



from Mrs Cecilia Gerrard DL

CHAIRMAN
SURREY COUNTY COUNCIL

Councillor E Goodman
23 Budgen Drive
Redhill
Surrey
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2 March 1994

Dear Councillor Goodman

SURREY COUNTY COUNCIL TRADING STANDARDS SERVICE

I was surprised at the tone and content of your recent letter. Firstly, that you could consider that this authority would do anything remotely illegal, and secondly, that we would carry out an exercise of this nature without the utmost consideration.

There is no question as to the legality of the County Council's officers action in this matter. I understand you are a lawyer but you may not be aware of the legal precedent.

The County Trading Standards Officer has asked me to draw your attention to the judgement in a recent court case - the London Borough of Ealing Trading Standards v Woolworths plc. The case involved a child of eleven and half years of age being sent into a Woolworths Store under the supervision of a trading standards officer, with the boy purchasing a video film which was categorised as an '18'.

Lord Justice Russell in that case said:

"If the process employed, which we understand to be a common practice up and down the Country, were to fall foul of Section 78, [of The Police and Criminal Evidence Act 1984] it would in my Judgement emasculate the enforcement of a sensible piece of legislation which, as earlier indicated, was passed for the express purpose of protecting young people such as the boy employed for the test purchase in this case from being exposed to undesirable influences. I do not accept that what happened was in any sense an entrapment of the respondents, or that the boy acted as an 'agent provocateur', nor, incidentally, did he commit any offence in purchasing the video. He did not incite, aid, or abet the commission of an offence by Woolworths. By purchasing the video he was simply playing a part in the situation which rendered Woolworths culpable."

He went on:

"In reality Woolworths plc have realised upon the facts as demonstrated to the Justices there simply was no defence to this charge and the submission made to the Justices, which unhappily they acceded to, was a wholly inappropriate submission."

You may also be unaware of the Home Office guidance on the use of children in bringing prosecutions, specifically with reference to the Children and Young Persons (Protection from Tobacco) Act 1991. A copy of the guidelines was circulated to all County and District Councils in England and Wales. The guidelines have been strictly adhered to by the County Council.

I can further tell you that, having been advised on the law by the County Trading Standards Officer, the County Fire and Consumer Protection Committee considered the use of children in prosecutions at their meeting last November. The utmost care and attention was given by the Committee to this very sensitive issue and they reluctantly, but unanimously, came to the conclusion that there could be circumstances where the use of children, in accordance with the Home Office guidelines, was justifiable.

You also refer in your letter to the use of minors. I can assure you that minors were not used, the children were in fact 13 years of age. I can also assure you that the children were not "in care" but were children of Surrey Trading Standards Officers.

I hope that this has clarified the Council's policy in this area and that you now feel confident in our efforts to protect young people.

I am sending a copy of this letter to the Manager of the Asda Store, Burgh Heath.

Yours sincerely

Centia ferrari