

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Antony Perkins on behalf of Oldham Trading Standards

(Insert name of applicant)

**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

Sunny Newsagents and Off-Licence, 4 Oxford Street, Oldham, OL9 7SN

Post town Oldham

Post code (if known) OL9 7SN

Name of premises licence holder or club holding club premises certificate (if known)

Mr Riaz Ahmed

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

PL0611

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

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 ✓ yes

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 Oldham Trading Standards, Sir Robert Peacock House, Vulcan Street, Oldham, OL1 4LA
Telephone number (if any) 0161 770 4100
E-mail address (optional) tradingstandards@oldham.gov.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
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

- In response to complaints received about illegal and single cigarettes being sold from these licensed premises trading standards have found and seized counterfeit and illicit tobacco on four occasions since 2014.
- This illegal tobacco was found on the premises despite Mr Riaz AHMED (premises licence holder and designated premises supervisor) previously being issued with warning letters by trading standards in 2014 and also again 2019.
- A warning had also been issued to Mr Mohammed ALAM (a purported owner of the business) in 2019.
- The illegal tobacco was found under the counter as opposed to being within the shop’s visible tobacco gantry which stocks genuine cigarettes. On one occasion illegal tobacco was observed being hidden at the rear of Mr ALAM’s residential address located on the same street as the shop. This occurred while searches were being executed simultaneously at both locations and the tobacco was subsequently seized.
- On several occasions opened cigarettes packets were found under the shop counter which indicates that cigarettes were being sold as singles from the premises as alleged in some of the complaint received by this department.

PLEASE SEE THE SUPPORTING INFORMATION SECTION OF THIS APPLICATION FOR FURTHER DETAILS OF THESE INCIDENTS AND COMPLAINTS

PREVENTION OF CRIME AND DISORDER
We believe that this review application relates to the licensing objective of **prevention of crime and disorder** because it is a criminal offence to sell or offer for sale cigarettes which are counterfeit or illicit. It is also a criminal offence to split cigarette packs and sell cigarettes as ‘singles’

s.92 **Trade Marks Act 1994** makes it a criminal offence to expose for sale or possess for supply counterfeit cigarettes and tobacco products which bear a sign identical to or likely to be mistaken for a registered trade mark. For illicit (smuggled) tobacco it is a criminal offence under **The Standardised Packaging of Tobacco Products Regulations 2015** to offer or possess for supply sale tobacco products which do not bear the standardised packaging and graphic health warnings in English. Illicit tobacco does not comply with these labelling or health warning requirements. It is also a criminal offence under these same Regulations to split and sell cigarette packets or to sell cigarettes as 'singles'. Finally it is also a criminal offence under s.144 **Licensing Act 2003** for the premises licence holder or DPS to knowingly keep or allow to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported. Such goods would include illicit cigarettes as these products are not intended for sale in the UK and duty has not been paid.

The illegal cigarettes found at the premises were seized under this criminal trade marks and standardised packaging legislation on all four occasions. Given the recurring pattern of complaints from members of the public against the premises and the subsequent seizures by trading standards officers of illicit and counterfeit tobacco we have concerns that the illegal sales of these products are a core activity of this business.

The warnings and advice issued to both Mr AHMED and Mr ALAM does not appear to have stopped these repeated occurrences. Moreover, the fact that these products were found under the counter and in one instance were observed being deposited outside from the back of an associated residential address while searches were being conducted suggests that attempts are being made to avoid this criminal activity being detected.

PUBLIC SAFETY AND THE PROTECTION OF CHILDREN FROM HARM

We believe that this review also relates to the licensing objective of **public safety and the protection of children from harm**.

The World Health Organisation has identified the illicit trade in tobacco products to be a serious threat to public health. In its *Protocol to Eliminate Illicit Trade in Tobacco Products* (ratified by the UK Government in June 2018) it states that the illicit trade in tobacco products, '*poses a serious threat to public health. Illicit trade increases the accessibility and affordability of tobacco products, thus fuelling the tobacco epidemic and undermining tobacco control policies.*'¹

Oldham trading standards have received complaints of underage tobacco sales and cigarettes being sold singly from the premises as outlined in the supporting information. Searches at the premises have identified opened packets of illegal tobacco underneath the shop counter on several occasions. Illegal tobacco products are sold at a cheaper price than legitimate tobacco making them more affordable to children. They are even more affordable when packets of cigarettes are split and sold as singles. A survey of 14-17 year olds commission by Trading Standards North West found that 14% of the 14-17 years surveyed in the North West said that they had purchased illegal cigarettes within the last 12 months. 66% of these illegal cigarettes were purchased from shops.

Since 2017 all cigarettes and hand rolling tobacco sold in the UK must be contained within standardised packaging with graphic warnings and images. Some of the objectives of these standardised packaging being brought in as law were;

- discouraging people from starting to use tobacco products
- encouraging people to give up using tobacco products

¹ WHO Protocol to Eliminate Illicit Trade in Tobacco Products
https://www.who.int/fctc/protocol/illicit_trade/protocol-publication/en/

- reducing potential for packaging to detract from the effectiveness of health warnings.²

However, illicit and counterfeit cigarettes such as those found at Sunny Newsagents do not comply with these requirements and have branded packaging meaning that any health warnings are less prominent and serve to undermine these objectives.

Based on the grounds outlined above and the repeated criminal offences detected at the shop we are seeking a review of its premises licence. We would respectfully ask the panel to consider revocation of the premises licence on the following grounds;

- we have concerns that removal of the DPS would not address the issues given that our enforcement activities have identified that the other operators associated with the business (including the owner, Mr Alam and his wife) are also both involved in this illegal activity. As a result it is unclear whether there is anyone with sufficient control of the business, who could take on this role with sufficient assurance that this criminal activity would cease
- we are also not confident that a temporary suspension would address the issues given that despite both Mr Riaz as DPS/PLH and Mr Alam having opportunity over a number of years to act on the comprehensive advice and warnings provided to them, illegal tobacco has continued to be seized throughout this period.
- Finally, the repeated discovery of illegal tobacco under the shop counter despite our seizures and warnings suggests that it is the intention of the business operators to habitually engage in this illegal activity which brings into doubt their suitability to adhere to the licensing objectives

Details of the complaints, seizure and actions taken against the premises to date can be found in the following supporting information section.

Please provide as much information as possible to support the application (please read guidance note 3)

According to departmental records 10 complaints have been received since 2014 which relate to the sale of illicit illegal tobacco from the premises and/or underage sales. The nature of the allegations are as follows

January 2021 Illegal tobacco being sold and underage sales of tobacco to children
 August 2019 Underage sales of cheap tobacco
 August 2019 Counterfeit cigarettes being sold
 July 2019 Counterfeit cigarettes being sold from under the counter
 April 2019 Counterfeit cigarettes sales
 March 2019 Counterfeit and single cigarette sales
 March 2019 Sales of counterfeit cigarettes
 January 2019 Counterfeit cigarettes being sold
 August 2015 Sales of foreign imported cigarettes – customers asked to hide them before leaving the shop.
 February 2014 Illicit tobacco being sold from the premises

On **8th April 2014** Mr AHMED (Premises Licence Holder and Designated Premises Supervisor), was issued with a warning in relation to a seizure illicit and counterfeit tobacco from his premises. That seizure comprised of 60 x cigarettes & 100g of hand rolling tobacco which were all counterfeit. On 17th April Mr Ahmed signed an acknowledgement in the presence of a trading standards officer to confirm that he had received the letter and agreed to comply with the requirements and advice it

² EXPLANATORY MEMORANDUM TO THE STANDARDISED PACKAGING OF TOBACCO PRODUCTS REGULATIONS 2015 2015 No. 829
https://www.legislation.gov.uk/uksi/2015/829/pdfs/uksiem_20150829_en.pdf

provided. Mr Ahmed at the time also signed a voluntary forfeiture for the seized illicit and counterfeit cigarettes so that Oldham trading standards could securely destroy them.

However, since Mr Ahmed received this warning illegal tobacco products have been recovered from the trading standards on the following occasions;

1. On **24th June 2019** in response to allegations of counterfeit and illicit tobacco the premises were searched and 180 Richmond cigarettes (counterfeit) were found under the counter along with two opened packets. Mr Mohammed ALAM was present.
2. On **9th October 2019** in response to allegations of sales of illicit tobacco, single cigarettes and sales to persons under the age of 18 the premises was searched and an opened packet containing 3 x illicit 'Heritage Premium' cigarettes was found under the shop counter. Mr AHMED the licence holder was present at the time. While a search of the shop was taking place an entry warrant was simultaneously executed at a nearby residential address on the same street used by both Mr ALAM and Mr AHMED. A police officer stationed at the rear of the property observed an Asian female remove a box and place it outside an external toilet at the rear before she opened the front door so that the search could commence. The box was recovered and found to contain 400 x illicit cigarettes of the same brand as found within the shop premises and the Asian female was identified to be Ms Nasreen AKHTAR, Mr ALAM's wife. Mr AHMED also subsequently attended the residential premises. Warning letters in relation to these seizures were issued to Mr AHMED, Mr ALAM and Ms AKHTAR.
3. On **31st October 2019** a letter was sent to Mr ALAM at the premises notifying him that trading standards had received allegations of underage sales taking place at the premises. We have no record of any response being received.
4. On **15th January 2020** 40 x assorted cigarettes comprising of 4 x opened packets of various brands were found under the shop counter and a further 140 x Richmond cigarettes were found concealed within a coat pocket behind the same counter. The sole employee present at the premises claimed that it was his first day and he had not been trained because he was just covering for the owner. The employee did not know whether there was an underage sales refusals book on the premises. MR RIAZ was (and still is) the licence holder for the shop. However, Mr ALAM attended a recorded interview and stated that he had been involved with the shop since 2014 and was now the sole director of the business. Mr ALAM signed to confirm that he had received written advice about the criminal offences relating to the sale of illegal tobacco. Mr ALAM attempted to claim that the tobacco found under the shop counter was for 'personal use' by his staff. Following interview he was given comprehensive written advice during a meeting with a trading standards officer recommending that he provide lockers for staff personal property so that no illegal tobacco would be found within the shop floor or counter area in the future.
5. On **16th January 2021** a letter was sent to the premises raising allegations of underage sales taking place and notifying the business that trading standards will be conducting test purchases. We have no record of any response being received.
6. On **11th February 2021** 200 x counterfeit Richmond Cigarettes were purchased from the premises during an undercover test purchasing operation arranged by trading standards. In that instance the cigarettes were obtained from the back room of the premises by the staff member.
7. Nine days later on **20th February 2021** Mr ALAM himself was in attendance at the premises when 180 Richmond Cigarettes were found in a bag under the shop counter and seized from the premises. This recurrence suggests that the advice given to Mr ALAM the previous year to provide staff with lockers for their tobacco for 'personal use' had not been followed.

Given the repeated recurrences at the premises despite prolonged enforcement action and warnings being issued to the licence holder and purported owner there appears to be a wilful intention to undertake this illegal activity. We believe that this criminal activity breaches the licensing objectives outlined in the previous section.

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

NO

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

N/A

Please tick ✓

- 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

- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date **23/07/2021**

Capacity **Trading Standards Officer on behalf of Oldham Trading Standards**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.