

# The Licensing Act 2003

## Responsible Authority Representation Form



The Section 182 Guidance is a valuable source of information that responsible authorities may wish to consult when considering making a representation and can be found online on this link: <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

<b>Section 1 - Application Details</b>	
Applicants Name	Mr Sardar Ahmed Mohammed
Premises Name	Timisoara
Premises Address	248 Ashton Road, Oldham, OL8 1QN
Type of Application	Premises licence – supply of alcohol

<b>Section 2 – Responsible Authority Details</b>																			
Please tick the appropriate box	<table border="1"> <tr><td><input type="checkbox"/></td><td>Greater Manchester Police</td></tr> <tr><td><input type="checkbox"/></td><td>Greater Manchester Fire &amp; Rescue</td></tr> <tr><td><input type="checkbox"/></td><td>Environmental Health</td></tr> <tr><td><input checked="" type="checkbox"/></td><td>Trading Standards</td></tr> <tr><td><input type="checkbox"/></td><td>Public Health</td></tr> <tr><td><input type="checkbox"/></td><td>Safeguarding</td></tr> <tr><td><input type="checkbox"/></td><td>Planning Service</td></tr> <tr><td><input type="checkbox"/></td><td>Home Office Immigration</td></tr> <tr><td><input type="checkbox"/></td><td>Licensing Service</td></tr> </table>	<input type="checkbox"/>	Greater Manchester Police	<input type="checkbox"/>	Greater Manchester Fire & Rescue	<input type="checkbox"/>	Environmental Health	<input checked="" type="checkbox"/>	Trading Standards	<input type="checkbox"/>	Public Health	<input type="checkbox"/>	Safeguarding	<input type="checkbox"/>	Planning Service	<input type="checkbox"/>	Home Office Immigration	<input type="checkbox"/>	Licensing Service
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<input type="checkbox"/>	Home Office Immigration																		
<input type="checkbox"/>	Licensing Service																		
Full Name	Antony Perkins																		
Telephone	0161 770 4100																		
Email Address <i>(we will use this to correspond with you unless you notify us otherwise)</i>	<a href="mailto:Antony.perkins@oldham.gov.uk">Antony.perkins@oldham.gov.uk</a>																		
Full Address <i>(Including postcode)</i>	Trading Standards Oldham Council, Sir Robert Peacock House, Vulcan Street, Oldham, OL1 4LA																		

### Section 3 – Representation Details

- I object to the application being granted at all  
 I object to the application being granted in its current form\*

\*if you choose this option remember to tell us in Section 4 what changes you would like to see

### Licensing Objectives

#### The Prevention of Crime & Disorder

*Please state the reasons you believe granting the application will undermine this objective*

Trading standards have had previous recent dealings with this premises and Mr MOHAMMED in relation to the supply and possession of illicit and counterfeit tobacco products.

- In response to complaints received about illegal and single cigarettes being sold from these premises, trading standards conducted a search on 19<sup>th</sup> September 2020 and seized a substantial quantity of counterfeit and illicit tobacco.
- This illegal tobacco seizure comprised 22,557 cigarettes, which were found within the shop's cellar, a holdall behind the counter as well as also being concealed behind the counter within 2 jackets which had sleeves that had been especially modified for this purpose.
- 99x packets of prescription only and foreign labelled medicines (antibiotics and painkillers) were also found during the search. Details were referred to the Medicines and Healthcare Products Regulatory Agency (MHRA) as such products fall within their remit and cannot legally be sold within the UK.
- During interviews under caution in November 2020 (with an interpreter present) Mr MOHAMMED admitted that the cigarettes were his and he had purchased them to sell.
- Mr MOHAMMED has previously been interviewed regarding similar criminal offences in July 2017, involving a lockup storage unit, which he was at the time renting that was found to contain over half a million (561,892) illegal illicit cigarettes and 19.75kg of illicit hand rolling tobacco. Antibiotic and painkiller medicines of types similar to those recovered from Timisoara were also found on that occasion at this storage unit. In that instance Mr MOHAMMED had been given a written warning and detailed advice concerning the illegal tobacco and potential criminal offences for which he had signed to confirm receipt.
- Although that warning and advice had been issued to MR MOHAMMED before he took over ownership of Timisoara, it does not appear to have stopped this occurrence within the licensed premises. Moreover, the fact that these products were found under the shop counter and concealed within modified jackets suggest that attempts are being made to avoid this criminal activity being detected.

At that time of the seizure from the Timisoara the premises was operating under another alcohol premises licence (PL0956) held by Mr Haval AMIN. Comments made by Mr MOHAMMED under caution (with an interpreter present) in several recorded interviews in November 2020 indicated that Mr AMIN, despite still being the premises licence holder at that time, was no longer involved with the business following its sale to Mr MOHAMMED earlier last year several months prior to our seizure from the premises. **EXTRACTS FROM THE INTERVIEW TRANSCRIPT ARE CONTAINED AT THE BOTTOM OF THIS SECTION.**

Trading Standards then proceeded with an application to review the premises licence for Timisoara which was in place at the time. However, since that application was submitted the previous licence has been surrendered prior to the hearing and Mr MOHAMMED has

now elected to make a new application. Given that our investigations and actions in relation to the illegal cigarettes have identified Mr MOHAMMED as the owner of the premises and, by his own admission, the owner of the cigarettes for the purposes of the selling of them, the grounds for our objection remain unchanged.

We therefore believe that this granting this application undermines 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'. Further, 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.

A substantial quantity of illegal tobacco was found within these premises and some of it had been concealed which suggests an attempt to avoid detection. Mr MOHAMMED admitted in interview that he intended to sell these products without checking their legality despite being interviewed by trading standards and receiving a warning the previous year in relation to these same illicit products and potential criminal offences at another premises. This recurrence at Timisoara suggests a propensity to engage in this illegal activity which brings into doubt the suitability of the business to adhere to the licensing objectives. Our department has concerns regarding the issuing of a licence to the applicant given that his apparent disregard for the legislation relating to tobacco products might equally apply to alcohol sales.

Trading standards are currently proceeding with a prosecution against Mr MOHAMMED in relation to the illegal tobacco seizure made from Timisoara. If that prosecution is successful we will be requesting that the court revokes his personal licence given that he would then have been found guilty of committing relevant offences under the Licensing Act.

**A timeline summary of our dealings with Mr MOHAMMED and the premises by the trading standards department is summarised below;**

According to departmental records 5 complaints have been received against Timisoara since 2019 which relate to the sale of illicit/illegal tobacco/single cigarettes from the premises and/or underage sales. The nature of the allegations are as follows:

November 2020	Allegation of underage sales and single cigarettes being sold from the premises
July 2020	Allegation of sale of duty-free cigs from the premises

August 2019	Successful test purchase of illicit cigarettes by brand holder
July 2019	Allegation of illicit tobacco being sold from the premises
April 2019	Allegation of illicit tobacco being sold from the premises

On **16<sup>th</sup> July 2019** Mr MOHAMMED had been issued with a warning letter in relation to the seizure of over half a million (561,892) illicit cigarettes on 15<sup>th</sup> July 2018 from premises that he was leasing at that time. Painkiller and antibiotic medicines were also found at the unit. The warning was issued following Mr MOHAMMED'S interview under caution in relation to this illicit tobacco and the potential criminal offences. The warning letter also contained information on the standardised packaging requirements for all cigarettes placed on sale in the UK. This included advising him of the requirement for all packaging to be in a standard drab green/brown colour. **On 1<sup>st</sup> August 2019** trading standards received an acknowledgement slip from Mr MOHAMMED signed and dated 27/07/2019 to confirm that he had received this warning letter and agreed to comply with the requirements and advice it provided.

**On 20<sup>th</sup> August 2019** Timisoara was visited in response to complaints being received alleging sales of illicit tobacco and notification from a brand-holder that had successfully obtained illicit cigarettes from the premises when making a test purchase. Although no illicit tobacco was found on the premises the person present in the shop at the time gave his details as Haval AMIN, the same name as the holder of the previous Premises licence at this shop.

**On 19<sup>th</sup> September 2020**, in response to a further complaint the premises was again visited and illegal tobacco was seized comprising 22,557 cigarettes, which were found within the shop's cellar, a holdall behind the counter as well as also being concealed behind the counter within 2 jackets which had sleeves that had been especially modified for this purpose. Please see **APPENDIX ONE** for a photo of the seized cigarettes. Mr Sardar MOHAMMED was behind the counter at the time of the search and in subsequent interviews under caution in November 2020 he admitted that he was the owner of the business and was intending to sell these cigarettes. He also admitted placing them inside the jackets behind his counter. He claimed not to know that the cigarettes were illegal despite them being foreign labelled and despite his previous warning and advice the previous year. During these same interviews he also made the following comments stating Mr AMIN, although at that time the licence holder and DPS for the licensed premises, was no longer involved in the business.

Extract from transcript -recorded interview ref 2549 - Sardar MOHAMMED occurring on 04/11/20

LF	So can you just tell me a bit, we'll start with the business then, you just tell me a bit about it – so the trading name is Timisoara?
SM	Yeah, Timisoara
LF	And how long have you been trading from there?
SM	About two month, three month.
LF	So we're at the beginning of November now, so?
SM	August

LF	You took over in August?
SM	Yeah
LF	How much did you pay for the business?
SM	I paid from back home, it's twenty thousand pound.
LF	And that included the stock at the business?
SM	Yeah
LF	And who did you pay that to?
SM	I pay from back home, my family pay, my brother.
LF	And who did they pay the twenty thousand to?
SM	Havel family, Havel is owner.

.....(further questioning before returning to Havel Amin as per below)

LF	With this previous owner, with Havel, was there any kind of handover, did you do any changeover, like did he show you things?
SM	No
LF	Is he still working there?
SM	He's coming sometime help me, now not coming - before this every week, two days working with me, because I don't understand what do I do, own this shop, he had this for a long time.
LF	He had the shop a long time and he showed you what to do?
SM	Yeah
LF	And does he still work there now?
SM	No
LF	He doesn't come in at all?
SM	No, at beginning he's come in helping me.
LF	What are the trading hours of the shop, when does it open and close?

END OF INTERVIEW EXTRACT

### **Public Safety**

*Please state the reasons you believe granting the application will undermine this objective*

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.'*<sup>1</sup>

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
- reducing potential for packaging to detract from the effectiveness of health warnings.<sup>2</sup>

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

### **The Prevention of Public Nuisance**

*Please state the reasons you believe granting the application will undermine this objective*

**N/A**

### **Protection of Children from Harm**

*Please state the reasons you believe granting the application will undermine this objective*

Oldham trading standards have received a complaint of underage tobacco sales and cigarettes being sold singly from the premises as outlined in the details within the previous sections. 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 commissioned 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.

### **Section 4 – Suggestions**

*(please provide any suggested conditions that could be added to the licence if granted which would remedy the cause of your representation, or other suggestions you would like the licensing panel to consider)*

**N/A**

<sup>1</sup> WHO Protocol to Eliminate Illicit Trade in Tobacco Products

[https://www.who.int/fctc/protocol/illicit\\_trade/protocol-publication/en/](https://www.who.int/fctc/protocol/illicit_trade/protocol-publication/en/)

<sup>2</sup> 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](https://www.legislation.gov.uk/uksi/2015/829/pdfs/uksiem_20150829_en.pdf)

<b>Section 6 – Signature</b>
Sign:  Date: 31/08/2021

Please return the completed representation form, and any additional evidence, to the Licensing Service, Sir Robert Peacock House, Vulcan Street, Oldham, OL1 4LA or email to [licensing@oldham.gov.uk](mailto:licensing@oldham.gov.uk)

**TIME LIMITS**

All representations must be returned within the statutory period, generally 28 days from the date the notice was displayed on the premises or the date specified in the public notice in the newspaper.

If you are unsure of the time limit to lodge a representation for a particular application, please check with the Licensing Service by emailing [licensing@oldham.gov.uk](mailto:licensing@oldham.gov.uk)

**APPENDIX ONE**

Photo of cigarettes seized from Timisoara on 19<sup>th</sup> September 2020

