

LICENSING SUB-COMMITTEE

DATE: Wednesday 2nd March 2011

Agenda Item No: 4

(Report of the Licensing Enforcement Officer: Michael Moss x7534)

REVIEW

Annual Street Traders Consent: ST/SBC/10/41 Martin Quinlan.

Offence:

Local Government (Miscellaneous Provisions) Act 1982: Schedule 4: Section 10(1) (b) –
Trading on a Consent Street without consent from the Borough Council.

Background:

Martin Quinlan was awarded an annual Street Trading Consent by the Licensing sub-committee on 24th August 2010. The consent permitted the sale of hot food & cold drinks at the rear of the Forum Centre (*the entrance to the old subway*) from Monday to Saturday between 06:00am to 2:30pm; as per Mr Quinlan's application.

Enforcement Action:

On the 27th September 2010 the Licensing Enforcement Officer received a complaint from a resident of Sittingbourne High Street, who was effected by the noise of Mr Quinlan's generator located on Berry Street, Sittingbourne (*unauthorised location*) on Saturday 25th September; the complaint alleged Mr Quinlan was trading until approximately 04:00am; CCTV has confirmed this.

The Licensing Enforcement Officer noticed that same day (27th September), Mr Quinlan's 'Burger Van' appeared to be operating outside of his permitted hours at 4:30pm, no customers were seen but the hatch was open. An advisory letter was sent in accordance with Enforcement Policy.

On 20th October Swale Borough Council's Principle Street Warden witnessed Mr Quinlan trading at 15:03hrs. Kent Police also reported Mr Quinlan trading the same day at 15:30hrs; CCTV confirmed Mr Quinlan was trading after 2:30pm. A Warning letter was sent in accordance with Enforcement Policy.

On 26th November, the Licensing Assistant responded to a telephone enquiry from Mr Quinlan, who asked if he could trade at the Sittingbourne Christmas Lights Carnival on Saturday 27th November. Mr Quinlan was advised he would not be able to obtain a temporary licence given the short notice and could not trade. On 30th November the Licensing Enforcement Officer received a complaint from a resident of Sittingbourne High Street (*different from the above*) who stated Mr Quinlan was trading on Berry Street, Sittingbourne on 27th November (*during the Sittingbourne Christmas Lights Carnival*); CCTV has confirmed this.

Conclusion/ recommendations:

Martin Quinlan admitted under caution to knowingly and persistently trading outside of his permitted consent.

In light of evidence brought forward and the warnings already made to Mr Quinlan, The Licensing Enforcement Officer would recommend the Licensing Committee consider revoking the licence. If members are not minded to fully revoke the licence, then it is requested they consider a suspension and formal warning as a minimum penalty.

It should be noted that whatever decision is made at this hearing, will set the precedent for future cases; the decision does not take affect for 21 days, this being the appeal time.

LICENSING SUB-COMMITTEE

DATE: Wednesday 2nd March 2011

Agenda Item No: 4

(Report of the Licensing Enforcement Officer: Michael Moss x7534)

REVIEW

Annual Street Traders Consent: ST/SBC/10/41 Martin Quinlan.

Supporting documents:

Copy of Martin Quinlan's Street Trading Licence

Witness Statement: Michael Moss (Licensing Enforcement Officer)

Witness Statement: Geraldine Chidley (Principle Street Warden)

Witness Statement: Angela Lynch (Licensing Administrative Assistant)

Exhibit MM/01: Advisory Letter

Exhibit MM/02: Warning Letter

Exhibit MM/03: Letter requesting an Interview under Caution

Exhibit MM/04: Transcript of Interview under Caution

Exhibit CCTV/01: Photo taken from CCTV footage – 25th September 2010

Exhibit CCTV/02: Photo taken from CCTV footage – 27th November 2010

Date and Time: 26/09/10 00:49:43 GMT Daylight Time
File name: E:\identification cam s 43 25.09.2010.mp4

Server: SBC_2

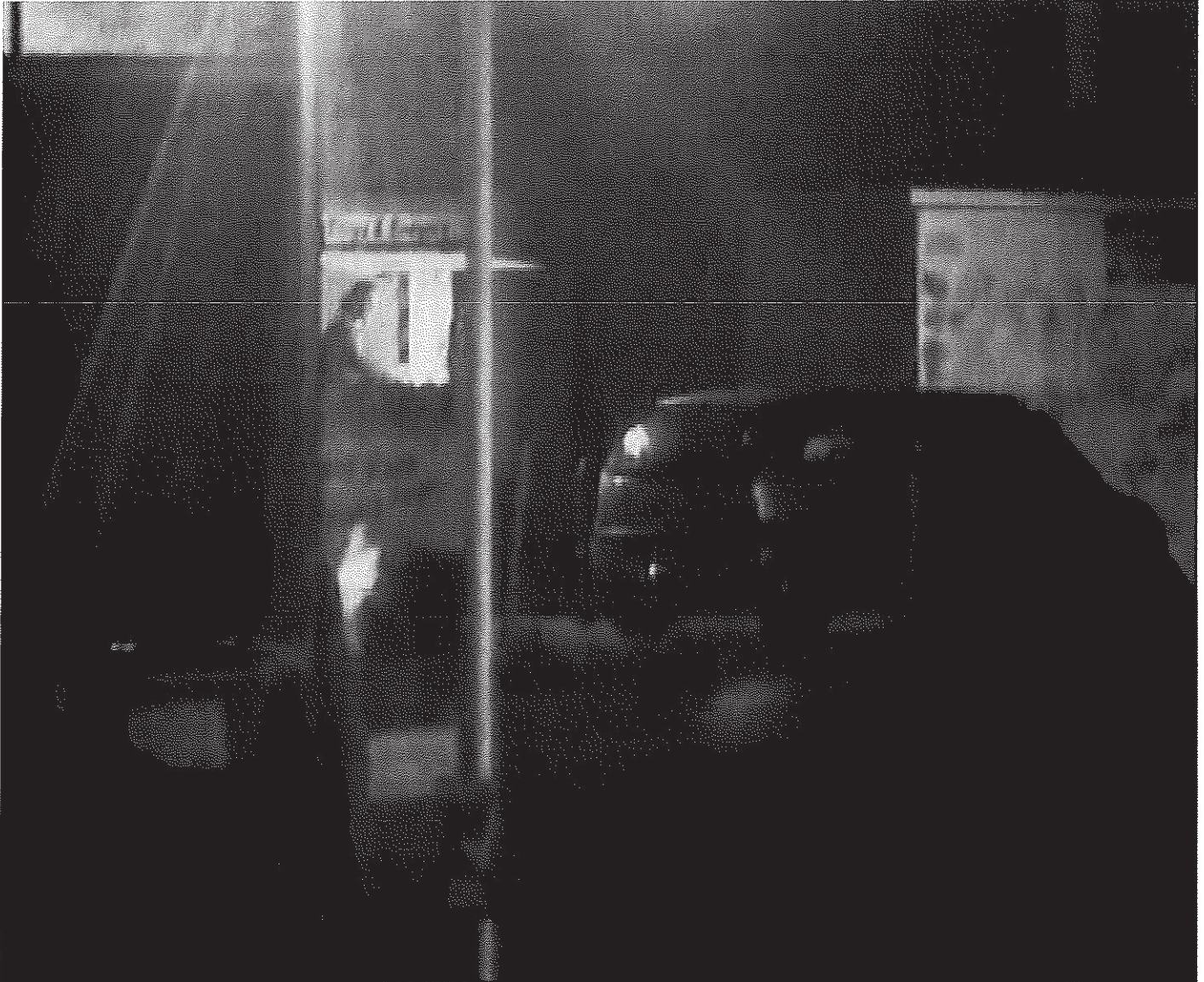
Channel: SBC_2 - Cam 43

Reason for printing: Local Government (Miscellaneous Provisions) Act
1982: Schedule 4 - Section 10(1)(b)

Printed at: 05/01/11 14:09:46

Operator signature: _____

Picture reference number: CCTV/01



Date and Time: 27/11/10 16:02:08 GMT Standard Time

File name: E:\cam 43 burger.mp4

Server: SBC_2

Channel: SBC_2 - Cam 43

Reason for printing: Local Government (Miscellaneous Provisions) Act
1982: Schedule 4 - Section 10(1)(b)

Printed at: 05/01/11 14:14:48

Operator signature: _____

Picture reference number: CCTV/02



Mr M Quinlan
22 Rock Road
Sittingbourne
Kent ME10 1JF

Please ask for: Licensing Enforcement
☎ Direct Line: (01795) 417534
E-mail: michaelmoss@swale.gov.uk
Our Ref: ENF/ST/10/001
Date: 30th September 2010

Dear Mr Martin Quinlan,

RE: The Local Government (Miscellaneous Provisions) Act 1982: Street Trading – Licence Number: ST/SBC/10/41.

I write in regards to the Street Trading Licence that was awarded to you, following a committee hearing, on 16th September 2010; the details of the licence are:

Location: The rear of the Forum (entrance to the old subway) only
Time(s): 06:00hrs to 14:30hrs only
Day(s): Monday to Saturdays only

The reason for this letter is an appointed officer of the Council saw you on Monday 27th September 2010 at 16:30hrs and it appeared as though you were still trading. This letter is to remind you that you are only permitted to trade within the condition of the licence mentioned above.

It should be noted that if you trade outside of these specifications, then you are trading without the permission of the Local Authority and enforcement action may be taken; this may also affect the licence that was awarded to you.

If you would like to discuss any part of this letter, then do not hesitate to contact me on the details above.

Yours Sincerely

Michael Moss
Enforcement Officer
Licensing Department

Mr M Quinlan
22 Rock Road
Sittingbourne
Kent ME10 1JF

Please ask for:
☎ Direct Line:
E-mail:
Our Ref:
Date:

Licensing Enforcement
(01795) 417534
michaelmoss@swale.gov.uk
ENF/ST/10/001
21st October 2010

Dear Mr Martin Quinlan,

RE: The Local Government (Miscellaneous Provisions) Act 1982: Street Trading – Licence Number: ST/SBC/10/41.

I write with regards to my previous letter dated 30th September 2010, which reminds you of the conditions imposed on your Street Trading Licence.

An appointed officer of the Council saw you trading beyond your permitted hours, the details of the offence are as follows:

Date: Wednesday 20th October 2010

Time: 15:03hrs

Location: Permitted site outside the Forum

Offence: A young lady, accompanied with a male, was served at 15:03hrs. The young lady was seen exchanging money for wrapped goods.

Can I remind you, that trading outside the restrictions of your licence may result in enforcement action being taken by the Local Authority; this may also affect the licence awarded to you on 16th September 2010.

If you would like to discuss any part of this letter, then do not hesitate to contact me on the details above.

Yours Sincerely

Michael Moss
Enforcement Officer
Licensing Department

Mr M Quinlan
22 Rock Road
Sittingbourne
Kent ME10 1JF

Please ask for: Licensing Enforcement
☎ Direct Line: (01795) 417534
E-mail: michaelmoss@swale.gov.uk
Our Ref: **ENF/ST/10/001**
Date: 30th November 2010

Dear Mr Martin Quinlan,

**Schedule Four: Local Government (Miscellaneous Provisions) Act 1982
Section: 10(1)(b) – Offence of trading on Consent Street without consent
from the Borough Council.**

The Council has received evidence that on Saturday 27th November 2010, you were trading in Berry Street, Sittingbourne (*In conjunction with Sittingbourne Christmas Lights*).

The 'Street Trading Licence' that was awarded to you, was for specific days, times and location; it does not include trading on Berry Street. Under the above legislation it clearly states:

(1) "a person who engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; shall be guilty of an offence."

I must advise you that a person guilty of an offence under this legislation may be liable on summary conviction to a fine not exceeding level 3 on the standard scale; it may also result in your licence being suspended or revoked.

As an offence has been committed, there is a need to fully investigate this matter and I should be grateful if you would contact me to arrange a mutually convenient appointment in order to conduct a formal interview. The interview will be under caution and tape recorded in accordance with the Police and Criminal Evidence Act 1984. You may wish to seek legal advice in advance and may have legal representation at the interviews.

I trust that you will give this matter your most urgent attention and I look forward to receiving a prompt reply within the next 14 days.

Yours Sincerely

Michael Moss
Enforcement Officer
Licensing & Environmental Services

**Statement
of Witness**

Statement of: GERALDINE CHIDLEY

Age of witness (if over 18 enter "over 18"): Over 18

(CJ Act
1967, s9;
MC Act
1980,
ss5A(3)(a)
and 5B,
MC Rules
1981, r70

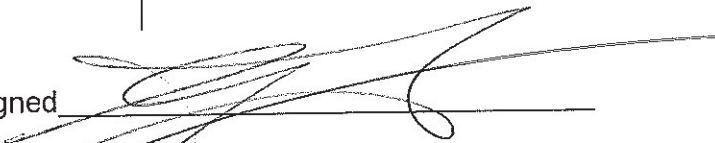
Occupation of witness: SBC PRINCIPAL STREET WARDEN

This statement, consisting of 1 page 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.

My name is Geraldine Chidley and I am employed as the Principal Street Warden at Swale Borough Council. I have been employed by Swale Borough Council since 2004.

At 15.03 on Wednesday 20 October 2010 whilst on patrol in Sittingbourne I observed the vendor of the burger van, situated at the rear of the Forum, Sittingbourne serving customers and taking money. I am aware that the vendor, known to me as Mr Quinlan, only has a licence to trade until 14.30hrs.

Signed



Date 16/02/2011

Statement taken by: _____

NOTE: This statement must be signed at the end of the handwritten matter by the person making the statement.

**Statement
of Witness**

Statement of: Angela Lynch

Age of witness (if over 18 enter "over 18"): over

**(CJ Act
1967, s9;
MC Act
1980,
ss5A(3)(a)
and 5B,
MC Rules
1981, r70**

Occupation of witness: Licensing Assistant

This statement, consisting of 1 page 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.

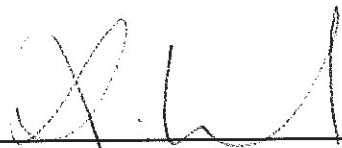
I am employed as a temporary Licensing Assistant by Swale Borough Council's Licensing Department. Amongst my duties, I answer enquires relating to Street Trading.

On Friday 26th November 2010 I took a call from Mr Martin Quinlan who asked if it would be okay to move his burger van onto the High Street, to participate in the 'Sittingbourne Lights' carnival on Saturday 27th November, as it would be good for business.

I advised Mr Quinlan he would require a 'Temporary Street Traders Licence', as he would be trading outside of his permitted hours. I explained that an application for a 'Temporary Street Traders Licence' must be submitted one month prior to the event; and unfortunately on this occasion we could not authorise him to trade at the carnival, taking place the following day. I checked with our Enforcement Officer (*Michael Moss*), who confirmed what I had said was correct.

I gave Mr Quinlan the direct telephone number for Lyn Newton (*Economy and Community Service Manager*), so he could apply for any other upcoming events. Mr Quinlan accepted this without argument or confusion on what I had informed him.

Signed



Date

17.12.10

Statement taken by: _____

NOTE: This statement must be signed at the end of the handwritten matter by the person making the statement.

**Statement
of Witness**

Statement of: Michael Moss

Age of witness (if over 18 enter "over 18"): over

**(CJ Act
1967, s9;
MC Act
1980,
ss5A(3)(a)
and 5B,
MC Rules
1981, r70**

Occupation of witness: Enforcement Officer

This statement, consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am employed as an Enforcement Officer by Swale Borough Council's Licensing and Environmental Department. Amongst my duties, I deal with investigating offences that relate to street trading, under the Local Government (miscellaneous Provision) Act 1982.

On 27th September 2010 a complaint regarding noise was received by Swale Borough Council. The complainant stated the offender ordinarily trades outside the Forum but that evening traded on Berry Street until 04:00hrs. I made a request to CCTV for a copy of the footage, exhibited as CCTV/01.

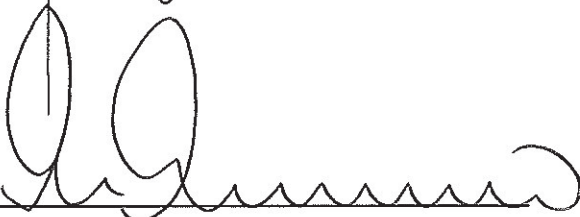
On the same day, just after 16:00hrs while returning from a site visit, I noticed Martin QUINLAN's trailer still stationary on his approved site, but outside his permitted hours.

On the 30th September I called Martin QUINLAN on his mobile and reminded him to trade within his permitted licence, an 'advisory letter' was sent, exhibited as MM/01.

On the 21st October I was informed by Swale Borough Council's Principle Street Warden, she had witnessed Martin Quinlan selling hot food to a young lady at 15:03hrs the previous day. I made a request to CCTV by email to provide confirmation of this sale, which they did stating "*the camera is in a fairly good position and we can see if he makes a sale*". A warning letter was sent to Martin QUINLAN, exhibited as MM/02.

I received a 5x5 referral from Kent Police the following day from PCSO Bodiam, stating they had witnessed Martin Quinlan selling hot food on Tuesday 20th October at 14:30hrs. No further action was taken as a warning letter for a similar offence had already been sent.

Signed



Date 17/02/11

Statement taken by: _____

NOTE: This statement must be signed at the end of the handwritten matter by the person making the statement.

**Statement
of Witness**

**(CJ Act
1967, s9;
MC Act
1980,
ss5A(3)(a)
and 5B,
MC Rules
1981, r70**

On Friday 26th November, I received a call from the Licensing Assistant. Martin QUINLAN had made an enquiry about trading at the 'Sittingbourne Christmas Lights Carnival' the following night. He was advised a 'Temporary Licence' would be required but he was out of time for applying for that particular event; she asked for reassurance this information was correct, which it was.

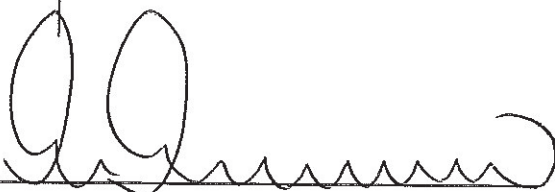
On 30th November Swale Borough Council received a report of illegal Street Trading. The complainant stated the offender was the same trader who is ordinarily outside the Forum and moved his trailer to Berry Street where he traded until 18:00hrs. I made a request to CCTV for a copy of the footage, exhibited as CCTV/02.

A letter was sent to invite Martin QUINLAN for an interview under caution, exhibited as MM/03 on the 30th November. On Friday 10th December Martin QUINLAN made contact with the Council and I returned his call on Monday 14th December. I explained I had evidence to suggest he had been trading outside of his licence. Martin QUINLAN stated he could only attend on a Monday due to child care; an interview under caution was arranged for Monday 10th January 2011.

The interview was re-arranged to Monday 17th January, due to the availability of the Interview Room.

In this interview, Martin QUINLAN admitted under caution to trading on Berry Street on two separate occasions and to occasionally trading beyond his permitted hours. I explained he had committed an offence under Section 10(1)(b) Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, trading without consent from the Borough Council; and that the case would be referred to the Licensing Committee. The transcript of the interview and the tape are exhibited as MM/04 & MM/05.

Signed



Date 17/02/11

Statement taken by: _____

NOTE: This statement must be signed at the end of the handwritten matter by the person making the statement.

SWALE BOROUGH COUNCIL

Local Government (Miscellaneous Provisions) Act 1982

STREET TRADING LICENCE

Licence Number: **ST/SBC/10/41**

I, the undersigned in pursuance of the powers conferred on me by the Regulations as to Street Trading made by the Swale Borough Council hereby authorise **MARTIN QUINLAN** of 22 Rock Road, Sittingbourne, Kent, ME10 1JF to trade from a Structure in Sittingbourne at the rear of The Forum (entrance to the old subway) between 16th September 2010 and 15th September 2011 between the hours of 06.00 and 14.30, Monday – Saturday.

THIS permit may be exercised only subject to Regulations made by the Swale Borough Council.

Dated: this the 16th September 2010

Signed
Name Printed: Samantha Potts
Designation: Licensing Supervisor
(the officer appointed for this purpose)

Office address: Licensing Department, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT.

Record of Tape Recorded Interview - MARTIN QUINLAN

Person interviewed: Martin Quinlan
 Place of Interview: Swale Borough Council

Exhibit No: MM/04
 Number of pages: 12 Pages

Day and date of Interview: 17th January 2011

Signature of Interviewing Officer
 producing exhibit

Time Commenced: 15:43hrs

Time Concluded: 16:10hrs

Time caution given: 2.23 counter

Duration of Interview: 27 minutes

Tape Reference No(s): ENF/ST/10/001:MM/04

Interviewing Officer(s) Michael Moss - Swale Borough Council

Julie Badcock - Swale Borough Council

Other Persons Present: - None

Tape Counter Times	Person Speaking	Text
001	MM	This interview is being taped recorded in accordance with the Police and Criminal Evidence Act 1984 and a copy is available throughout this interview. The date is Monday 17 th January 2011 and the time is just before quarter to 4 pm. The interview is taking place in the ground floor interview room at Swale Borough Council's main office, Swale House, East Street, Sittingbourne. My name is Michael Moss I am employed at, by Swale Borough Council as an Enforcement Officer for Licensing and Environmental Services and amongst my duties I deal with potential offences relating to Street Trading. I am joined today by my colleague....
	JB	Julie Badcock, I am an Environmental Enforcement Officer for Swale Borough Council.
	MM	And I am interviewing, if you could please state your full name.
	MQ	Martin Quinlan
	MM	And your full address
	MQ	22 Rock Road
	MM	And your date of birth
	MQ	21-8-70
	MM	And your place of birth
	MQ	Bromley
	MM	Thank you. Can you just confirm there are no other persons present?
	MQ	Correct
	MM	There may be a bit of background noise because we're directly adjacent to an office, a public waiting area and an access road. Before we continue can you please confirm the following, that you saw my colleague open the sealed tapes and insert them into the machine?
	MQ	I... yes, yes
	MM	Yeah, Okay; and that you were not asked any questions before we switched on

		the tape?
	MQ	No. No I wasn't.
	MM	Okay. Thank you. Do you have a mobile phone with you?
	MQ	It's on silent.
	MM	It's on silent. Lovely; and do you have any time restrictions today?
	MQ	Erm, about.... 40mins
	MM	About 40 minutes. Okay. If you would like a drink of water at any point during this interview, you may request this and I will stop the tapes, until such time that you are ready to continue. At the end of the interview I'm going to give you a notice explaining the procedure for dealing with the tapes and how you may have access to them. I have asked you here today to ask you some questions relating to a potential offence under Schedule 4 of the Local Government (Miscellaneous Provision) Act 1982, Section 10(1)(b) which states "a person who engages in street trading in a licensed or a consent street, without being authorised to do so under this schedule may be guilty of an offence". I am now going to caution you after which I will break the caution down into a little more detail and then I'm going to ask you a few questions to make sure that you fully understand the caution and the implications of the interview. Okay? The caution is: "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; anything you do say may be given in evidence". Do you understand the caution?
	MQ	Yeah, from what you just said, yes.
	MM	Yeah. Do you wish me to repeat the caution?
	MQ	No, No I understood what you said.
	MM	Okay. An explanation of the caution can be given by breaking it down into 3 parts. You do not have to answer my questions. If you do not wish to answer you may reply with "No Comment". If you choose not to give an explanation now but give an explanation later, should the case be taken to a Court, then the Courts may be less willing to believe you; and the final part is, if this matter does go to Court anything you do say may be read out or listened to. The tapes or a transcript of the tape may be used as evidence.
	MQ	Yes
	MM	I need to make sure you fully understand the caution, so I have three questions.
	MQ	I understood what you said.
	MM	Yeah. Do you have to answer my questions today?
	MQ	No
	MM	Wonderful. What do you think the Courts would think if you were to use something in your defence at Court that you did not mention today during this interview?
	MQ	I think it's possible that they may think.... That...erm... I should have given my answers sooner.
	MM	Okay; and can a copy of the transcript or the tapes be used as evidence?
	MQ	Yes
	MM	Wonderful. You are not under arrest and you are free to go at any time, if you do wish to leave, erm, you may request this at any point during the interview and I will stop the tapes. You may obtain legal advice if you wish. Do you wish to obtain legal advice now?
	MQ	Not at this time.
	MM	Okay. Do you agree to being interviewed without a solicitor present?
	MQ	Yes.
	MM	Lovely. Like I said, you can change your mind at anytime during the interview and I will stop until you have obtained legal advice and I can allow you to have access to a phone so you can speak with a legal advisor. Do you understand?
	MQ	Yes.
	MM	Lovely. Okay, this is a notice for a persons being interviewed, there are two but their identical, erm, it's a copy of your legal rights, erm, I've also produced a copy for you to take away with you. Are you happy to read the notice or would you like me to read it for you?
	MQ	No, I shall read the notice. This is just...what....
	MM	It reiterates....

MQ	...what you just said.
MM	...what I have just basically gone through. If you can print your name there, sign and date.
MQ	Yes. It's the 17 th ?
MM	It is indeed.
MQ	I nearly put 10 there.
MM	That's alright. Keep hold of the pen, er, it's, it's exactly the same notice.
MQ	Is this for my reference
MM	Yep. Yeah, do you...I'll get Julie to sign it for you.
MQ	Thank you.
MM	That's that one. Sorry.
JB	That's alright. There you go.
MM	That's your copy. Do you have any questions about the notice at all?
MQ	No
MM	Okay. I am now going to begin with the questioning, before I do this I would like to read allowed the discussion that you and I had on Monday 13 th December after you received my letter requesting this interview. Er, it was a telephone conversation following a voicemail message from yourself left on Friday the 10 th December with regard to my letter asking for an interview under caution. Erm, my attendance note states, Mr Quinlan, erm, sorry, I called Mr Quinlan and identified myself, I thanked Mr Quinlan for responding to my letter requesting an interview under caution. I explained to Mr Quinlan that the interview is a formal opportunity for him to make comments about the potential offence. He began to offer an explanation stating "I was asked by the scaffolders to move from my normal location, I moved at 1pm and did this as a favour". I said that he would need to offer an explanation formally in the interview; I explained that following the interview the matter may be referred to the Licensing Committee for consideration. Mr Quinlan asked "Who makes the decision about it going to committee?" I answered "Me" I explained as an Enforcement Officer I must look at an offence and the facts and determine whether or not the matter should be addressed by the committee; Mr Quinlan said that he understood this.
MQ	Yes
MM	Do you confirm this to be true?
MQ	Yes I do.
MM	Lovely. You're also, er, you are registered as a Street Trader with Swale Borough Council under ST/SBC/10/41, that's a copy of your licence there.
MQ	Yes, yes
MM	Yeah. Lovely. Your Street Traders Consent was awarded on the 16 th September 2010 as per your application. The dates, times and location was approved by the Licensing Committee, the location awarded to you was the site at the rear of the Forum, Sittingbourne which is the old entrance to the subway, is this correct?
MQ	Yes it is.
MM	Okay. One of the locations that you applied for was Berry Street in Sittingbourne, but representations were made by public-serving authorities stating the site was unsuitable for Street Trading. Do you consider this statement to be true?
MQ	I do now, yeah. I've looked back at my applications and...
MM	Okay. The Borough Council have obtained evidence that you were trading on Saturday 27 th November 2010 in Berry Street Sittingbourne, before you offer an explanation, do you confirm that you were trading in this location on this date?
MQ	I traded for, for about two hours, yeah.
MM	Okay. Erm, next question, why were you trading in that location?
MQ	Because basically I, I, like I said to you before the scaffolders had come, coming round to put a lorry on the pavement.
MM	Okay
MQ	They didn't even turn up the day they said they were gonna turn up.
MM	Right.
MQ	Which since speaking with the man that, I had a conver..., I just said he dropped me in it basically.
MM	Yeah.

MQ	By asking me to move. It was my fault for moving and I totally accept full responsibility.
MM	Right.
MQ	At the time I didn't think of the consequences of my actions.
MM	Right, Okay.
MQ	And the ramifications of it now seem quiet serious and I have thought about it quite a lot leading up to moment.
MM	Right, Okay. Erm you mentioned before that you were, you were only trading there a few hours
MQ	Yes
MM	How long were you trading in that location for?
MQ	I think I traded til about 20 to 3 by the time I got, but I didn't trade I left there about 20 to 3, quarter to 3 I believe, then got picked up.
MM	Right. Okay. You got picked up; do you mean your trailer wasn't picked up?
MQ	No my trailer was picked up; I wait with the trailer until it is picked up each day.
MM	Okay
MQ	I never leave the trailer on site.
MM	Right, Okay. No, that's absolutely fine. This is a photo which was taken from the CCTV footage, er, the CCTV footage is from Saturday 27 th November its taken between the hours of 12:30pm until 6pm. The footage is recorded for reference as CCTV/01.
MQ	I can't see where about that is.
MM	Sorry, this is Berry Street. Er, so this is the public toilets here, this is the rear of...
MQ	And what time is this picture of?
MM	This is between the hours of 12:30pm and 6pm.
MQ	Does it specify what time?
MM	What, what time the, the, this was taken. This was sometime between that, those hours. However, on the CCTV footage your, er trailer is seen throughout the CCTV footage
MQ	What all the way up til 6?
MM	Yeah
MQ	Really?
MM	Yeah. So this is you trading here. Obviously as you can see it is quiet dark...
MQ	I don't know whether I was trading at that point though
MM	...from, from five o'clock, obviously it starts to get dark...
MQ	Yeah It did, it got dark about quarter to five.
MM	Yeah, so, the CCTV is obviously dark so obviously were looking at gone five o'clock.
MQ	Yeah, but is there any pictures of me actually selling anything to anyone?
MM	Well, this is your trailer here; I mean you just mentioned that your trailer was picked up...
MQ	My, my daughter stayed with me from that point on because she went to the lights and I stayed with her by the lights I remember, member her going to the light and I brought her a couple of sticks and my ex partner was there.
MM	Right
MQ	As well
MM	Okay
MQ	She stayed with me by the wagon for about an hour and a half
MM	Okay
MQ	She didn't, she wasn't working, she didn't go in the wagon
MM	Okay
MQ	But she was around
MM	Okay. You mentioned that you left about quarter to 4
MQ	She's blonde hair. Blonde hair.
MM	Yeah. You mentioned before that you left about quarter to 4
MQ	I did believe so, yeah
MM	Okay, and....
MQ	I, I genuinely believe so...

	MM	Yeah
	MQ	I mean I know there's a CCTV camera right opposite my stall, and I knew there was one there, I just....
	MM	Yeah
	MQ	Gen...I know there, there constantly on.
	MM	Yeah
	MQ	And, and I genuinely believe that I, I know I didn't trade that late at all.
	MM	Okay
	MQ	But I, I definitely did not trade
	MM	Okay, Yeah, no, no I understand. I mean...
	MQ	At the end of the day I know, I know I committed an offence and I hold my hands up to admitting an offence of moving my wagon to a place where I shouldn't have put it.
	MM	Okay
	MQ	But I, I, they took the scaffolding down the next morning, do you know what I mean and that can be checked on CCTV as well, so, I, you can check that out. So, but I mean I, I admit that I don't know what time this actual is but I admit I, I did trade after, about an hour after my normal hours
	MM	Right
	MQ	Some time about that. But no more than that.
	MM	Okay, so you were looking at about half three, coz your normal hours being 2:30
	MQ	Yeah, about quarter to 4 the latest, I, I finished and my daughter was milling around and I genuinely thought my wagon had left, but that's one of the only days because I think there was a car, if you can have a look on the CCTV footage, the bay what goes into the back of the Heart Foundation, er, Cancer Research there was a silver car in there blocking me in for a certain amount of time
	MM	Okay
	MQ	I waited around for quiet a while to get out, do you know what I mean I, I didn't trade, I was just walking around milling around, d'y'know what I mean
	MM	Right. Okay.
	MQ	But I was there over my time, I admit I shouldn't have been there as well
	MM	Okay.
	MQ	And I didn't realise the ramifications of it and I, I mean I'm on the dot now I've got an alarm in my wagon
	MM	Okay
	MQ	And I have it in there since the day after this, I got the letter off you
	MM	Yeah
	MQ	And it's gone off everyday at quarter pass two and I start packing up.
	MM	Okay. Do you confirm that it is your trailer in the photo?
	MQ	I do.
	MM	Okay. Just because we have a photo of your trailer there, but I don't need to show that. Erm, okay there is also some concerns with regards to erm, obviously what you just said that, that you left at about quarter to four, that you were picked up, that you never leave your trailer there. Obviously we have CCTV footage.....
	MQ	No, No I never leave it,
	MM	Yeah.
	MQ	I'll always wait
	MM	Okay.
	MQ	until my driver picks me up
	MM	Picked Up
	MQ	Yeah
	MM	Okay.
	MQ	Even if it was seven o'clock, I'd wait with the trailer until,
	MM	Okay
	MQ	I wouldn't be trading but I'd wait with the trailer
	MM	Okay. You mentioned over the telephone that you got asked by the scaffolders to move at approximately 1pm
	MQ	Yeah

MM	Why...
MQ	That's...
MM	The question was, why, why did you move the vehicle? I, I appreciate the fact that obviously that you were in their way but you're licensed until two thirty, now I, I personally don't know how long it takes to scrub down...
MQ	Because my backs totally to the wall, honestly my takings some day, there about 75 quid
MM	Right
MQ	Its, Its, Its quiet hard at the moment.
MM	Yeah
MQ	Especially this time of the year
MM	Yeah
MQ	It's been really hard.
MM	Okay.
MQ	But, so, I squeezed whatever I, my hours said and I went over a little bit but it took me ages to pack up, ages to move
MM	Yeah
MQ	And, and do you know what I mean, and I wasn't taking any money
MM	Yeah
MQ	And I admit it, I mean I'm still not taking as much as I'd like, enough
MM	Yeah
MQ	Enough, enough, I mean I am running, coz I pay a driver as well, I employ someone else. So it's hard...
MM	Yeah
MQ	and my takings are that close to being...
MM	I, I think the concern that I had was, erm, I appreciate the fact that you had been asked to move and you were helping the scaffolders out if they said they needed access to the site, was the fact that you moved at one o'clock and yet your licence is only until two thirty
MQ	Yeah
MM	So you've got an hour and half left in, you know, to legally trade, erm and to up and move its going to take, I assume about an hour or so...
MQ	Bout half an hour
MM	Which would leave you about half an hour
MQ	It was basically, I put everything straight in boxes, I can set my wagon up, its only eight by ten, I can set up in about 10 minutes.
MM	Okay
MQ	Coz everything I know, I know where everything is, do you know what I mean, Its just like I can do that put things on my car without looking, do you know what I mean.
MM	Okay, yeah. But you knew you were trading beyond your hours?
MQ	By the, by the time I went over I, I realised I had done
MM	Yeah. And you knew you werent supposed to be trading in that location?
MQ	Yeah I totally, I accept full responsibility
MM	Yeah
MQ	And it hasn't happened and won't happen again. If this does go to full committee or whatever, I mean I understand that.
MM	Okay
MQ	And, and I accept it, but in the same tone I haven't done, traded and I'm not going to.
MM	Okay
MQ	Because this is important to me
MM	Yeah, Okay. I do just need to read allowed a conversation that you had with our Licensing Assistant; you contact the office on.... Let me just have a look.... Erm, sorry, on Friday the 26 th November 2010, that was the day before the Sittingbourne Lights Carnival, erm you spoke with the licensing assistant and er, you..
MQ	Asked for a licence to trade in the High Street
MM	You asked for a licence to trade in the High Street, actually in the High Street?

MQ	Yeah, yeah
MM	But, but you were advised by the Licensing Officer that, that was out of time
MQ	To get into the High Street
MM	Yeah. So you not saying this was in connection with you moving to Berry Street at all?
MQ	No not at all. No, no, no. nothing at all to do with that.
MM	No. that's absolutely fine. Okay and is this the only time that you have traded in Berry Street?
MQ	Yes
MM	Okay, and the only time you have traded beyond your hours?
MQ	yes
MM	Okay.
MQ	I mean there might have been an occasion where I have gone 5 or 10 minutes over but only when I didn't know, do you know what I mean
MM	Okay
MQ	But I've never done it on purpose
MM	Okay. This is photo taken from the CCTV footage for Saturday 25 th September 2011; the footage is recorded for reference as CCTV/02, erm can you confirm that's you in the photo?
MQ	Yeah, that probably be me, yeah. No one else will be in a wagon. That just, my car just pulled up for me to go look?
MM	Ah right okay. That CCTV...
MQ	Just there on the pavement, it's a ford focus a green one, and I have to wait there until the focus gets there and I'll be gone within minutes of that car getting there and I wouldn't be trading
MM	Okay
MQ	I'd be cleaning down I wouldn't be doing anything, I, I would just be waiting
MM	Yeah, Okay.
MQ	Coz I got to keep my generator on coz its freezing cold I've got a little heater under the counter.
MM	Okay
MQ	And I sit there, I mean around about what time was that, what date was that?
MM	That was Saturday the 25 th September. So it was a Saturday, trading in Berry Street and the hours of the CCTV footage from 8pm
MQ	Oh in Berry Street?
MM	Yeah. Until 4am.
MQ	And what date was that?
MM	Saturday 25 th September 2010. This particular image was taken beyond midnight, because blockbuster videos was closed. So you're looking at anything between after midnight until 4 o'clock in the morning.
MQ	That's not four o'clock in the morning is it?
MM	That's what the CCTV footage was requested for, from 8pm until 4.
MQ	So when is that image, you don't know obviously
MM	Your, your, your seeing after midnight, so you're probably looking at somewhere 1 – 2 o'clock.
MQ	That hasn't happen again. You know what I admit that, I did do it, but, but I haven't done it ever again. Well I promise you that, I mean I didn't want to bring it up in interview and say I had done it one more time, but...
MM	Yeah. Okay
MQ	I have and there is no other, there is not another single offence, I'm telling ya.
MM	Okay. Why did you trade on that particular evening?
MQ	Because I was applying, I did get a form to apply for a licence
MM	Okay
MQ	And I, I wanted to see if it was worth trading and it wasn't
MM	Right.
MQ	I, It, I just, it just wasn't worth trading
MM	When you said you applied for a form
MQ	I got, I come in, I spoke to someone, I've got another licence form in here so I can

		apply for a...
	MM	For a variation?
	MQ	Yeah
	MM	Right. Okay.
	MQ	Do you know what I mean, but it wasn't worth me doing it, I sat down and thought about it. I'm not, I, I'm not Superman I can't work that long of hours.
	MM	Okay
	MQ	Do you know what I mean?
	MM	Okay, I mean going back to...
	MQ	I, I, and the only reason is, is because I'm totally, and I will be honest with you to the wall...
	MM	Yeah
	MQ	I've accepted that my income is lower than what I need.
	MM	Yeah
	MQ	I've applied for tax credits now but up until, I haven't received em, I haven't received any, any benefit at all.
	MM	Okay
	MQ	In relation to up til now, but I've had to bail over and just except benefit.
	MM	Yeah
	MQ	Do you know what I mean? And that's not nice.
	MM	Okay. Right. I mean the erm, sorry, I've forgotten what I was going to say, oh yes, at the beginning of the interview I mentioned about Berry Street to you, and why public serving authorities had...
	MQ	Yeah
	MM	... Obviously said that....
	MQ	You said before.
	MM	Exactly. The, the reason for this being is that, that erm, the High Street has residential properties, flats above the shops.
	MQ	Yeah
	MM	This particular evening, you were, er causing a statutory noise nuisance with regards to your generator, erm that's how we became aware of the problem.
	MQ	Yeah
	MM	Okay
	MQ	Right
	MM	Erm, but at the time did you know you were trading outside of your licence? Your permitted hours?
	MQ	Not, I had just started trading, no I didn't then. I spoke to someone afterwards and I applied straight away, I asked for a variation form.
	MM	Right
	MQ	But, but it's just another 55 pound, when you fill it out it the same as the, the other, the original...
	MM	Yeah
	MQ	...isn't it?
	MM	Yep.
	MQ	And I, I just sat down and talked about it, it wasn't worth it, I'd looked into it, I realised I needed another, to extend it all and go through a whole, whole new committee hearing again.
	MM	Okay
	MQ	I didn't think I'd get it and stopped from that point on.
	MM	Yeah
	MQ	And never went back
	MM	Okay. Once again other than these two incidents which have been raised, 25 th September...
	MQ	There are none.
	MM	...there are no other...
	MQ	Not to my knowledge, maybe 5, 10 minutes but er, not...
	MM	But...
	MQ	Anything what's take? Not in Berry Street

	MM	Not in Berry Street?
	MQ	Not anywhere else in town
	MM	Okay
	MQ	Apart from my place
	MM	Okay
	MQ	My pitch. Allocated Place.
	MM	Right. Okay. On Monday 27 th September erm, I saw your trailer stationary in the position at the rear of the Forum, which is your approved site, at 4:30pm, erm I called you on...
	MQ	When, what date was that?
	MM	I, I've... Mon, Monday the 20.... No sorry that wrong, Monday the 30 th September, I saw you trading from your trailer erm, at...
	MQ	Was I actually trading though?
	MM	...4:30. That's just what I'm going to come to now. I'm going to read allowed the attendance note, so obviously you can see everything that was said.
	MQ	It's a long time ago, to know if it was true or not.
	MM	No, no, no I can appreciate. I called Mr Quinlan explained a letter had been sent out to him in the post and I was calling him to be...
	MQ	Oh this is, yeah.
	MM	...sure he understood... Yeah.
	MQ	I remember the letter now. I do.
	MM	Yep. I explained that on the erm, Monday 30 th
	MQ	September.
	MM	September, yeah, at approximately 4:30, I noticed him still stationary in his licensed position but his licence was only until 2:30. Mr Quinlan stated that he does not trade after 2:30...
	MQ	And I wait for...
	MM	...It takes him about an hour to clean down and then he waits about 30 minutes, just after 4 o'clock for his lift back home. He said that he completely understands what time he is allowed to trade and sticks to those hours. I said "so you understand that the licence issued to you is only" sorry "only relates to trading in a particular location, at particular times and days?" and you said "yes".
	MQ	Yes
	MM	So you confirm that to be true?
	MQ	Yeah. The conversation, yeah.
	MM	Wonderful. That was erm; verbal advice given to you and this was followed up by a formal letter which is exhibited...
	MQ	There was one, there was one date which we, which we queried on here, on the formal letter, do you remember?
	MM	Right?
	MQ	Coz there was, I don't know if it's on the formal letter now, it said two dates?
	MM	Probably, it's probably going to be this next erm, piece of evidence which I'm going to pass over to you. Erm, on the 20 th October you were seen trading by a Swale Borough Council Principle Street Warden, she witnessed the exchange of wrapped goods for money at 3 minutes passed 3, the same day Kent Police witnessed the sale of goods at 3:30, and CCTV have confirmed this to be correct. Erm, this was the letter that was sent out to you...
	MQ	And what date was that?
	MM	This was Wednesday 20 th October. I don't know if this was the letter you were referring to?
	MQ	I'm not sure if this was the one or not. No, there was, no, coz we had a conversation I think it was, I think it was this actually one that we....
	MM	It, the, the, the, Yeah. The, the original erm, sorry the original letter MM/01 erm, that was when I called you and I thought you were still trading at 4:30..
	MQ	Yeah and I wasn't
	MM	...and you said no, but I, I accepted that, that, that you werent trading, that you were cleaning down...
	MQ	That's, that's...
	MM	I had no evidence to prove otherwise. I certainly didn't see you trading, I just saw

		you behind the counter. Yeah?
	MQ	I take on board what you're saying, but... I don't think I traded outside my hours on these occasions.
	MM	Okay
	MQ	I really don't.
	MM	CCTV confirmed that it was true, that you were trading beyond your hours. Is there anything that you'd like to say in, in relation to their response?
	MQ	I, I genuinely didn't think I was trading outside my hours.
	MM	Okay. CCTV also stated in their response to us, that you have, were seen erm selling to school children, which would be after 3o'clock, have you ever sold to school children before?
	MQ	I've sold to school children loads of times, they come to me, sometimes they leave school at 2o'clock.
	MM	Okay
	MQ	Do you know what I mean? I wouldn't know, what, I sold, I mean they come to me in the mornings sometimes, they come to me at lunchtimes... varying times...
	MM	Okay
	MQ	... school kids come to me. Do you know what I mean?
	MM	Yeah
	MQ	So I have sold to school children before.
	MM	Okay. But you adamant that, that you stay within side your hours....
	MQ	No
	MM	... where you can?
	MQ	No, no. I've said that there are, there are minor breaches on my, there must have been minor breaches...
	MM	Okay
	MQ	... on my hours, do you know what I mean? 5, 10, 15 minutes but I, I admit I've done wrong, I, I don't know on exactly what occasions I done it.
	MM	Okay
	MQ	Do you know what I mean? And I will be open, I don't know exactly, but not, I don't think I've taken... I, I have taken the Mick, I don't, I don't think I've gone, that, far over it.
	MM	Okay
	MQ	Do you know what I mean? I didn't. I work from, I work from 6 in the morning, sometimes until... sometimes it goes over a bit and I am sorry.
	MM	Okay. The MM/02 letter obviously following what the Principle Street Warden had told us, that was a warning letter sent out to you
	MQ	These your copies?
	MM	Yeah, yeah. The last, the last letter you received from us which is exhibited as MM/03, erm, which is explaining that er an offence had been committed; this is in relation to when you were located at Berry Street for the Christmas Lights. Just so then you can see, see the flow of the er, correspondence between ourselves. Yeah, Okay. Is there anything you wanted to ask about any of those three?
		No
		No. Okay. Over a period of two months you appear to have committed two offences of trading outside your permitted location 25 th September and 27 th November. Erm, and there are potentially four er breaches of trading beyond the times that have been awarded to you, the same two occasions and obviously er the 3 minutes passed three and....
		Yeah
		...the half past three, by the Street Wardens and Kent Police. Erm, er and obviously the, the times you were seen pass, trading past your, your particular hours was times that you had actually requested on original application, as yet we haven't received a variation application to extend your hours, erm therefore...
		I haven't got the money to do the 55 quid to be quite honest
		Right, Okay.
		I, I really haven't
		Yeah
		Do you know what I mean

		Okay. It, it appears from what the, the evidence we brought forward and obviously from your responses that an offence has been committed under Section 10(1)(b) as stated previously the Local Government (Miscellaneous Provisions) Act, erm, is there anything else you wanted to say? Or do you have any questions about what's been presented to you today?
		No. I accept that I think I may have traded over, outside my permitted area and my permitted time. I, I accept it, do you know what I mean? And it, I'm, I'm, not doing it again I'm being, trying to be to be very stringent.
		Okay
		With my times.
		Yep.
		Do you know what I mean, and I really am.
		Okay
		I, I had my driver, got a pay a little bit more now, another fiver a day and she comes to get me a bit earlier
		Okay
		She's got someone else to pick up her kids from school
		Right
		So she's normally to me by about 25 past two now; I'm on CCTV everyday.
		Yeah
		Do you know what I mean
		Okay
		And I'm trying to stick to that whole heartedly; do you know what I mean? As hard as it is to walk away from, knowing you need to earn more money, I have to do it.
		Yeah, Yeah. Okay. Erm, this is a notice that I explained about at the beginning of the interview, if I can find it. That's, that explained the procedure for dealing with the tapes and how you might have access to them. Erm, this er, or, or you'd need access to the tapes certainly if erm, the matter was going to Court. Erm what is likely going to happen is the matter will be referred to our Licensing Committee, so that they can have a look at the details erm, or, or the evidence which has been gathered by, by this department er and they'll read the transcript of this interview so they can obviously hear your responses. You'll be invited along to that interview, you may have legal representation and they are able to have access to any of the information we have, you'll also be sent a copy of the report which is going to committee, so you'll be fully...
		What, what would your idea of the likely outcome of this situation be?
		Erm, honestly I don't know. And I am, I'm not just saying that...
		No, No, No but I mean I just asking, what is the normal outcome under a situation like this?
		What's, what's going to happen is I'm going to present to, because it would be myself, I'm going to present to the Licensing Committee erm the, the relevant offences. What I will be saying, because during this interview you, you've provided an explanation and, and you've admitted to, to certain offences. Erm, obviously I, I will bring that to light as well so they will have everything in front of them that you'll also be given an opportunity to, to obviously put forward your, your say. At the end of the day what the committee will have to deter, determine is whether or not there, the, they feel that, the, the offences severe enough for them to take action in the realms of, of revoking the licence...
		Revoking or suspending...
		Yeah exactly. Or, or whether or not they suspend the licence or, or whether or not they, they kind of give you a slap on the wrist; it is really all down to the committee. Erm obviously they will take into consideration erm, that the, the current economic climate and how difficult it must be, erm, but at the end of the day what you will need to do is, is, and well and what they will be looking at, is whether or not you have made every step to, to ensure that your complying with your licence...
		And now I am
		.. as best you can. Yeah.
		And its, I mean its been quite awhile and it will be no more breach
		Okay. I mean that, that's something you'll have to present to, to the Licensing

		Committee. What I will do is everything that you see hear will be presented to the Licensing Committee there, there will be no additional evidence...
		So that is going for committee?
		It, it will defiantly go to, to committee. I, I cant make the determination on, on where we go from here, its going to be the Local Councillors erm, probably the same councillors that awarded you the licence, that will have a look at the evidence and then obviously, the, they will be left to make your determination. Alright? Your receive a letter shortly in the post
		Yep
		And that will explain everything, if at any point you do have any queries or concerns then you have my contact telephone number, just give me a call and I speak you through it
		Lovely
		Alright. Okay the time is just after 10 past 4 and I'm switching off the tapes.