Unless it can do so, under the rules as to privity of contract your client cannot enforce the covenant so whether or not your objections previously were successful we consider that your client has no right so to do.

Geoffrey Ormrod BA (Hons) \*Michael Penny LLB (Hons)  
Directors  
\*\*Richard Darby LLB (Hons)  
Associate Solicitor  
Ron Railton  
Conveyancer

\*Solicitor Advocate & Member of Resolution  
\*\*Member of Apil

2. "This covenant [i.e. the Fielding's Covenant] does not permit the sale of intoxicants." That is incorrect.
  - 2.1. The covenant actually says that the property will be used "..... for the business of Grocers and Provision Merchants"
  - 2.2. The rule of construction of contra proferentem would apply here and a restrictive construction of the provision would undoubtedly be applied.
  - 2.3. If the person framing the covenant had wanted to exclude the sale of alcohol it could easily have been inserted. It has not been so inserted and would not be implied.
  - 2.4. You appear to have overlooked that Sainsbury's, Tesco, Asda, Waitrose, Morrisons, Aldi and Lidl all describe themselves as "grocers" yet they sell enormous amounts of alcohol. Indeed we understand that Tesco sells more wine than any other retailer in the UK.
  - 2.5. To suggest therefore that the description of a business as "grocers" precludes sale of alcohol is simply unrealistic.
3. "The covenants in 1964 were imposed for the mutual benefit of the covenantors"
  - 3.1. This might be the case in relation to the conveyance to your client where there is a non-competition scheme.
  - 3.2. That does not apply in the Fieldings Covenant. There is simply nothing to support your assertion of mutual benefit and indeed the absence of those provisions make it all the more probable that there is no reason for there to be any restriction on the use of our client's property.
4. You appear to have overlooked the provisions of the Competition Act which came into force on 6<sup>th</sup> April 2011 and has retrospective effect.
  - 4.1. This Act outlaws restrictions or restrictive covenants limiting the type of commercial activity which a tenant or occupier may undertake particularly where it is intended to protect the landlord or other tenants from competition.
  - 4.2. Accordingly, even if we are completely mistaken in our analysis of the position as set out above (which we do not accept) the provisions of the Competition Act apply.
  - 4.3. Any form of arrangement particularly that set out in your clients conveyance are rendered null and void by the Competition Act and the proposition you put forward is equally and thoroughly defeated in the same fashion.

In summary therefore we cannot see that your client has any standing to object to the grant of a licence to our clients or others.

Even if it does have standing then the Competition Act precludes any objection.

Any attempt to so object could well be unreasonable interference in our client's right to trade and an attempt to circumvent the Competition Act.

We require that your client either:-

1. confirms that it will not pursue any objection either to the local authority or otherwise should an application for alcohol licence be made in relation to these premises or

2. alternatively that you respond in detail to deal with these arguments so that the issues may be clarified and narrowed.

As indicated above please could you respond within 14 days of the date of this letter or in any event no later than 4 p.m. on Friday 29<sup>th</sup> May 2015.

In the absence of response we have advised our client to issue an application pursuant to CPR 40.20 for a declaratory judgement.

This is obviously going to incur costs but our client cannot continue with the threat of proceedings from your client hanging over his head and the issue must be dealt with once and for all.

We invite you to avoid this by confirming that you accept the position as we lay it out here and that your client will not seek to object either to the local authority or through the courts.

We look forward to receiving confirmation by the time mentioned above. In the absence of a response proceedings will be issued without further notice. This correspondence will be relied upon in any application for costs.

Yours faithfully

A handwritten signature in black ink, appearing to be a stylized name, possibly 'A. S. O.', written over a horizontal line.

Ormruds Solicitors & Advocates Ltd