



Agenda for a meeting of the Bradford District Licensing Panel to be held on Wednesday, 4 August 2021 at 3.00 pm in the Banqueting Hall - City Hall, Bradford

Members of the Committee – Councillors

LABOUR	CONSERVATIVE
M Slater Hussain	Winnard

Notes:

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- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
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From:

Parveen Akhtar

City Solicitor

Agenda Contact: Jane Lythgow/ Jill Bell

Phone: 01274 434580/432270/434287

E-Mail: jane.lythgow@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Jane Lythgow - 01274 432270)

B. BUSINESS ITEMS

**3. PIOTR I PAWEL, 23 DUCKWORTH LANE, BRADFORD BD9 5ES - 1 - 54
APPLICATION FOR REVIEW OF A PREMISES LICENCE**

The Interim Assistant Director, Waste, Fleet and Transport Services will present a report (**Document “G”**) which presents an application for review of a Premises Licence authorising the sale of alcohol for consumption off the premises at Piotr I Pawel, 23 Duckworth Lane, Bradford.

Recommended –

Members are invited to consider the information and documents referred to in the report and, after hearing individuals, bodies or businesses, determine the related application.

(Melanie McGurk – 01274 431873)

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Report of the Interim Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford District Licensing Panel to be held on 4 August 2021.

G

Subject:

Application for a Review of a Premises Licence for Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol for consumption off the premises.

EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

Susan Spink
Interim Assistant Director
Waste, Fleet & Transport Services

Report Contact: Melanie McGurk
Senior Licensing Officer
Phone: (01274) 431873
E-mail: melanie.mcgurk@bradford.gov.uk

Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the review of a premises licence authorising the sale of alcohol for consumption off the premises.

A copy of the Licence is attached at Appendix 1.

2. BACKGROUND

2.1 The Premises

Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES.

2.2 Premises Licence holder

Mr Mariwan Tofiq Mustafa.

2.3 Application Received asking for a Review of the Licence

Responsible Authority

West Yorkshire Trading Standards has applied for a review of the premises licence.

Intelligence was received by West Yorkshire Trading Standards (WYTS) which indicated that the premise was dealing in illegal tobacco.

On 31 August 2019, WYTS carried out a test purchase using an underage volunteer. A WYTS officer witnessed the sale of 2 single cigarettes to a child by Mr Mariwan Mustafa.

Attempts were made to interview Mr Mustafa, but no responses were received to the letters sent to his home address.

On 10 March 2020, officers attended the business address in an attempt to locate Mr Mustafa and serve a summons for him to appear at Magistrates' Court. Officers saw illegal cigarettes behind the counter (40 packs), issued the appropriate paperwork and seized the illicit tobacco products. Mr Mustapha attended the business and confirmed that he was the owner of the business. Advice was provided to Mr Mustafa to stop the supply of illicit tobacco.

On 30 June 2020, a PACE letter was sent to Mr Mustafa. Mr Mustafa stated that it was a member of staff who was responsible and he had dismissed her.

On 23 November 2020, a successful test purchase was carried out of counterfeit cigarettes by an undercover officer.



On 8 December 2020, an inspection was carried out by WYTS and a seizure of illegal tobacco products was made from behind the counter. In total 208 packs of illicit cigarettes and 5 packets of hand rolling tobacco. Working behind the counter was the member of staff whom Mr Mustafa had claimed had been dismissed following the previous seizure of illicit tobacco on 10 March 2020.

On 12 January 2021, at Bradford Magistrates' Court, Mr Mustafa pleaded guilty to supplying single cigarettes to a trading standards child test purchaser.

PACE interviews by letter were sent to Mr Mustafa on 4 February 2021 and 16 February 2021, in relation to the additional test purchase and seizure on 8 December 2020. Mr Mustafa has failed to respond to any of the questions or get in touch with WYTS.

The criminal investigation is still ongoing.

West Yorkshire Trading Standards considers the above matters to be extremely serious and therefore recommend revocation of the licence.

The application for review is attached at Appendix 2

3. OTHER CONSIDERATIONS

Legal Appraisal

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

3.2 The Council must also have regard to the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Paragraphs 11.1 to 11.29 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Home Office Guidance is attached to this report at Appendix 3.

3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.



- 3.4 Only “relevant representations” can be taken into account. In order to be “relevant” a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 3.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

Statement of Policy Issues

- 3.6 The following parts of the licensing policy are of particular importance; Part 4 Prevention of Crime and Disorder and Part 7 Protection of Children from Harm.
- 3.7 The annexes to the policy sets out various types of model condition that could be considered.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.3 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

7.4 HUMAN RIGHTS ACT



The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state’s right to control the use of property in accordance with the general interest. The Council’s powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant’s rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

7.5 TRADE UNION

Not applicable.

7.6 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

7.7 IMPLICATIONS FOR CORPORATE PARENTING

There are no apparent implications.

7.8 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

There are no apparent data protection or information security implications.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Members may:

- (a) Reject the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or



- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

11. APPENDICES

1. Premises Licence.
2. Application for review received 22 June 2021
3. Extract from the Government Guidance.
4. Location plan of premises

12. BACKGROUND DOCUMENTS

Application form, plan etc.



Licensing Act 2003 - Premises Licence

Licence No: 199141

Date Issued: 10 December 2019

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Piotr I Pawel
23 Duckworth Lane, Bradford, BD9 5ES

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

DATE FIRST GRANTED - ANNUAL FEE DATE

Licensing Act 2003 Fees Regulations 2005

23 June 2015

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

The Supply of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

The Supply of Alcohol	Mon 08:00-02:00
	Tue 08:00-02:00
	Wed 08:00-02:00
	Thu 08:00-02:00
	Fri 08:00-02:00
	Sat 08:00-02:00
	Sun 08:00-02:00

THE OPENING HOURS OF THE PREMISES

	Mon 08:00-02:00
	Tue 08:00-02:00
	Wed 08:00-02:00
	Thu 08:00-02:00
	Fri 08:00-02:00
	Sat 08:00-02:00
	Sun 08:00-02:00

WHERE THE LICENCE AUTHORISES SUPPLY OF ALCOHOL WHETHER THIS IS ON AND/OR OFF SUPPLIES

The Supply of Alcohol Off Premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Mr Mariwan Tofiq Mustafa
■■■■ Ovenden Way, Halifax, HX3 5NN

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mr Mariwan Tofiq Mustafa
■■■■ Ovenden Way, Halifax, HX3 5NN

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence Number: VEPERS2797

Issued By: Calderdale

ANNEXES

Annex 1 – Mandatory Conditions

REQUIREMENT FOR A DESIGNATED PREMISES SUPERVISOR

No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

AUTHORISATION OF PERSONAL LICENCE HOLDER

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

AGE VERIFICATION

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- a) a holographic mark, or
- b) an ultraviolet feature.

DUTY & TAX

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1:

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979,

(b) 'permitted price' is the price found by applying the formula 'P' equals 'D' plus ('D' times 'V'), where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol,

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence,

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question, and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions Consistent with Operating Schedule

All Four Licensing Objectives

1. Staff shall be trained on the requirements of the Licensing Act 2003 with regard to the licensing objectives.

The Prevention Of Crime And Disorder

2. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions. Cameras shall encompass all ingress and egress to the premises and all areas where the sale of alcohol takes place. Equipment must be maintained in good working order, be correctly time and dated, kept in date order and recordings be kept for a period of 28 days. The premises licence holder must ensure at all times the DPS or appointed member of staff is capable and competent at downloading CCTV

footage in a recordable format, either DISC or VHS to the Police or Licensing Authority on request. An operational daily log report shall be maintained, endorsed by signature indicating that the CCTV system has been checked and is compliant. In the event of any failings of the CCTV system, the necessary actions shall be recorded. In the event of technical failure of the CCTV equipment, the premises licence holder/DPS must report the failure to the Bradford District Police Licensing Officer and Local Authority immediately.

3. A Challenge 25 policy shall be implemented.

4. A personal licence holder shall be present from 23.00 hours until licensable activities cease.

Public Safety

None.

The Prevention Of Public Nuisance

5. The Premises Licence Holder shall ensure that the external areas around the perimeter of the premises are kept clear of litter and refuse.

The Protection Of Children From Harm

6. An appropriate proof of age policy, incorporating the principles of the "Challenge 25" Campaign be implemented; incorporating measures to ensure that any patron wishing to purchase alcohol who may reasonably appear to be under 25 years of age are asked to prove that they are at least 18 years old by displaying evidence of their identity and age in the form of a valid UK passport, new style driving licence displaying their photograph or PASS identification.

Annex 3 – Conditions attached after a hearing by the Licensing Authority

Not applicable

Licensing Act 2003 - Premises Licence Summary

Licence No: 199141

Date Issued: 10 December 2019

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Piotr I Pawel
23 Duckworth Lane, Bradford, BD9 5ES

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

DATE FIRST GRANTED - ANNUAL FEE DATE

Licensing Act 2003 Fees Regulations 2005

23 June 2015

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

The Supply of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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WHERE THE LICENCE AUTHORISES SUPPLY OF ALCOHOL WHETHER THIS IS ON AND/OR OFF SUPPLIES

The Supply of Alcohol Off Premises

NAME AND (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mr Mariwan Tofiq Mustafa
■■■■ Ovenden Way, Halifax, HX3 5NN

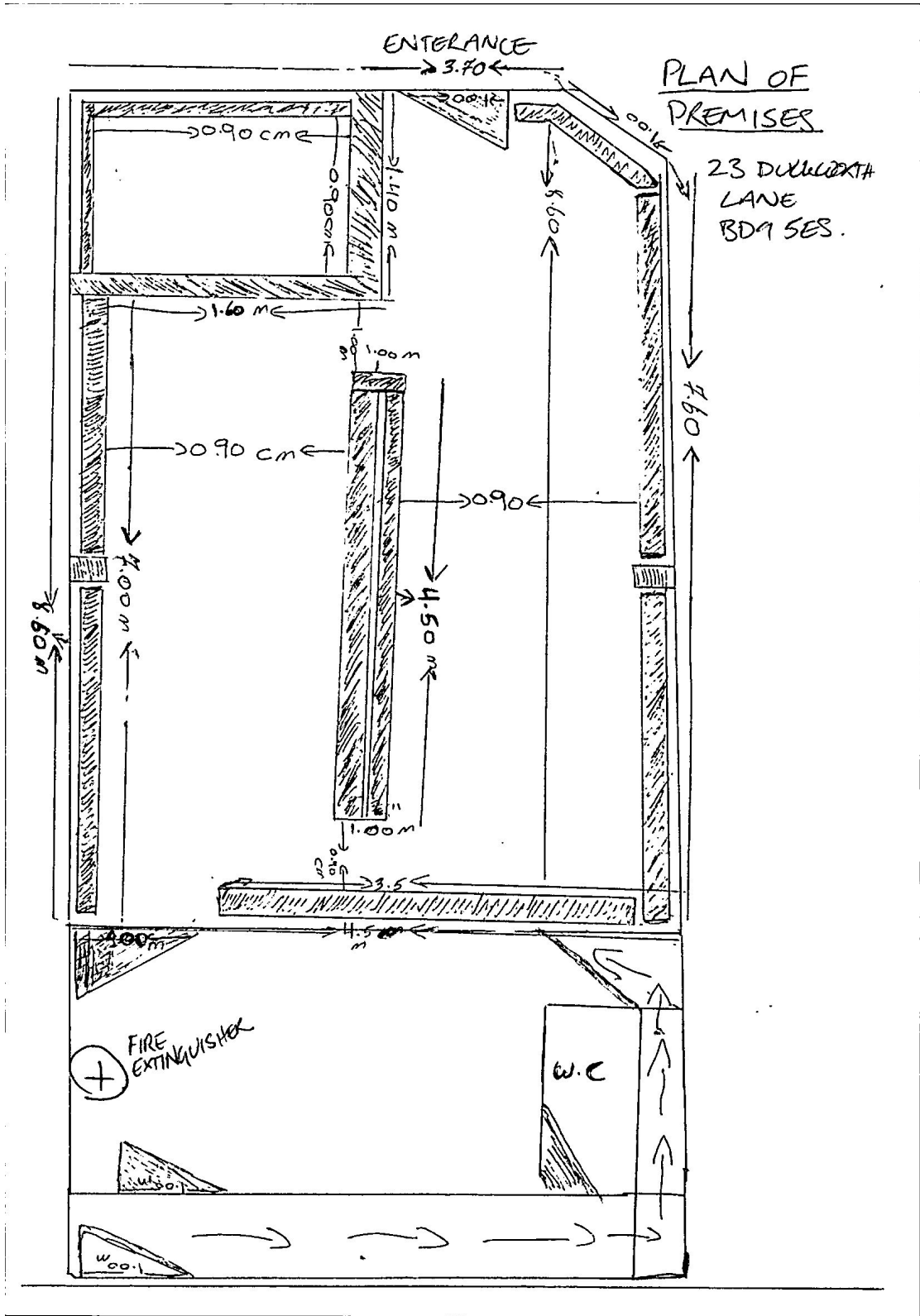
REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mr Mariwan Tofiq Mustafa

WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No restrictions.



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Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I **David Strover** acting on behalf of West Yorkshire Trading Standards Service

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
AA Market Ltd trading as Piotr I Pawel 23 Duckworth Lane, Bradford	
Post town Bradford	Post code (if known) BD9 5ES

Name of premises licence holder or club holding club premises certificate (if known)
Mr Mariwan Tofiq Mustafa

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address West Yorkshire Trading Standards Service PO Box 5 Nepshaw Lane South Morley Leeds LS27 7JQ (Case Officer: David Strover)
Telephone number (if any) 0113 5350000
E-mail address (optional) david.strover@wyjs.org.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The facts of the case are as follows:

The retail premises, AA Market Ltd Company number 12169028 Incorporated on 22/08/2019 trading as Piotr I Pawel of 23 Duckworth Lane, Bradford, BD9 5ES is a well known business to West Yorkshire Trading Standards Service (WYTS) as the service has received multiple complaints that the premises is supplying illicit tobacco. The previous owner was prosecuted for selling illicit tobacco and the business was then transferred to the current owner, Mr Mariwan Tofiq Mustafa who is the sole Director of the Limited company

Intelligence received indicated that the business was dealing in illegal tobacco.

On 31 August 2019 West Yorkshire Trading Standards Service (WYTS) carried out a test purchase at Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES using an underage volunteer.

A WYTS officer subsequently witnessed the sale of 2 single cigarettes to a child volunteer by Mariwan Mustafa. Mr Mustafa stated he was the owner of the shop and had been for approximately 5/6 months. Mr Mustafa also gave his home address as 149 Ovenden Way, Halifax, HX3 5NN.

Attempts were made to interview Mariwan Mustafa by letter but no responses were received to the letters.

On the 10th March 2020 officers attended at the business address in an attempt to locate Mr Mustafa to serve a summons for him to appear at magistrates' court in relation to the sale of single cigarettes to a minor from his business.

Present and working in the shop was Paula Ozolina. Officers saw illegal

cigarettes behind the counter (40 packs) and issued the appropriate paperwork and seized the illicit tobacco products. Mr Mustafa attended the business and confirmed he was the owner of the business. Advice was provided to Mr Mustafa to stop the supply of illicit tobacco This is clearly a licence breach to prevent crime and disorder and a further breach of the licencing condition in relation to public safety.

Mr Mustafa was sent a PACE interview by letter on the 30th June 2020 in relation to the seizure of illicit tobacco on the 10th March 2020.

He confirmed he is the owner.

He stated he was the sole Director of the company that operates the business. AA Market Ltd trading as Piotr I Pawel -23 Duckworth Lane, Bradford, BD9 5ES.

Mr Mustafa stated it was Paula who was responsible and he had dismissed her.

On the 23 /11 /2020 a successful test purchase was carried out at Piotr I Pawel of counterfeit cigarettes by an undercover officer. This is clearly a licence breach to prevent crime and disorder and a further breach of the licencing condition in relation to public safety.

On the 08/12/2020 an inspection was carried out by WYTS and a seizure of illegal tobacco products was made at Piotr I Pawel from behind the counter. In total 208 packs of illicit cigarettes and 5 packets of Hand Rolling Tobacco were seized. Working behind the counter was Paula Ozolina whom Mr Mustafa had claimed had been dismissed following the previous seizure of illicit tobacco on the 10th March 2020. This is clearly a licence breach to prevent crime and disorder and a further breach of the licencing condition in relation to public safety.

On the 07/01/2021 Paula Ozolina was interviewed. The interview related to both seizures and the responses provided by Mr Mustafa from his interview by letter. She gave a very brief prepared statement saying she worked at the

shop as a shop assistant for some time and did not know the illicit tobacco products were there. She also stated that she didn't know all the rules and regulations regarding the sale of tobacco products. Paula Ozolina gave a no comment reply to all the questions put to her after her statement.

On Tuesday 12th January 2021 at Bradford Magistrates' Court, Mr Mustafa pleaded guilty to supplying single cigarettes to a trading standards child test purchaser who was aged 15 at the time. He was fined a total of £233 and ordered to pay a victim surcharge of £32 plus £927 in costs. This is clearly a breach of the licence objectives the protection of children from harm.

PACE interviews by letter were sent to Mr Mustafa on the 04th February 2021 and 16th February 2021 in relation to the additional test purchase and seizure on the 08/12/2020. Mr Mustafa has failed to respond to any of the questions to him or to get in touch with WYTS.

The criminal investigation is still ongoing in relation to the seizures of illicit tobacco on the 10/03/2020, the test Purchase on the 23/11/2020 and the further seizure 08/12/2020.

The tobacco products recovered on both times the store has been visited were are not labelled with the statutory health warnings required by the Tobacco and related products regulations 2016 and did not have the plain packaging as required by the Standardised Packaging of Tobacco Products Regulations 2015. Other offences being committed include ones under the Trade Marks Act 1994, Fraud Act 2006 and Customs and Excise Management Act 1979. By committing these offences the licence holder is clearly failing in its licencing objective to prevent crime and disorder.

The statutory health warnings which are absent on these tobacco products include "Smoking Kills" and "Smoking seriously harms you and others around you". These warnings were implemented in an effort to enhance the public's knowledge about the dangers and risks of using such tobacco products

A 2009 review summarises that "There is clear evidence that tobacco package health warnings increase consumers' knowledge about the health consequences of tobacco use." The warning messages "contribute to changing consumers' attitudes towards tobacco use as well as changing consumers' behaviour." (A review of the science base to support the development of health warnings for tobacco packages (Report). Sambrook Research International. 2009-05-18. Retrieved 2012-07-04)

All cigarettes pose a major health risk and contain hundreds of poisons, including dozens of cancer-causing chemicals. Over half of long term smokers die early of smoking related diseases.

The supply of cheap and illicit tobacco significantly undermines the government's policy of using tax to maintain the high price of tobacco and help reduce smoking.

By selling non packaging compliant cigarettes at less than half the normal retail price, reducing the incentive for smokers to cut down and quit smoking, the premises licence holder is failing in its licencing objective to protect public safety.

Dealers in cheap and illicit tobacco products reap the financial benefits of supplying cheap cigarettes and tobacco at the expense of legitimate retailers by providing unfair competition to shops selling the genuine tax paid products. This may lead to honest retailers closing down and causing local economies to suffer.

The supply of illicit and counterfeit tobacco products costs the taxpayer over £2.5 billion per year in lost revenue.

The current Home Office Guidance issued under section 182 of the Licensing Act 2003 states:-

11.27 There is certain criminal activity that may arise in connection with

licensed premises which should be treated particularly seriously. These are the use of the licensed premises for certain stated activity and includes:

- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The owner of this store has continued to supply illegal tobacco products and have shown a blatant disregard for the law and licencing objectives. West Yorkshire trading Standards, as a Responsible Authority, considers the matters outlined above to be extremely serious. As smuggled tobacco has been found on this premise on three occasions, it therefore recommends a full revocation of the premises licence.

Both the Premises Licence holder and the Landlord have been written to regarding this matter but neither has responded. The owner of this store has continued to supply illicit tobacco products and has shown a blatant disregard for the law. West Yorkshire trading Standards, as a Responsible Authority, considers the matters outlined above to be extremely serious. As smuggled tobacco has been found on this premise on two occasions, it therefore recommends a full revocation of the premises licence.

Please provide as much information as possible to support the application

(please read guidance note 2)

Please see attached package of papers to support this submission:

Section 9 Statements from:

Babul Hussain

Rashaad Basharat

Paul Kear

Abigail Holroyd - Test Purchaser

Photographs of Seized Tobacco

Please tick yes

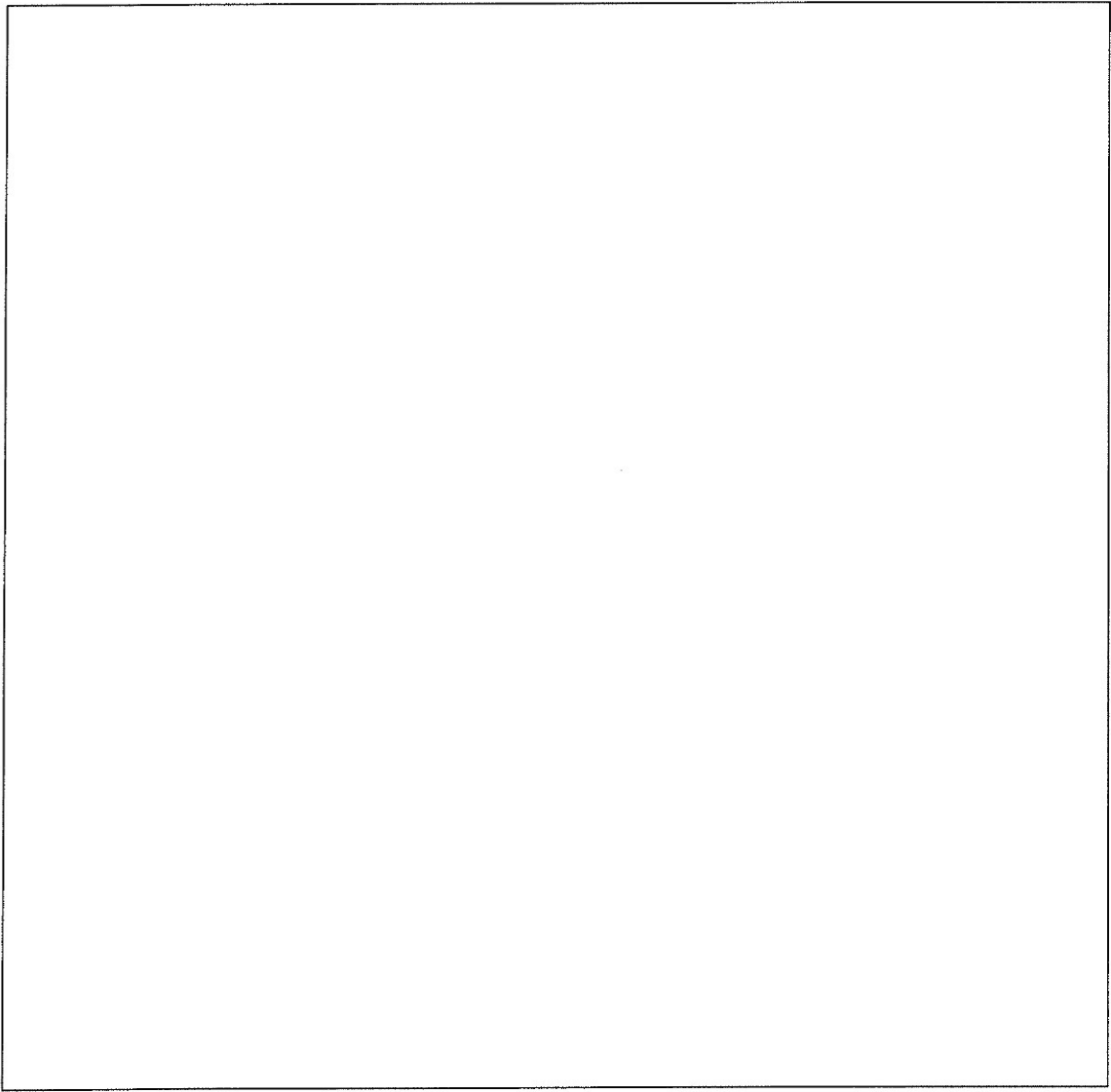
Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them



Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **X**
- I understand that if I do not comply with the above requirements my application will be rejected **X**

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) David Stover : Trading Standards Nepshaw Lane South Morley	
Post town Leeds	Post Code LS27 7JQ
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) david.lodge@wyjs.org.uk	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

FILE COPY



**CERTIFICATE OF INCORPORATION
OF A
PRIVATE LIMITED COMPANY**

Company Number 12169028

The Registrar of Companies for England and Wales, hereby certifies that

AA MARKET LTD

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on **22nd August 2019**



* N12169028G *



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

IN01_(ef)

Application to register a company



X8CAMJ EJ

Received for filing in Electronic Format on the: 21/08/2019

Company Name in full: **AA MARKET LTD**

Company Type: **Private company limited by shares**

Situation of Registered Office: **England and Wales**

Proposed Registered Office Address: **23 DUCKWORTH LANE
BRADFORD
ENGLAND BD9 5ES**

Sic Codes: **63910**

I wish to entirely adopt the following model articles:

Private (Ltd by Shares)

Proposed Officers

Company Director 1

Type: Person

Full Forename(s): MR MARIWAN TOFIQ

Surname: MUSTAFA

Former Names:

Service Address: recorded as Company's registered office

Country/State Usually Resident: UNITED KINGDOM

Date of Birth: **/01/1990 **Nationality:** IRANIAN

Occupation: COMPANY DIRECTOR

The subscribers confirm that the person named has consented to act as a director.

Statement of Capital (Share Capital)

<i>Class of Shares:</i>	ORDINARY	<i>Number allotted</i>	1
<i>Currency:</i>	GBP	<i>Aggregate nominal value:</i>	1
<i>Prescribed particulars</i>			

FULL RIGHTS REGARDING VOTING, PAYMENT OF DIVIDENDS AND DISTRIBUTIONS

Statement of Capital (Totals)

<i>Currency:</i>	GBP	<i>Total number of shares:</i>	1
		<i>Total aggregate nominal value:</i>	1
		<i>Total aggregate unpaid:</i>	0

Initial Shareholdings

Name: **MARIWAN MUSTAFA**

Address **23 DUCKWORTH LANE
BRADFORD
ENGLAND
BD9 5ES**

Class of Shares: **ORDINARY**

Number of shares: **1**

Currency: **GBP**

*Nominal value of each
share:* **1**

Amount unpaid: **0**

Amount paid: **1**

Persons with Significant Control (PSC)

Statement of initial significant control

On incorporation, there will be someone who will count as a Person with Significant Control (either a registerable person or relevant legal entity (RLE)) in relation to the company

Individual Person with Significant Control details

Names: MR MARIWAN TOFIQ MUSTAFA

Country/State Usually Resident: UNITED KINGDOM

Date of Birth: **/01/1990 ***Nationality:*** IRANIAN

Service address recorded as Company's registered office

The subscribers confirm that each person named as an individual PSC in this application knows that their particulars are being supplied as part of this application.

Nature of control **The person holds, directly or indirectly, 75% or more of the voting rights in the company.**

Nature of control **The person holds, directly or indirectly, 75% or more of the shares in the company.**

Nature of control **The person has the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company.**

Statement of Compliance

I confirm the requirements of the Companies Act 2006 as to registration have been complied with.

Name: **MARIWAN MUSTAFA**
Authenticated **YES**

Authorisation

Authoriser Designation: **subscriber** *Authenticated* **YES**

COMPANY HAVING A SHARE CAPITAL

Memorandum of association of AA MARKET LTD

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company and to take at least one share.

Name of each subscriber	Authentication
Mariwan Mustafa	Authenticated Electronically

Dated: 21/08/2019

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of: Babul Hussain

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

Over 18

Occupation:

Regulatory Compliance 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.

08/01/2021

Dated:

Signature: ...

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987, Tobacco and Related Products Regulations 2016, Standardised Packaging of Tobacco Regulations 2015 and The Consumer Rights Act 2015.

On 10 March 2020 at approximately 1300 hours, I attended Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES with Jason Bethell and Rashad Basharat. Two males and 1 female were present in the shop. One male began to throw up and I escorted him outside to get some air. The two males began to talk in a foreign language and then ran off.

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed) ...

Dated.....08/01/2021..... Page 1

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

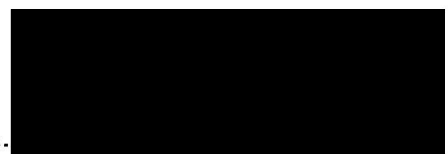
Illicit tobacco was found and seized. There was also a quantity of cash on the counter that nobody claimed so I contacted the Police and a short while later two officers from West Yorkshire Police entered the premises. The cash was seized by Officer 1874 as potentially being the proceeds of crime from the sale of illicit tobacco.

On the 8th December 2020, I attended at Piotr I Pawel of 23 Duckworth Lane, Bradford, BD9 5ES with Paul Kear & Jason Bethell, officers from WYTSS and officers from West Yorkshire Police at 10:15 hours. A search was carried out of the property and illicit cigarettes were recovered from under the counter stored in a box on the shelf. These items were seized.

On 07 January 2021 at approximately 11:50am I saw Mariwan MUSTAFA and Paula OZOLINA sat in a VW Golf VRM R20AHA parked outside WYJS reception at Morley. At approximately 13:40 I and Rashad Basharat approached Mariwan MUSTAFA who was sat in a VW Golf VRM R20AHA parked outside WYJS reception at Morley. We informed him that he has a court case on 12 January 2021 at 10am in Bradford Magistrates Court and needs to attend. At approximately 14:15 I saw Mariwan MUSTAFA and Paula OZOLINA leave in a VW Golf VRM R20AHA.

NOTE : *If statements are typed double spacing should be used.
One side only of this paper should be used.*

(Signed) ...



Dated.....08/01/2021..... Page 2

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:

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

Occupation:

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.


Dated:

Signature: 

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987, the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015 and The Consumer Rights Act 2015.

I was tasked with investigating AA Market Ltd trading as Piotr I Pawel of 23 Duckworth Lane, Bradford, BD9 5ES, following a number of complaints and the subsequent seizures of illicit cigarettes.

On the 8th December 2020, I attended at Piotr I Pawel of 23 Duckworth Lane, Bradford, BD9 5ES with Babul Hussain & Jason Bethell, officers from WYTSS and officers from West Yorkshire Police at 10:15 hours. I identified myself to the female working in the shop, who I now know to be Paula OZOLINA. I issued the Consumer Rights Act 2015 entry notice to her and explained the purpose of our visit. A search was carried out of the property and

NOTE: If statements are typed double spacing should be used. (Signed) 
One side only of this paper should be used.

Dated 04/05/2021 Page 1 of 2

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

illicit cigarettes were recovered from under the counter stored in a box on the shelf. These items were seized and recorded on seizure document 1962 and I produce this as Exhibit PK.1. I also took a number of photographs of the illicit tobacco and the business which I produce as Exhibit PK.2.

A number of packets of illicit tobacco were scanned through the electronic till which had been programmed to read their bar codes and a photograph was taken of the till screen. One description read "KILLS" £3.00, which indicates that the tobacco products are being sold for less than half the normal price.

A total of 208 x 20 packs of cigarettes (2560 sticks) and 5 X 50g packs Hand Rolling Tobacco were seized.

Prior to leaving the premises, it was explained again to Paula OZOLINA that the tobacco products are illegal and that there appeared to be a mixture of offences for which she and the owner could be prosecuted for.

I interviewed Mr Mariwan MUSTAFA by letter and he claimed that Paula OZOLINA was responsible for the illegal products.

I interviewed Paula OZOLINA by letter and she gave a prepared statement and declined to answer any questions put to her.

I have tried to interview Mr Mariwan MUSTAFA again but he has failed to respond.

NOTE: *If statements are typed double spacing should be used.
One side only of this paper should be used.*

(Signed)



Dated

04/05/2021 Page 2 of 2

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B


Statement of: Rashad Basharat

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

Occupation: Regulatory Compliance 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.

Dated: 07.01.21

Signature: 

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987, Tobacco and Related Products Regulations 2016, Standardised Packaging of Tobacco Regulations 2015 and The Consumer Rights Act 2015.

On 10 March 2020 at 1300 hours, I attended Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES with Babul Hussain and Jason Bethell, officers at WYTSS. Two male and 1 female were present at the shop. I served the Notice of Powers and Rights to Paula OZOLINA who was behind the counter. I witnessed one of the males put a bundle of cash on the counter. Paula informed me that the owner is Mohammed ALLI who is away on holiday. She stated that she has been working at Piotr I Pawel for approximately 6 months. One male began to throw up and went outside. The two males began to talk in a foreign language and then ran off. Paula was asked about the alcohol license not being on display

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed) ... 

7.1.21

Dated..... **Page 1 of 2**

010911

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

and she stated that she had paid for a license. The shop was searched and illicit tobacco was found in a carrier bag behind the counter. I took photographs of the illicit tobacco in situ which I produce in evidence as EXHIBIT RB1.

Babul Hussain contacted the Police and a short while later two officers from West Yorkshire Police entered the premises. The cash was seized by Officer 1874.

A male then came to the premises who stated he was the owner and identified himself as Mariwan MUSTAFA. He stated that he had left Paula in charge of the shop and wasn't aware of the two other males who were present at the shop earlier. He stated that his home address is 149 Ovenden Way, Halifax, HX3 5NN. I got the Officers from WYP to check his ID and we established that he was Mariwan MUSTAFA. I informed him that he was being prosecuted for the sale of illegal tobacco to a minor and that he needs to attend court and then I served him the summons.

The tobacco was seized and it was explained that the cigarettes are illicit and cannot be sold in the shop and that there appeared to be a mixture of offences for which the person working in the shop and the shop owner could be prosecuted. A Record of Property Seized was left with Paula and Mariwan.

On 07 January 2021 at approximately 13:40 Babul Hussain and I approached Mariwan who was sat in a VW Golf VRM R20AHA parked outside WYJS reception at Morley. We informed him that he has a court case on 12 January 2021 at 10 in Bradford Magistrates Court. At approximately 14:05 I witnessed Paula and another male enter the Golf.

NOTE : *If statements are typed double spacing should be used.
One side only of this paper should be used.*

(Signed) 

7.1.21

Dated..... Page 2 of 2

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

Statement of: Abigail Holroyd

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

Over 18

Occupation:

Criminal Investigator

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.

Dated:

05.05.2020

Signature: ...A Holroyd...

I am a Criminal Investigator employed by the West Yorkshire Trading Standards Service. I am an authorised officer for the purposes of the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015 and the Consumer Rights Act 2015.

On the 23rd of November 2020, I attended at PIOTR I PAWEL located at 23 DUCKWORTH LANE, BD9 5ES in plain clothes to complete some testing purchasing for counterfeit illicit tobacco.

Once inside the building at around 1300hrs, I approached the counter and said words to the effect of "HAVE YOU GOT ANY CHEAP CIGS?". I was served by a male I would describe as- dark skinned with black hair, he was of a slim build, early to mid 20's and of an average height.

He reached down under the counter and retrieved a cardboard box where the cigarettes were kept. He handed me the packet and I made payment for this. I purchased a packet of 20 RICHMOND Kingsize cigarettes for £4.50. These usually retail for over £10.00.

NOTE : If statements are typed double spacing should be used.

(Signed)




WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

The cigarettes were sealed in a signed evidence bag and placed in secure storage at West Yorkshire Trading Standards. I can exhibit this as ALH01 for court purposes if necessary.

NOTE : *If statements are typed double spacing should be used.*

(Signed) 

B4.0.9a

**Dated..... Page 2 of 2
010911**

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order or illegal working compliance order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.



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