

General Licensing and Registration Sub-Committee (2)

Date: 2nd February 2016

Appeal against the refusal to grant a Street Trading Consent



Report of Terry Collins, Corporate Director, Neighbourhood Services

Name and address: Mr Anaelo Fella.

1. Summary

The Sub-Committee is asked to consider and determine the appeal submitted by Mr Fella to be granted a street trading consent to sell confectionary, drinks, cigarettes etc from an ice cream van (Roma Ices) for all consent streets in the Derwentside area excluding any prohibited streets.

2. Details

On 28th October 2015, an application for the renewal of Mr Fella's street trading consent was received. His previous consent expired on 16th December 2015. The application is attached as Appendix 1. (The original photos showing Mr Fella's ice cream van will be provided at the hearing)

Mr Fella has requested to trade Monday to Sunday between 12pm to 11pm.

For Members information Mr Fella has held a street trading consent in respect of Roma Ices since November 2012.

3. The Representations

As part of the street trading application process, Licensing Services consult with a number of relevant authorities. These include Durham Constabulary Traffic Management and Highways, DCC Planning Services, DCC Health and Safety Enforcement, DCC Food Safety, DCC Trading Standards and DCC Licensing Enforcement.

Between 28th October and 11th November 2015, Licensing Services liaised with and consulted the relevant authorities in relation to Mr Fella's application. Licensing Services requested consultee's comments or objections in relation to the applicants' proposals.

During this consultation period, Licensing Services received adverse comments and specific objections from DCC Trading Standards. Consequently, Licensing Services were unable to grant the application. The objection is attached as Appendix 2.

The letter detailed the street trading appeal process, which invited the applicant to respond in writing to the Licensing Manager.

4. The Appeal

On 24th November 2015, a letter was received from Mark Davies of Bennett Richmond Solicitors acting on behalf of Mr Fella which was to appeal against the decision to refuse to grant the application for street trading consent. A copy of the letter is attached as Appendix 3.

The next stage of the appeal process involved the Licensing Manager to re-consult with all relevant personnel from the Council's Trading Standards department, requesting they reconsider Mr Fella's application, taking into consideration all of the information he originally provided.

Following the re-consultation with Trading Standards the objection remained. The details of the remaining objection are contained within the Licensing Manager's letter to Mark Davies of Bennett Solicitors attached as Appendix 4.

In view of the nature and content of the objection to Mr Fella's application, Licensing Services remain unable to authorise the grant of street trading consent. Mr Fella's right of appeal to the Council is now to the General Licensing and Registration Sub-Committee.

Mrs Gillian Seed, Senior Trading Standards Officer has provided additional information. This is attached as Appendix 5.

5. For Decision

The Sub-Committee is asked to consider the appeal made by Mr Fella against the refusal to grant a street trading consent for all consent areas in the Derwentside area taking into account the objection received from DCC Trading Standards and the information provided by Mr Fella.

Options available to Members are:

- Grant the application for street trading consent with or without additional conditions to the standard conditions or;
- Refuse Mr Fella's appeal

6. Background Papers:

- Local Government (Miscellaneous Provisions) Act 1982, Schedule 4
- The Council's Street Trading Policy (April 2015)

Contact: Helen Johnson Tel: 03000 265101
Email: helen.johnson2@durham.gov.uk

Appendix 1
Application from Mr Fella



APPLICATION FOR A STREET TRADING LICENCE/CONSENT

1. Applicant Details - Please complete the following details:

Individual Application	
Title: (Mr/Mrs/Miss/Other)	Surname: FELLA
First Names: ANGELO	Date of Birth: [REDACTED]

Joint Application	
Title: (Mr/Mrs/Miss/Other)	Surname:
First Names:	Date of Birth:
Title: (Mr/Mrs/Miss/Other)	Surname:
First Names:	Date of Birth:

Address:	
Post town:	Post code:

Telephone:	Mobile:
National insurance no:	Email:

2. Application Details - Please indicate what you are applying for:

Street Trading Licence
 Street Trading Consent

Is the application for a new licence/consent or a renewal?

New
 Renewal

Please give your existing licence/consent number:

*(no consent-number)
 photocopy
 included*

Please detail how long you want the licence/consent to last:

One Day
 Two – Seven Days
 Eight Days to one calendar month
 Annual

Please refer to Appendix A for application fees.

3. Assistant Details - Please complete the following details for any assistants which you will have working with you (We will only authorise up to two assistants)

No.1

Title: (Mr/Mrs/Miss/Other)	Surname:
First Names:	Date of Birth:
Address:	
Post town:	Post code:
Telephone:	Mobile:
National Insurance No:	Email:

No.2

Title: (Mr/Mrs/Miss/Other)	Surname:
First Names:	Date of Birth:

Address:	
Post town:	Post code:
Telephone:	Mobile:
	Email:

4. Proposed Trading Activity:

Please detail your trading name:

ROMA ICES

Please detail the location you wish to trade from (if you wish to be a mobile trader, please detail all requested streets, please refer to Appendix B before completing) (if you wish to specify a fixed location please provide a plan with the application, please refer to Appendix C for plan guidelines):

Please detail the days and times you wish to trade:

Monday: 12 - 23:00 Tuesday: 12 - 23:00
 Wednesday: 12 - 23:00 Thursday: 12 - 23:00
 Friday: 12 - 23:00 Saturday: 12 - 23:00
 Sunday: 12 - 23:00

Please note out street trading conditions permits trading from 06:00 – 18:00 hours. If you wish to carry out street trading outside of these hours, please detail below the reasons why.

often do shows for stanley council which can run till 9pm. Also trade on the streets during the evening.

Please detail the articles you wish to sell:

Confectionery, ice cream/ice lollies, crisps, nuts, soft drinks, cigarettes, slush puppies etc

Please note if you are selling alcohol or hot food or drink between 23:00hours and 05:00hours, you will need to apply for a licence under the Licensing Act 2003.

Please give details of the unit you wish to trade from:

Vehicle

Cart / Barrow

Other type of stall

Describe:

Vehicle Make and Model: Mercedes Sprinter 308 Diesel

Vehicle Registration No: _____

Dimensions of cart/barrow: Length in metres:
Width in metres:
Depth in metres:

Please provide three photographs of any van, other vehicle, cart, barrow or stall from which street trading is intended to take place. (Please refer to Appendix D)

Have you registered your business with Food Safety? (Only applicable to food traders)

Yes No

Please provide a copy of the food registration certificate

Hold a current level 2 Food Safety and Hygiene certificate for catering.

Recent visit 14/10/15

I was award a 4 star **** in an announced Food Hygiene/standards visit by Durham County Council.

5. Declaration and Signatures:

I declare that I am not under the age of 17 years. I declare that I have checked the information given in this application form and to the best of my knowledge it is correct.

I understand that the giving of false information is an offence and may result in a Street Trading Consent being refused or revoked, and that the local authority reserve the right to make further enquiries with Durham Constabulary as a result of this application.

Signed: MR ANGELO FELLA
Print Name:

Signed: _____
Print Name:

Date: 24/10/2015

6. Check Sheet:

- I have fully completed the application form
- I have enclosed the relevant fee
- I have enclosed a passport photograph of applicant and proposed Assistants
- I have enclosed the applicant(s) Basic Disclosure(s)
- I have enclosed a suitable location plan
- I have enclosed three photographs of the van/cart etc detailing front, side & rear
- I have enclosed a copy of the Public Liability Insurance
- I have enclosed a copy of a food registration certificate

-
-
-
-
-
-
-
-

Street based not in a static position.

→ in and around Stanley Co. Durham with the exception of prohibited areas.



This certificate is presented to

Angelo Fella

who has successfully completed the
training course and assessment in

**Level 2 - Food Safety and Hygiene
(Catering)**

This course is designed to meet the national occupational standards and covers:

- The Importance of Food Safety and Hygiene • Impact of Food-Borne Illness
- Understanding Food Law • Food Safety Hazards and Contamination
- Food Preservation, Storage and Temperature Control • Personal Hygiene
- Hygienic Premises and Equipment • Hazard Analysis and Critical Control Point System (HACCP)

04 January 2012

Date: _____

Certificate No: **83931**

Signer

Course produced in conjunction with
Dialog (food specialists)

Signed: _____

Director (Virtual College)



Authorisation Seal



To verify, telephone 01943 605976

The content of this course has been independently certified as conforming to
universally accepted Continuous Professional Development (CPD) guidelines

Caterers Liability - Schedule of Insurance
Arranged by Mobilers Insurance Services
Administered by Caterers Club
John Garth House, Engine Lane, Stourbridge DY9 7DF
Tel: 0800 180 4175

Policy Number SJ004187
Name and Address of Insured A Fella T/As Roma Ices

Period of Insurance 08/09/2015 to 07/09/2016

Limits of Indemnity

Section 1 Employers Liability

Section 2 Public Liability

Section 3 Products Liability

Pollution and Contamination

Section 2 and 3 combined

Excess (Section 2/3)

Declared Occupation:

Declared Employees:

Declared Seating Capacity:

Declared Turnover:

Premium (Including 6% Insurance Premium Tax)

Administration Charge

Total

Underwritten by St Julians Insurance Company Limited,
Authorised Insurers, registered in Malta (C-50869)

This Schedule of Insurance has been signed on behalf of the Company by and should be read together with
the Liability Policy wording

Date of Issue: 02 September 2015

St Julians Insurance Company Limited is authorised and regulated by the Malta Financial Conduct Authority to carry on General Business (Class 13 – General Liability) in terms of the Insurance Business Act 1998 and subject to a limited regulation by the Financial Conduct Authority in respect of underwriting insurance business in the UK.

Contact: Susan Brown
Direct Tel: 03000 261141
email: Susan.brown2@durham.gov.uk
Your ref:
Our ref: IN / 037686



Mr A Fella

19th October.15

Dear Mr Fella,

Food hygiene inspection report and your food hygiene rating

Roma Ices, 7 Anthony Court, Stanley, DH9 8AG

FOOD HYGIENE RATING

We inspected your business premises on 14/10/2015 to check compliance with the requirements of food hygiene law and I am writing now to outline to you our findings and to tell you what your rating is under the Food Hygiene Rating Scheme.

Inspection report

I have enclosed a copy of your inspection report. This outlines my findings and highlights the priority actions and improvements that are needed to ensure that you are complying with the Food Safety and Hygiene (England) Regulations 2013 and associated legislation. These are listed under three areas:

- Compliance with food hygiene and safety procedures
- Compliance with structural requirements
- Confidence in management/control procedures.

If you are unclear about anything in the report, please get in touch with me – my contact details are given at the end of this letter.

Your food hygiene rating

This authority operates the Food Hygiene Rating Scheme. This scheme is designed to help consumers choose where to eat out or shop for food. It does this by giving them information about the hygiene standards in food outlets at the time they are inspected to check compliance with legal requirements. A good food hygiene rating will be a good

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Durham County Council, Food Safety, PO Box 617, Durham DH1 9HZ
Main Telephone 03000 261016

advertisement for your business. A leaflet explaining the scheme and an information sheet detailing how ratings are calculated is enclosed.

On the basis of the standards found at the inspection your rating has been calculated as follows:

Compliance with food hygiene and safety procedures	0
Compliance with structural requirements	10
Confidence in management/control procedures	10
Total score	20
Highest (this means poorest) individual score	10
Food hygiene rating	



A sticker showing your rating is enclosed. You can tell your customers how good your hygiene standards are by putting the sticker up in the window or on the door. If you do not have a suitable glass surface, you could fix the sticker onto a transparent surface before fixing that onto a wall or other surface.

Please destroy the sticker showing your previous rating, as only one rating – the most recent rating - should be displayed. To continue to display a previous rating may constitute an offence under the Consumer Protection from Unfair Trading Regulations 2008.

Your rating will also be published on the Food Standards Agency's website at www.food.gov.uk/ratings between two and four weeks from receiving this letter.

Safeguards

If you think that the rating is wrong or unfair – in other words it does not reflect the hygiene standards at the time of your inspection – you have 14 days in which you can **appeal** against this. You should appeal in writing to the Lead Officer for Food, Christine Ditchburn, but I would recommend that you please get in touch with me first so that I can help you to understand how your rating was worked out.

If you have improved hygiene standards since your inspection, or if there were unusual circumstances at the time of the inspection that might have affected your food hygiene rating, you have a '**right to reply**' so that you can explain this to potential customers that look up your rating online.

If you make the improvements to hygiene standards that are highlighted in your inspection report, you can **request a visit to carry out a re-inspection** with a view to giving you a new and higher food hygiene rating.

More information about these safeguards is provided on the FSA's website at: <http://www.food.gov.uk/multimedia/pdfs/enforcement/fhrssafeguards.pdf>

Where may I get further information?

Further information about the scheme generally is available on the FSA's website at: www.food.gov.uk/ratings

Appendix 2
Objection from Trading Standards

Objection received from Trading Standards:

The particulars for the objection being the sale of cigarettes from the ice cream van and the basis for the objection being the fact that we are currently in the process of prosecuting Angelo Fella for selling cigarettes from his ice cream van to an 11 year old schoolgirl. He has admitted the offence under Caution during interview and is therefore likely to be convicted in Court, irrespective of any mitigation he may put forward. We feel the combining of toxic nicotine products on a vehicle primarily designed to sell sweets and ice cream to children is to be wholly discouraged as this case has proven.

Appendix 3
Letter from Bennett Richmond Solicitors

Bennett Richmond

Solicitors and Estate Agents

33 Front Street, Consett, Co. Durham DH8 5AB

Tel 01207 504141 Fax 01207 580408

DX: 61932 Consett

23 Front Street, Lanchester, Co. Durham DH7 0LA

Tel 01207 521843 Fax 01207 529367

DX: 61932 Consett

www.bennettrichmond.co.uk

Our Ref: MD/LMA/F447/1
Your Ref:
Date: 23rd November 2015
e-mail: lisa@bennettrichmond.co.uk

The Licensing Manager
Environment Health & Consumer Protection
Durham County Council
PO Box 617
Durham
DH1 9HZ

DURHAM COUNTY
24 NOV 2015
LICENSING

Estate Agency Tel 01207 599600

Dear Sir

Re: Mr Angelo Fella – Street Trading Consent

We act on behalf of Mr Angelo Fella of

He has consulted us regarding the decision made by the Licensing Authority to refuse the grant of a Street Trading Consent, confirmed in a letter dated 13th November 2015.

We are aware that our client's wife has already written to the Licensing Team Leader to indicate our client's intention to appeal that decision. We shall be obliged if you will kindly accept this letter as formal notice of appeal.

We have noted the objection received from Trading Standards and would make the following observations.

Our client has traded from his ice cream van for many years with an unblemished record.

It is said that the Council is currently in the process of prosecuting our client but he has not received a summons or any other communication from the Court in this regard. Until such time as our client is convicted by a Court, then he is entitled to be treated as a person of good character and it is entirely inappropriate to pre-empt the outcome of Court proceedings which, at this stage, appear not even to have started.

It is said that the combining of toxic nicotine products on a vehicle primarily designed to sell sweets and ice cream to children is to be wholly discouraged.

Partners: Peter Aylmore and Mark Davies

Assistant Solicitors: Jenna Lowes, Joanna McCowey

Property Manager: Kate Watkins

Authorised and regulated by the Solicitors Regulation Authority (Ref No 325917)

Members of: Police Duty Scheme, Court Duty Scheme & Resolution.



However, the Council will be aware that this activity is common place and is undertaken by operators of ice cream vans throughout the region, many of whom, we believe, will be the holders of consent granted by the Council.

We look forward to hearing from you.

Yours faithfully

Mark Davies
Bennett Richmond Solicitors

Appendix 4
Letter from Craig Rudman, Licensing Manager

Contact: Craig Rudman
Direct Tel: 0300020090
email: craig.rudman@durham.gov.uk



Your Ref: MD/LMA/F447/1

Mr Mark Davies
Bennet Richmond Solicitors
33 front Street
Consett
Co Durham
DH8 5AB

Friday 4th December 2015

Dear Mr Davies,

Re: Appeal by Mr Angelo Fella of

I write in connection with the appeal by your client Mr Angelo Fella against the Council's refusal to grant him a street trading consent.

In accordance with adopted policy I have brought your letter of appeal and all relevant documentation to the attention of the Officers of Durham County Council's Trading Standards section. I requested their reconsideration of your client's original application in combination with the information you subsequently provided on behalf of your client in response to Trading Standard's original objections.

The following paragraphs in italics are taken directly from the main body of the response provided to me by Trading Standards following this appeal:

The Trading Standards Service would object to this application for the following reasons:

The Service has been investigating the supply of tobacco products by Mr Fella from his ice cream van. Whilst specific details of that investigation cannot be fully disclosed at this stage it has been our findings that tobacco has been supplied by Mr Fella to underage children believed to be as young as 8 years, 11 years and 13 years on at least two occasions in July 2015. It is on this basis that formal action is being progressed.

It is accepted that there are a number of Ice Cream vans in County Durham which sell cigarettes, and whilst ideally as a Service, Trading Standards would prefer such items weren't distributed from vehicles which are traditionally so child-appealing we would contend that most retailers take their responsibility of supplying age restricted products such as tobacco very seriously.

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Licensing, PO Box 617, Durham, DH1 9HZ
Main Telephone 03000 265101

www.durham.gov.uk



Anyone supplying age restricted products should take all reasonable steps to prevent the products being bought or becoming available to those under age. Our program of reactive and pro-active test purchasing from such vehicles is testament to this. Each application will therefore be given due consideration on a case by case basis taking account all known factors at the time. Our investigation has shown that Mr Fella does not exercise the necessary professional diligence to satisfy Trading Standards that he understands the seriousness and consequences of his actions in supplying tobacco products to children under the age of 18 years.

Evidence shows that supplying tobacco products to under 18s is a practice Mr Fella has engaged in for some time – certainly with one particular family. It is our opinion that Mr Fella fails to demonstrate that he understands the seriousness of his actions, and in some instances, believing that if the children told him the cigarettes were for older family members then it was perfectly acceptable to hand them over. In view of this, our concerns would also extend to his supply of other aged-restricted products, including DVD's and video games.

For the purposes of clarification - cigarettes, tobacco and cigarette products, together with any other age-restricted products would be the only elements of the application to which Trading Standards continue to make an objection.

It is clear that DCC Trading Standards do not consider that your client should be granted a consent to sell age restricted products including cigarettes, tobacco and cigarette products in the street. They do not however object to your client holding a street trading consent which relates to the sale of products that are not age-related e.g. ice-cream, confectionary etc.

I have also given full consideration to the information provided by you and your client in relation to this matter. Based on this and the information provided by Trading Standards I am of the opinion that currently TS hold sufficient evidence of apparent impropriety on behalf of your client in connection with the sale and or supply of tobacco products to children to warrant enforcement action and the consideration of legal proceedings.

This situation raises significant concerns in relation to your client's ongoing suitability to hold a street trading consent that includes authorisation to sell cigarettes, tobacco and cigarette products and other age-related products in the street.

The grant of a street trading consent is a matter that falls within our discretion. Our policy requires that applicants should always ensure that they comply with the requirements of any other relevant legislation, which may influence their business. The overriding purpose of Licensing Services is the protection of the public and in particular, the protection of children and those who may be vulnerable.

I therefore consider that it is at this stage it is appropriate that we continue to refuse to grant your client a street trading consent because the application includes the sale cigarettes, tobacco and cigarette products and other age-related products. To be clear, subject to any further change in circumstances, we would not refuse to grant a street trading consent to your client for the sale of other goods if he withdrew his application to sell cigarettes, tobacco and cigarette products and other age-related products.

In accordance with adopted street trading policy, following my refusal to grant a street trading consent, upon the applicants request I will arrange for his application together with

any written representations received to be considered at a hearing before the General Licensing Committee.

The General Licensing Committee may grant consent and impose any conditions as may be necessary or refuse to grant consent. Please note, there is no statutory right of appeal against a decision made by the committee concerning street trading consents.

Should you wish to appeal this decision please contact me in writing and I will make the necessary arrangements for the committee to give consideration to this matter. In the meantime, should you wish to contact me please do not hesitate to do so however, for recording purposes I do ask that all communications regarding this matter be in writing.

Yours faithfully

Craig Rudman
Licensing Manager

Appendix 5
Additional Information from Trading Standards

**DURHAM COUNTY COUNCIL – CONSUMER PROTECTION
ENVIRONMENT, HEALTH & CONSUMER PROTECTION**

STATEMENT OF WITNESS

(Criminal Procedure Rules r. 27.2; Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Claire Brown
AGE: (if over 18 enter "over 18"): Over 18
OCCUPATION: **Business Intervention and Liaison Officer**
ADDRESS: C/O Durham Trading Standards, Annand House, Meadowfield,
County Durham, DH7 8RS

This statement consisting of page(s) 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 to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the day of 2015

Signed

I am a Business Intervention and Liaison Officer, employed by Durham County Council's Trading Standards Service. I am authorised under the The Children and Young Persons Act, 1933, and the Children and Young Persons (Protection from Tobacco) Act 1991.

On 8th July 2015, at approximately 3.30pm, I was with my colleague Gillian Seed in a vehicle situated at the top of Harperley Gardens, Catchgate, Stanley, County Durham. At around 3.40pm I saw a Roma Ices ice cream van pull into Harperley Gardens and turn round at the top before stopping so it was facing the rear of our vehicle. After a short while, a young girl in school uniform approached the van. I would describe her as between 10 and 11 years of age, long dark hair in a ponytail, approximately 4'9" tall, wearing a dark pink coloured school jumper. I observed and recorded her activities at the ice cream van through the nearside wing mirror of our vehicle. She made a couple of visits back and forth to the van and on one occasion it was clear to see that she left the van with 2 packets of cigarettes in her hand before returning to the house she had come out of in Harperley Gardens. I now produce still photographic images of the ice cream van and the young girl making this purchase in evidence as the following Exhibits: CB/1, CB/2,

CB/3, CB/4, CB/5 and CB/6. Later that same day, I also produced two still shots from footage obtained by my colleague, Gillian Seed, also on 8th July 2015. I now produce these photographs in evidence as Exhibit Nos. CB/7 and CB/8. Where necessary, faces in all these images were pixelated to protect identities, with the exception of CB/8 which shows a man I now know to be Angelo Fella at the window of his ice cream van.

On 21st August 2015, together with my colleagues, Gillian Seed and Karen Warrior, I interviewed Angelo Fella at Annand House, Meadowfield, Durham, under the provisions of the Police and Criminal Evidence Act 1984. On Monday 7th September, I printed off two further stills from my previous footage, this time without the faces pixelated to enable ease of recognition. I identified these two Exhibits as CB/5A and CB/5B. Later that day I accompanied my colleague, Gillian Seed, when she visited Catchgate Primary School, Catchgate, Stanley, County Durham, to take a Section 9 statement from Headteacher, Joanne Shaw. I then took no further part in the investigation.



EXHIBIT NO: CB/1



EXHIBIT NO: CR/2



EXHIBIT NO: CB/3



EXHIBIT No: CB/4



EXHIBIT No: CB/5



00377

8.07.2015

15:57:18

FAKM-006

EXHIBIT No: 0816



EXHIBIT No: CR/7



EXHIBIT No: CB|8

FAKM-006

**DURHAM COUNTY COUNCIL – CONSUMER PROTECTION
ENVIRONMENT, HEALTH & CONSUMER PROTECTION**

STATEMENT OF WITNESS

(Criminal Procedure Rules r. 27.2; Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Gillian Seed
AGE: (if over 18 enter "over 18"): Over 18
OCCUPATION: Snr Trading Standards Officer
ADDRESS: C/O Durham Trading Standards, Annand House, Meadowfield,
County Durham, DH7 8RS

This statement consisting of page(s) 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 to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the day of 2015

Signed

I am a Senior Trading Standards Officer employed by Durham County Council's Trading Standards Service. I am authorised under the The Children and Young Persons Act, 1933, and the Children and Young Persons (Protection from Tobacco) Act 1991.

On 8th July 2015, at approximately 3.30pm, I was in a vehicle in the vicinity of Harperley Gardens, Catchgate, Stanley, County Durham with my colleague, Claire Brown when I witnessed an Ice Cream Van, called Roma Ices pull up close by. After a short while, a young girl in school uniform approached the van. I would describe her as between 10 and 11 years of age, long dark hair in a ponytail, approximately 4'9" tall, wearing a cerise coloured school jumper. She made a couple of visits back and forth to the Roma Ices van and on the final visit as she left the ice cream van and walked back to the house she had come out of in Harperley Gardens, I was able to see she had 2 packets of cigarettes in her hand. I later requested my colleague, Claire Brown produce still shots from footage taken by me on this day. One shows the young girl buying milk at the van which is identified as Exhibit No. CB/7 and the other shows Angelo Fella at the open window hatch of his Roma Ices Van, with a

Statutory Tobacco Notice displayed above his head. This photograph is identified as Exhibit No. CB/8.

On 13th August, 2015, I sent a letter to Angelo Fella, at

owner of Roma Ices and invited him to attend formal interview. I produce a copy of this letter in evidence as Exhibit No. GS/1. Mr Fella contacted me by phone to make arrangements and explained his lawyer would also be present. The interview took place on 21st August 2015 at Annand House, Meadowfield, Durham, under the provisions of the Police and Criminal Evidence Act 1984. I gave written disclosure prior to commencement of the interview, to Mr Fella's solicitor, a copy of which I now produce in evidence as Exhibit No. GS/2. At the end of the first interview the Disc was given the reference number 15/22/GS and I now produce a transcript of the interview in evidence as Exhibit No. GS/4. A second interview took place immediately after the first, with a second disclosure provided to Mr Fella's solicitor beforehand, a copy of which I now produce in evidence as Exhibit No. GS/3. At the end of this second interview, the Disc was given the reference number 15/23/GS and I now produce a transcript of the interview in evidence as Exhibit No. GS/5.

On Monday 7th September, together with my colleague, Claire Brown, I visited Catchgate Primary School, Catchgate, Stanley, County Durham, where I spoke with the Headteacher, Joanne Shaw. I took details for a Section 9 Statement from Mrs Shaw which I later forwarded to her for signature.

Helen Johnson - Licensing Team Leader (N'hoods)

From: Gillian Seed - Senior Trading Standards Officer (N'hoods)
Sent: 18 January 2016 15:33
To: Helen Johnson - Licensing Team Leader (N'hoods)
Subject: FW: S9 Roma Ices

This is just a qualifier from the witness, Lee Redmayne, in relation to the children mentioned in his statement – he was meant to provide a follow-up statement but has yet to do so. I will need to chase this up before court, but this being a civil matter, I expect I could use this email below anyway ?

Gillian Seed
Senior Trading Standards Officer
(Safety & Metrology)
Durham County Council
Annand House
John Street North
Meadowfield
Durham, DH7 8RS

Correspondence Address:

Durham County Council
Trading Standards Service
EHCP
PO Box 617
Durham
DH1 9HZ

From: Lee Redmayne
Sent: 23 November 2015 14:15
To: Gillian Seed - Senior Trading Standards Officer (N'hoods)
Subject: Re: S9 Roma Ices

Hi Gillian

Neither were in school uniform. The female I know now to be the daughter of my direct neighbour in (don't recall surname). The boy I vaguely recognised as playing in previously but can't confirm where he lives.

Hope that helps?
Lee

On 23 November 2015 at 14:06, Gillian Seed - Senior Trading Standards Officer (N'hoods) wrote:

Hi Lee,

I'm just in the process of the finalising the case file for Roma Ices and looking at your statement – I just have a query – do you happen to know the 2 children you mention ? Or even if you don't know them, do you recognise them by sight from _____ ? Were they still in school uniform do you recall ? We're just trying to establish your certainty of their age that's all.

Thanks,

Gillian

Gillian Seed

Senior Trading Standards Officer

(Safety & Metrology)

Durham County Council

Annand House

John Street North

Meadowfield

Durham, DH7 8RS

Correspondence Address:

Durham County Council

Trading Standards Service

EHCP

PO Box 617

Durham

DH1 9HZ

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [] [] [] []

Statement of: Lee REDMAYNE

Age if under 18: 18 (if over 18 insert 'over 18')

Occupation: Police Officer

This statement (consisting of one page(s) 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 to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness) Date: 06/07/2015

I am Special Sergeant 3459 of Durham Constabulary currently posted to Cleveland & Durham Specialist Operations Unit Road Policing Unit. Spennymoor.

On Wednesday, July 1st, I was off duty and in [] Catchgate, Stanley. Around 16:30 I observed a white ice cream van marked with "Koma Ices" enter the street and play their jingle to announce arrival to the street. As it was a hot and humid day I decided I was going to purchase an ice cream from the van.

The van turned into [] and then reversed back into the corner next to the rear of number []

I approached the van to the side serving window where a young male aged around 8-9 years was at the window and a female aged around 13 years were in line for being served. As I got near, what became very apparent is that instead of an ice cream or lolly being served to the young male, he was given a packet of silver cigarettes in a 20 pack, to which the male then walked away with them towards the rear of the van.

The female then approached the van and I saw that the van was occupied solely by a male around his 50s, with grey hair and glasses. I did not hear what the female asked the male for, however she handed a £20 note to him, the male reached above the serving window and handed two silver 20 packs of cigarettes and change to the female. The female then departed towards the front of the vehicle.

I proceeded to purchase an ice cream from the male who seemed to struggle with the soft serve ice cream dispenser.

At no point during the purchase by either child did I notice that that male had challenged them to confirm their age, although there was no doubt to me or the reasonable person that either of these children were below the age of 18.

Signature: Signature witnessed by:

Signature: Signature witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

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Statement of: Lee REDMAYNE

Age if under 18: 18 (if over 18 insert 'over 18')

Occupation: Police Officer

This statement (consisting of one page(s) 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 to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness) Date: 19/01/2016

I am Special Sergeant 3459 of Durham Constabulary currently posted to Cleveland & Durham Specialist Operations Unit Road Policing Unit, Spennymoor.

Further to my statement regarding the activities that occurred on Wednesday, July 1st, I wish to add the following information.

The two children that attended the van of Roma Ices were not dressed in school clothing at the time, but had been seen by me before whilst attending the Catchgate area.

I have seen the female at other times, before and after the event, in a purple school uniform, that I believe of North Durham Academy.

The male I had seen previously playing around the same area. The male was without doubt far younger than the female.

Signature: Signature witnessed by:

Signature: Signature witnessed by:

DURHAM COUNTY COUNCIL — CONSUMER PROTECTION
ENVIRONMENT, HEALTH & CONSUMER PROTECTION

STATEMENT OF WITNESS

(Criminal Procedure Rules r. 27.2; Criminal Justice Act 1967, 5.9,
Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Joanne Shaw

AGE (if over 18 enter "over 18"): Over 21 years

OCCUPATION:

ADDRESS: C/O Catchgate Primary School, Blackett Street,
Catchgate, Stanley, County Durham, DH9 8LX

This statement consisting of 2 page(s) 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 to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day of October 2015

Signed

I am the Head Teacher of Catchgate Primary School, Blackett Street, Catchgate, Stanley, County Durham. I have held this position for 8 years. The age range of the pupils at the school is 3 years to 11 years including early years nursery.

On Monday 7th September, 2015, I met with Gillian Seed and Claire Brown of Durham Trading Standards. The officers showed me some photographs, identified as Exhibit References CB/5A and CB/5B of the same young female child and asked me if I was able to identify the child as being a pupil at my school.

I immediately recognised the child pictured, as being a pupil at this school. I was advised by the officers that the photographs were taken on 8th July 2015.

The child I am able to positively identify in these photographs is female, with long brown hair, tied in a ponytail and she is wearing a Catchgate Primary School uniform.

Signed:

STATEMENT OF:

Continuation Sheet 1

At the time these photographs were taken, this child would have been 11 years and 9 months of age and in Year 6 at the school — her date of birth is

Signed:...

RECORD OF INTERVIEW [NAME]

Person Interviewed:	Angelo Fella (AF)		
Place of Interview:		Number of Pages:	6
Signature of Interviewing Officer:			
Date of Interview:	Twenty first of August, two thousand and fifteen		
Time Commenced:	Eleven zero three	Time Concluded:	Eleven twelve
Duration of Interview:	Nine minutes twenty six seconds		
Interviewing Officer(s):	Gillian Seed (GS), Senior Trading Standards Officer Karen Warrior (KW), Durham Trading Standards		
Other Persons Present:	Claire Brown (CB), Durham Trading Standards Harry Harrison (HH), Tait Farrier Graham		

Person Speaking	Text
GS	Okay, this interview is being tape recorded. My name is Gillian Seed, I'm a Senior Trading Standards Officer with Durham County Council. The date is the twenty first of August, two thousand and fifteen, and the time is eleven zero three. Um, I'm just going to ask everybody else in the room to just introduce themselves, starting with my colleagues here, please?
KW	Karen Warrior, Durham Trading Standards.
CB	Claire Brown, Durham Trading Standards.
GS	And yourself, please?
AF	Angelo Fella.
GS	And your date of birth, please, Mr Fella?
AF	
GS	And your address please?
AF	
GS	Okay, and your legal rep, please?
HH	I'm Harry Harrison from Tait Farrier Graham in, er, Gateshead.
GS	Okay. I'm just going to caution you, Mr Fella. Um, you do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court and anything you do say may be given in evidence. Do you understand that caution?
AF	Yeah.
GS	Basically, what that does mean is, um, that you don't have to talk to me or answer any questions today, um, but it does also mean that if you choose not to give an explanation now and the case does go to court and then you do give an explanation in court then the court's entitled to ask such questions as, are you being honest and why didn't you say any of this before, and, is what you're saying now the truth and can we really believe what you're saying? So do you understand the implications of...

AF	Yes.
GS	...remaining silent today? Okay. Right, I'm just going to ask you a few questions, a few simple questions. Um, what, um, what's your employment?
AF	I'm an ice cream salesman.
GS	Is that your only employment?
AF	Yeah, have been for over 40 years.
GS	Okay, do you just, um, have one ice cream van?
AF	Yeah. Just one van.
GS	Okay, um, and what's the trading name of the ice cream van?
AF	Roma Ices.
GS	Could you speak up a tiny bit for the tape?
AF	Roma Ices.
GS	Roma Ices, okay. And what's the registration plate of Roma Ices?
AF	
GS	Okay, er, are you the only one who drives that ice cream van?
AF	Yeah.
GS	So you don't have any employees, as such?
AF	No.
GS	Okay. Do you drive that on a daily basis?
AF	I work seven days a week till half ten at night.
GS	Okay, so what time do you normally start work?
AF	Er, normally about twelve o'clock but on a Sunday, er, earlier, because I do a car boot sale before I start my round.
GS	Okay. If I just ask you just to speak a little bit more clearly...
AF	Yeah.
GS	...because it's, it is fuzzy on the tape anyway. So we're, we were talking...you would normally start about twelve o'clock daytime...
AF	Till half ten, yeah.
GS	...and you would finish...
AF	Half ten.
GS	...at half ten at night. And that's seven days a week?
AF	Aye.
GS	And you are the only driver of that van?
AF	Yeah.
GS	Okay.
KW	What car boot is it that you go to, Angelo?
AF	I used to go to the [inaudible 0:02:56.1] car boot sale, I've done that for about 20 years but, er, this year I've only been once because, er, they're opening another one Seaham...
KW	Right.
AF	..and, er, we used to have three vans on down there years ago...

KW	Right.
AF	...and they have...and all the people that used to go to the parties is now going on over to Seaham...
KW	Right.
AF	...because they start at four...like, twelve o'clock and you don't have to get up at five o'clock in the morning...
KW	Yeah.
AF	...to go to them, so. The last few...the last three years I've been losing money down there all the time.
KW	Right, okay.
AF	I've done it for twenty years and I've just kept it going and going...
KW	Just...yeah, yeah.
AF	...and it's got to a stage now where I just can't do it anymore.
KW	Yeah, yeah.
AF	So, there was about twenty or thirty cars there [inaudible 0:03:35.7] and you can't beat that.
KW	No.
AF	You can't beat that anymore, so...
KW	Okay. So are you going to go over to Seaham now then or are you just not going to...
AF	No, he's got somebody else on at Seaham...
KW	Right.
AF	...and he won't let me on at Seaham, so...
KW	Right, okay. Yeah.
AF	I'm stuck without it.
KW	Twenty years, that's a long time, isn't it?
AF	Mm.
GS	So you just stick to, kind of...is it, is it mainly Catchgate you? It's it mainly Catchgate, Stanley...
AF	Catchgate, South Stanley and East, er, East Stanley.
GS	Okay.
AF	The same round every day.
GS	Right, okay.
AF	The same streets every day.
GS	What do you sell on the ice cream van?
AF	I've got sweets, pop, crisps, lollies, ice cream, cigarettes.
GS	Okay, so you, so you sell cigarettes on the ice cream van?
AF	Yeah.
GS	Um, what's your understanding of the law regarding the sale of cigarettes?
AF	You've got to be eighteen.
GS	You've got to...can you just speak up?
AF	You've got to be eighteen.

GS	Eighteen, okay. Do you have any kind of notices or anything on the ice cream van?
AF	Yeah, there's one in the van.
GS	There is one in the van, is it?
AF	Yeah, yeah.
GS	Um, without knowing it word for word, what roughly does it say?
AF	It's illegal to sell tobacco products to someone under the age of eighteen.
GS	Okay, and where, where roughly have you got that in the van?
AF	It's right in front of you, you can't miss it. It's right in front of you.
GS	Okay. Okay, I'm just going to ask you some specific questions. We're going back a few weeks, to be fair, so your recollection mightn't be too good. Um, on the eighth of July, um, we...there, there's an allegation that you may have been, um, in the area of The Ridings. Is that a familiar patch to you?
AF	Yeah.
GS	Yeah. Um, would you be aware of, um, an allegation that you may have been selling, um, cigarettes to children in that area, on that day?
AF	I'm what?
GS	Cigarettes to children.
AF	Children, yeah.
GS	Yeah?
KW	Are you aware of an allegation of, of that being made? Has anybody confronted you before?
AF	No, no, no.
KW	No? Nobody's...
AF	No.
KW	...sort of, um, stopped you and said, why are you selling cigarettes to...
AF	No, nobody.
KW	No?
GS	What, what about a week before? Well, roughly a week before that, on the first of July. Um, again, same kind of area, um, The Ridings. It's a sort of fairly new estate, isn't it?
AF	Yeah.
GS	Um, again, an allegation of selling cigarettes to, to children...
AF	No, no way.
GS	...we're obviously talking under the age of eighteen again.
AF	No.
GS	No?
AF	Nobody, no.
GS	Have you ever sold, whether knowingly or, or unknowingly, sold cigarettes to anyone that you possibly thought could have been under the age of eighteen years?
AF	No, not on the van, no van.
GS	No?
AF	No.
GS	Quite sure of that?

AF	Yeah.
GS	Yeah? Would you...if you had any doubt at all, would you always ask for ID?
AF	I usually ask them for ID if I don't know them really regularly, no. Like, I've got regular customers, I've known them for forty years. I've seen these children grow up into adults and then I've seen their children growing up again.
GS	Right.
AF	I've got a good relationship with all my customers. I mean, you're talking forty years. This is the first thing I've had in forty years.
GS	Right, so if you, if you knew the child really well, for instance, would you sell the child cigarettes then?
AF	Not to the child I wouldn't, no.
GS	No?
KW	What, what sort of ID would you look for, Angelo? What, what would you accept?
AF	I ask for ID, I've asked loads of people. If I don't know them regularly I'll ask them for ID, right, but...
KW	Okay, and what would you...what would they normally produce? What are you happy with?
AF	Driving licence, but you can get them off the internet anyway...
KW	Yeah, yeah.
AF	...you can just print them off...
KW	Yeah.
AF	...you go to...I know fourteen, fifteen year old who are going to the clubs now, you know what I mean?
KW	Yeah, so if...
AF	False ID, you just get it on the internet.
KW	Yeah. Yeah, so what would you, what would you be happy that they brought, if you were, if you were a bit unsure?
AF	Well, what can you...if they fetch ID...er, a driving licence, you expect it to be right, you know what I mean?
KW	Yeah, uh-huh. Was...
AF	But you can get them off...you really, you're in the black again, aren't you?
KW	Yeah. So is that what you rely on, then? Just some photo ID of any description or...
AF	Some photo ID, anything like that.
KW	Okay.
CB	Do you get many children coming and asking for cigarettes?
AF	Not many because I chase them, you know? I sell energy drinks on the van as well and I refuse to sell them because I know...I drink them now and...very, very rarely, at odd times, and I feel my heart pounding, you know...
KW	Right.
AF	...when I take that. So I'm really strict with that but I think...they say, well, I can get them at the corner shop. I say, well, go to the corner shop. Any corner shop sells energy drinks, you know what I mean?
GS	What would you do, say, if a young kid asked for cigarettes and said they were for their mum, their dad, whatever?
AF	[Sighs] I've got to know them really, really well, and I know the regulars and...except they would never get them.
GS	They still wouldn't get them?
AF	No.

GS	You still wouldn't sell?
AF	No.
GS	Okay.
AF	They've got to be, like, people I really, really, really...known them for twenty years, you know what I mean, and I know it's for them. [inaudible 0:08:27.4]
KW	Right.
AF	I'm very strict with stuff like that, even stricter on them energy drinks, you know? I've known these customers for forty years. I've grown up with them.
GS	Okay.
AF	You know? My, my daughter lives in that estate as well, you know what I mean?
GS	Mm hmm. Okay. Um, anything else?
KW	No, I think it's...yeah.
GS	No? I think you've answered the questions we had there actually.
KW	We just...yeah, we just need to do some...
GS	Yeah. Yeah?
KW	Yeah.
GS	Anyone got anything else to add at that point?
HH	No.
GS	No? Do you want to add anything else at that point, Mr Fella?
AF	I have nothing else to say.
GS	Um, I'm going to stop this interview there, um, I'm going to terminate now. Um, the time is eleven twelve AM.
	[Recording ends here]

RECORD OF INTERVIEW ANGELO FELLA

Person Interviewed:	Angelo Fella (AF)		
Place of Interview:	Annand House, Meadowfield	Number of Pages:	Seven
Signature of Interviewing Officer:			
Date of Interview:			
Time Commenced:	Eleven thirty seven	Time Concluded:	Elven forty nine
Duration of Interview:	Twelve minutes		
Interviewing Officer(s):	Gillian Seed (GS) Senior Trading Standards Officer Karen Warrior (KW)		
Other Persons Present:	Clare Brown (CB) Harry Harrison (HH) Tait Farrier Graham Solicitors		

Person Speaking	Text
GS	Okay, this interview is being tape recorded, my name is Gillian Seed, I'm a Senior Trading Standards Officer with Durham County Council. The time is eleven thirty seven and we are interviewing at Annand House, err, Meadowfield and I'll just ask everyone else in the room just to introduce themselves starting with my colleagues here please?
KW	Karen Warrior, Durham Trading Standards.
CB	Clare Brown, Durham Trading Standards
GS	And yourself, Mr Fella.
AF	Angelo Fella.
GS	And your date of birth again please.
AF	
GS	And your address please.
AF	
GS	And your brief as well please.
HH	I'm Harry Harrison from Tait Farrier Graham Solicitors in, err, Gateshead.
GS	Okay. We're just continuing on with a previous interview, erm, which started eleven O three, erm, same day, erm. I'm just going to remind you you're under caution, Mr Fella, I'm going to repeat the caution, erm. You do not have to say anything, err, but it may harm your defence if you do not mention when questioned something which you later rely on in court and anything you do say may be given in evidence. Do you still understand that caution...
AF	Yeah, yes.
GS	...as I explained it fully previously, okay. Erm, right, okay. Erm, I just want to, erm, just go through your previous answers to the interview you gave a short while ago when obviously you confirmed to us that you wouldn't sell cigarettes to anybody under the age of 18, erm, do you want to add anything or change anything to that interview?
AF	Erm, err, the Ridings, the family come out, yeah...

GS	Yeah.
AF	...I've known them since I've grown up, they send their son out, who is about...I think they've got a daughter about twelve, thirteen, fourteen, their son is about fourteen. The mother is in the house, they come out the...out the French windows and they come out and can my mother borrow forty tabs? And they come and get the tabs and take them back to the house and then the mother comes and pays for them two weeks later. As for the one in [inaudible 2:10] Harperley Gardens, Harperley Gardens is where their grandma lives and she takes her tabs on as well, she'll send the kid out. She, nine times out of ten, she'll come out and get them, odd times, the children from the Ridings they have their grandma around there and can my grandma borrow two packets until Friday and then they take them in and she pays for them the following week. [I'm guilty and that's all I can say. 02:31]
GS	Okay. Erm, I'll tell you...I'll tell you the information we have, is that obviously as you said there, the Ridings, erm...
AF	It's [redacted] daughter.
GS	We have...we have a statement, erm, from a PCSO actually who was in the queue behind some children who, he says, to...to his, erm, from his judgement were probably about eight or nine years old and, erm, he says you actually sold them, so money exchanged hands, you sold them, erm, cigarettes on that occasion, on the first of July, erm, so that is quite young, that is quite young.
AF	They come and buy ice cream, but they take...they take the cigarettes off, they don't buy, like, they don't buy...they're people's cigarettes, they're buying ice cream, the cigarettes that they're getting, they take in [init 03:25]
GS	We need to clarify that. Erm, the incident on the eighth of July, the Harperley Gardens one, we've actually got...I'll just show you some footage, I'm just introducing some exhibits here, erm. We've got, just for the benefit of the tape here, I'm just showing Mr Fella and his solicitor exhibit CB/2 and it shows a young girl...
AF	That's her...that's her daughter.
GS	Yeah.
AF	That's her daughter.
GS	At your ice cream van. CB/3, the young girl again, so you recognise this girl.
AF	Yeah, yeah, it's her daughter.
GS	CB...okay.
AF	She comes out and picks them up. She's got a son.
GS	CB/4 in particular there.
KW	What do they...what do they call her mum, did you say, Angelo?
AF	I don't know what the mum's called, but the...
KW	So the grandmother.
AF	The grandma is called [redacted] err, I don't know who lives in, err, the Ridings.
KW	And do you know [redacted] surname?
AF	I don't know, I just know them by their [son and there's a 4:27] cousin.
KW	Right, okay.
AF	That's her daughter.
GS	Erm...
KW	And do you know that girls name?
AF	I don't know her name.
GS	See that's a...

AF	There's five...there's five...that's her daughter.
GS	That's a good shot there, CB/5.
AF	That's her daughter.
GS	You see what concerns us here is that girl is in school uniform and we've checked that uniform, it's a primary school uniform which means that she is no more than eleven years old.
AF	Yeah, she takes them off for her grandma.
GS	Could be younger.
AF	You can go and ask them now.
GS	I'm not doubting that, but the law says that you can't sell cigarettes to anybody under eighteen, now she can be no more than eleven.
AF	I know. She's [inaudible 05:02]
GS	She can be no more than eleven.
AF	I wasn't selling her the cigarettes, it was taken to her grandma. [Inaudible 05:06] You're wasting my time.
GS	Okay, well I'm not going to...I'm not going to make it any harder for you then, okay.
AF	I've known these people for years, the grandmother is one of them.
KW	But you can see that...
AF	Yeah, I know...
KW	...the way that the law...
AF	Yeah I know your point [Inaudible 5:25]. I know.
KW	...is...is worded, that...
AF	Guilty, guilty. Look I'm guilty and that's all I'm want to say, I'm not wasting my time just...
KW	Because with the best will in the world, although you say...
AF	Yeah.
KW	...twenty years, you know the people, and things like that. The other...the other side of the coin is that those kids might not be smoking themselves, but it's well known now that they do, you know, the kids, that's how it works, isn't it.
AF	I know, mmhmm, I'm very strict with cigarettes and them people take them [inaudible 5:48].
GS	The problem is if these kids know how easy it is to get them from you...
AF	Yeah, but...
GS	...who's to say next week they might...
AF	...they're not...not purch...I would sell...I wouldn't dream of selling them to a child that age, cigarettes.
GS	But you have.
AF	I haven't sold them, I've taken them [inaudible 6:01].
GS	You haven't sold them you've what?
AF	Take them [off 06:06] and they're paying for them.
GS	But the kids still walking away from your van with cigarettes.
AF	Yeah, but they're for their grandma.
GS	They've still got...yeah.
AF	I know...

GS	Still got them.
AF	I know, I'm guilty, I'm not going waste your time, I'm not going to waste yours time.
GS	We're just trying to...I know it's...I know you're trying to counter argue it, but from...this is...this is why the law is the law, this is why it's written the way it is. This...this eleven year old, ten year, nine year old, we don't know how old she is yet, but she's been able to get these from you. Who's to say next week she might not think to herself, you know what, I fancy one of these. I know how easy it is to get them, do you know what I mean?
AF	She wouldn't buy them off me, she wouldn't get them off me.
GS	She can get them off you, she's got them off you.
AF	She...
GS	She's got them off you, hasn't she?
AF	...she takes them home not bought them.
GS	No, but she's got them, she's got them, she's got them in her hand.
AF	Oh, she's took them, yes she has def... [voices overlap 6:44].
GS	She's got them in her hand.
AF	Yes she has.
GS	Hasn't she?
AF	For her mother, yeah, yeah.
GS	She's got them, yeah.
KW	So is your...is your mindset that because she hasn't handed over the cash, even though we've got a statement from the police officer saying that that's actually happened...
AF	She come...
KW	Is your mindset that because she hasn't handed cash over that she hasn't bought them, is that what you're thinking?
AF	Yeah. They come out and buy the ice cream, the money they have is right, about...
GS	It's irrelevant whether cash exchanges.
AF	I know, I know, I know, I know, look, I'm not...we're wasting each other's time.
GS	It's the fact she's got...we're just trying to...
AF	I know, I know, I know.
GS	I acc...I accept that you've...you've...you've...you've said you've done it, but we're just trying to explain to you...
AF	You can go and ask, check with the mother.
GS	...whether the money has changed hands or not, this child has been able to obtain cigarettes from you and the whole point of the law is to stop kids being able to access cigarettes so readily from people like yourself. How she's got them is irrelevant, it's irrelevant, she's been able to get them so easily from an ice cream van, so easily.
AF	Yeah.
GS	How easy was that for her, how easy? She came to you first of all she got some milk.
AF	Yeah.
GS	She came back she got some sweets or some ice cream or something, we watch...we watched her for a long while.
AF	Mm.
GS	She came back and she got some cigarettes.
AF	Yeah, to take them home for her mum.

GS	It doesn't matter how she got them [laughs].
AF	I know, I know, look...look...
GS	It doesn't matter.
AF	I'm guilty, just...
KW	See there's a similar offence for if somebody, if you had a corner shop or even your ice cream van for somebody then to be an adult of eighteen, nineteen, to then come to your...to you to buy the cigarettes, to then pass the cigarettes, they're...they're...you sold them, an eighteen year old, those cigarettes, but then they've passed those cigarettes, it's the same thing. They haven't sold them anything, but they've passed those cigarettes on which essentially is, although you're saying, no money has changed hands, that's exactly what you've done.
AF	I know their fucking mother, because she come out fucking two week...two weeks later and paid for them.
GS	Next week she might fancy one herself.
AF	But who is going to pay for them then?
GS	It doesn't matter about paying, paying is irrelevant, the money side of things is irrelevant, it's how she obtains them and...and the ease with which she obtains them, that's the crucial thing here and if she's able to obtain these from you so easily off an ice cream van, that's the issue here, that she has access to a ready supply of cigarettes. She can say they're for whoever she wants, but she's able to get those off your ice cream van. She might not go home, she might walk to the back sheds and she might light up, another kid hooked, because she's been able to get them from you so easily and that's the whole point of the law, that's the point of it. That's why kids aren't supposed to buy cigarettes under 18. Trying to keep kids healthy, that's the point of it.
AF	So do I, that's why I don't sell them.
GS	It's not about selling...
AF	She...she's...I know, I know.
GS	It's not about selling.
AF	I'm just pointing out...
GS	The definition of sell in law isn't about exchanging money, you can give them away. It's not about money.
KW	It's that...it comes back to that sign above your head in your ice cream van, that sign that says...
AF	I know, yeah.
KW	...don't...the one that you see very day...
AF	Yeah, yeah.
KW	That's what you've gone against.
AF	Fair enough, I'm guilty, I [fell for it 09:38]. No disrespect, I've given you police officers a list of houses selling duty free cigarettes on my round, to any Tom Dick and Harry and you have done nothing.
KW	Can you give it to us?
GS	We've done an awful lot.
KW	Can you give it to us?
AF	Why should I after today, if I all yous have done to me [inaudible 9:54]. You've crucified us, you've tret us like a criminal.
GS	You've committed an offence.
AF	What giving kids it for...for their ma.
GS	Yeah, you've committed an offence.

AF	Aye, aye.
GS	I can read it to you if you wish, do you want me to read the offence out to you?
AF	No, I don't need to go through it honestly. You can go and ask them, go to that child's house, I can take you to the house and I'll take you to her grandma as well.
GS	You don't need to, we saw her go in it, we know exactly where she lives. It's very unfortunate that I don't think you've got a grasp of the enormity of it, because I think you think it's about exchange of money and I'm sure your solicitor could probably explain it more fully to you afterwards, it's not about that at all. The exchange of money is completely irrelevant. It's her ease of access to your cigarettes that's the issue here. It's her being able to go to your ice cream van after she's got a bag of sweets and an ice cream and a pint of milk and say, Angelo, can I now have forty cigarettes please? And you've gone, yeah, here you go.
AF	Yeah.
GS	It doesn't matter that they're for grannie.
AF	I know..
GS	It's irrelevant.
AF	They're for her mother.
GS	Well, mother.
AF	I know, I know, I know.
GS	It doesn't matter.
AF	Just going around in circles here.
GS	We are, but...
AF	I know.
GS	...I'm just trying to emphasise to you, where she goes with those afterward, how she pays, even if she doesn't pay, it doesn't matter, it's the fact that you've passed them to her, that's what it's about. She should never have got them, you should have said to her, you should have said, stand there, here's your milk, here's your sweets, here's your ice cream.
AF	Tell your ma to come out the house. [Voice overlap 11:19].
GS	Tell grandma, mother to come over here and I'll hand them to mother, that's what it's about. She should not have had her hands on those cigarettes. You wouldn't have sold her a bottle of Vodka would you?
AF	No.
GS	There we go, where's the difference? It's still eighteen.
KW	Can we ask you as well where you get your supply of cigarettes from?
AF	[Batleys 11:49].
KW	Batleys was it?
AF	I've got all the receipts.
KW	What...what do you generally stock, Angelo?
AF	Oh, I've got thousands of cigarettes on the van.
KW	Have you?
AF	Yeah. Loads.
KW	Have you? Do you...is it quite a good seller, the cigarettes in general.
AF	Cigarettes, it draws them out. It's not...not...'cause you make pennies on a packet of cigarettes.

KW	Yeah.
AF	Absolutely coppers, it's not worth carrying them.
KW	Yeah.
AF	It's just that they come out in the winter months they don't want an ice cream, they don't want a lollipop, that's what I carry milk for.
KW	Right.
AF	They come out for milk and hopefully they'll buy something else.
KW	Right, okay.
AF	I'm not here to sell cigarettes to children.
KW	Right.
AF	Crucify us, do what you want.
KW	I've got no further questions.
GS	No.
HH	No.
GS	Anything to add, no?
CB	Nothing at all.
GS	Okay, in that case I'll terminate the interview at eleven forty nine.
	[Recording ends here]