

AGENDA FOR
LICENSING HEARING SUB COMMITTEE



Contact:: Michael Cunliffe
Direct Line: 0161 253 5399
E-mail: m.cunliffe@bury.gov.uk
Website: www.bury.gov.uk

To: All Members of Licensing Hearing Sub Committee

Councillors : G McGill (Chair), G Marsden and M Walsh

Dear Member/Colleague

Licensing Hearing Sub Committee

You are invited to attend a meeting of the Licensing Hearing Sub Committee which will be held as follows:-

Date:	Wednesday, 15 November 2023
Place:	Virtual meeting via Microsoft Teams
Time:	10.00 am
Notes:	To view the virtual meeting online, please email m.cunliffe@bury.gov.uk or phone 0161 2535399 who will provide you with a link to view the meeting via MS Teams or telephone you into meeting with the option of audio only.

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing Hearing Sub Committee are asked to consider whether they have an interest in any matter on the agenda, and, if so, to formally declare that interest.

3 MINUTES OF THE LAST MEETING *(Pages 3 - 8)*

The Minutes of the last Licensing Hearing Sub Committee meeting held at 10.00am on the 11th October 2023 are attached.

4 AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF KILLON STREET OFF LICENCE, 26 PRICE STREET, BURY, BL9 7EB *(Pages 9 - 80)*

A report from the Executive Director (Operations) is attached:-

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 11 October 2023

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh
M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

Also in attendance: PC P. Eccleston Greater Manchester Police (Representor)
Mr M. Abady
Mr A. Abady
I Oldman- Bury Times (Press)

Public Attendance: No members of the public were present at the meeting.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B. Thomson, Head of Public Protection at Bury Council.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 10.00am on the 28th September 2023 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committees held at 10.00am on the 28th September 2023 be approved as a correct record.

4 APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY A CHANGE OF DESIGNATED PREMISES SUPERVISOR IN RESPECT OF CLUB 66, 24 SILVER STREET, BURY

The Licensing Authority received an application under section 37 of the Licensing Act 2003, from Club Sixty Six Limited, to vary the Premises Licence held by them, in respect of Club 66, 24 Silver Street, Bury, to specify a change of Designated Premises Supervisor (DPS). Greater Manchester Police in their capacity as 'A Responsible Authority' had made a representation in respect of the application.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager, Mr M. Bridge.

The options available were:

- To grant the application
- To refuse the application

Attention was drawn to background papers which included:-

- The application form
- Representations received

The Licensing Unit Manager reported the Licensing Act 2003 and the Licensing Act 2003 (Hearings) regulations is the relevant legislation.

The Panel would make a decision at the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

Under the provisions of section 37(5) of the Act, where the chief officer of police notified of an application to specify an individual as a DPS, is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant Licensing Authority a notice stating the reasons he is so satisfied.

The applicant had complied with all the necessary procedural requirements laid down by the Act.

On the application form it had been requested that the application to have immediate effect under section 38 of the Act which allows the premises to continue to sell alcohol until such time that this application is determined or withdrawn.

Members were reminded that consideration was given to a review of the premises licence submitted by Greater Manchester Police on the 13th June 2023 and members resolved to revoke the premises licence and to remove the designated premises supervisor. An appeal to the Magistrates Court had been lodged against the decision, no date as yet had been given for this, therefore the premises can continue to trade in the meantime.

Paragraph 4.3 of the Guidance issued under Section 182 of the Licensing Act 2003, states: - *Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to be present on the premises or oversee each sale; it is sufficient that such sales are authorised.*

The application from Club Sixty Six Limited names Mr Ali Khalil Abadi of 32 Horne Street, Bury, BL9 9BW as the new DPS. It was confirmed that Mr A. Abadi is the holder of a Personal Licence granted by Bury Council.

Greater Manchester Police would give their reason(s) for their representations in relation to the application in which they request the Panel to refuse the application. The representation was attached at Appendix One of the agenda packs.

The Licensing Unit Manager had also circulated to Members CCTV footage recorded outside the premises and additional documents from Greater Manchester Police. These included a GMP witness statement from PC Peter Eccleston and:-

Appendix A- Email and application to change DPS to Mr Alikhalil Abadi

Appendix B- Copy of request to be removed as DPS

Appendix C- Copy of Bury Councils CCTV occurrence forms

Appendix D- Copy of Bury Councils CCTV regarding 6th & 12th November 2022

After hearing the representations made and the evidence presented, Members were obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- a. The prevention of crime and disorder
- b. Public safety
- c. Prevention of public nuisance
- d. Protection of children from harm

The Licensing Unit Manager sought clarification from Mr M. Abady in relation to the application submitted and the registered postal address of the business listed with Companies House. Upon sending the Hearing Sub Committee invites and reports out via the Post Office, the paperwork had been returned to the Council via Royal Mail with a hand written note on the front of the envelope stating not at this address, return to sender.

Mr M. Abady stated he had telephoned the Council some months ago to inform them that his main office was based in central Manchester and he provided the full address to the Licensing Unit Manager at the meeting. The change had not been made with Companies House and Mr A. Abady added they were in the middle of a move and there was a temporary receptionist at the location where the papers had been posted.

Mr A. Abady told the committee that he was surprised representations had been submitted from GMP in relation to late entry into the club outside licensing hours as these issues had been the fault of a security company previously employed by the club. This had occurred over 2 weekends and when it came to his attention of late admission he came out of the premises and informed the door staff to stop. He also informed the panel that he had been a DPS twice previously for a short period of time at the club and had to take time away from work due to a personal health issue. He had in the past been involved with a club in Bolton and had a good relationship with the Bolton Police.

Mr M. Abady added when he was aware of the issues with the security firm he had a meeting with the police and said if there were any problems to contact him direct and thought the issue had been resolved.

Mr A. Abady said there had been no issues with the club over the past couple of months co-operating with the town radio scheme and felt they were being victimised.

He was shocked the security firm from Manchester did not follow procedures and sacked them before employing a new door staff company.

The Licensing Unit Manager questioned Mr A. Abady when he had said that he had been acting as the DPS for the past 2 and a half months. Mr A. Abady confirmed it had been since the application had been submitted. The Licensing Unit Manager informed the panel that this application had been submitted on the 15th September 2023 and was made by Club 66. Mr M. Abady was the sole director of that company according to Companies House.

Mr A. Abady disputed late entries into the club by new customers on the nights in question and informed the panel that a one off event had been held by people who had hired out the club for the night. He had worked on these nights and made sure the rules were followed and there had been no issues this year.

Mr M. Abady informed the meeting that the club was located in a shared building and Hidden Bar staff needed to go through the building to access their back office. He also stated that businesses were located upstairs which required 24 hour access and one of these was a milkshake bar. That meant entry after 3am was still required via the front door of the building for these other businesses to be accessed.

PC P. Eccleston from Greater Manchester Police (GMP) provided representations to the panel and gave background information on a number of issues which were presented at the full review hearing held in June 2023 when the premises licence was revoked. The operating schedule was being ignored for last entry time and past closing time and video evidence of this occurring in November was when Mr A. Abady was the DPS for a short duration.

CCTV footage was played at the hearing with footage recorded from the 6th and 12th November 2022. PC Eccleston provided a commentary over the clips in relation to customers entering the premises at 03.28am and leaving at 04.20am on the 6th November. Again, a similar pattern took place on the 12th November and there was still a large line of people queuing to enter after the operating hours and the front door of the premises not closed and locked.

Mr M. Abady commented that people were going in the building but for the office use upstairs which also included the milkshake bar.

Mr A. Abady pointed himself out on the footage and explained he had come out of the venue and told door staff to stop entry and close the door.

PC Eccleston questioned why the footage appeared to show the front door being locked and unlocked on different occasions if access was required to the other businesses in the building.

Mr A. Abady also clarified that the clip which showed an individual walking past the que and being allowed in the venue after hours was a member of the event staff for a private function held.

Mr A. Abady questioned why the police had not addressed the issues with him earlier and PC Eccleston explained that once the information had been gathered he would then notify the relevant party but Mr A. Abady had already resigned as the DPS.

Mr M. Abady felt the issues had been addressed at a meeting held at Bury police station earlier this year when the footage was played and it was agreed that it was the security company's fault.

Upon request of the Chair, the Licensing Unit Manager provided a timeline of the procedural rules in relation to representations being received.

Legal services advised that comments made by Mr A. Abady about the integrity of the police were not relevant to the issues for determination before the committee.

The Licensing Unit Manager asked if GMP had been aware of the private event taking place at the premises after 5.00am and PC Eccleston confirmed no TEN had been submitted for that date. He also added that it was the responsibility of the premises licence holder and not door staff to ensure the private event runs under the conditions of the licence.

Mr A. Abady said that applications had been made to open later and PC Eccleston explained that after the incidents the premises did mention about later opening although he had stated he would not support this based on previous incidents and no evidence of being responsible operators. No applications had been received for a variation of operating hours and PC Eccleston explained that a TEN would allow the police to arrange staffing levels if they knew in advance of an event.

PC Eccleston recapped what the CCTV evidence played to the committee demonstrated and felt the DPS application would lead to further problems with crime, disorder and the issues of public nuisance.

Mr A. Abady repeated he would be a strict DPS and had demonstrated this by sacking a previous employed door security company. He thought previous issues had been resolved with the police and said he was aware that safety was important being a manager of many staff at a call centre in Manchester.

The Licensing Unit Manager explained for background purposes that a transfer of the licence had been submitted in the past to a different company, but this had been withdrawn and reverted back to Club 66.

Mr M. Abady summed up that over £300,000 had been spent on the venue to provide the people of Bury a safe and nice club to visit. 8 door staff were employed now and there had been no issues this year and the proposed DPS would keep the premises safe.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

DELEGATED DECISION

The Sub-Committee carefully considered all the representations and evidence provided which was accepted as being accurate and demonstrated the need to prevent crime and disorder, promote public safety and prevent public nuisance. The panel therefore unanimously **resolved to refuse the application** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence to refuse the application.

The evidence presented had demonstrated the following licensing objectives had and would not be promoted by failing the:-

- Prevention of crime and disorder
- Public safety
- The prevention of public nuisance

The reasons by the sub-committee, included:-

There would be no change on incidents occurring, as had been the case on previous occasions when the proposed DPS was the DPS on two separate occasions for a short period of time. This was demonstrated by the premises not complying with the last admittance and closing times permitted under the premises licence on a number of occasions.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 12.40pm)



	Classification	Item No.
	Open / Closed	
Meeting:	Licensing Hearings Sub-Committee	
Meeting date:	15 November 2023	
Title of report:	AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF KILLON STREET OFF LICENCE, 26 PRICE STREET, BURY, BL9 7EB	
Report by:	Executive Director (Operations)	
Decision Type:	Council	
Ward(s) to which report relates	Redvales	

Executive Summary:

This report relates to an application pursuant to section 51 of the Licensing Act 2003 from a Responsible Authority for a review of the premises licence in respect of Killon Street Off Licence, 26 Price Street, Bury, BL9 7EB.

Recommendation(s)

That:

- To revoke the licence
- To suspend the licence for a period not exceeding three months
- To remove the Designated Premises Supervisor
- To exclude a licensable activity from the scope of the licence
- To modify the conditions of the licence

1.0 BACKGROUND

1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.

- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.
- 1.3 An application to review relating to this premise has previously been considered by the Licensing Hearings Panel on the 28 February 2019, Members resolved that due to the Premises Licence holder not being able to furnish the Panel with the further documentation, it was agreed unanimously, that to ensure a fair hearing and to enable the Premises Licence Holder to fully explain and provide evidence as to his current position and in addition enable this to be fully considered by the Responsible Authorities, that in the public interest, the hearing be adjourned to a future date.
- 1.6 Following this adjournment, a further report was considered on the 25 April 2019, members resolved:

All of the evidence was considered with care and it was established that having understood the request for review and equally understanding the representations made, including the agreement reached by the Premises Licence Holder, the Applicant and the Responsible Authorities as to the concerns regarding promotion of the licensing objectives associated with the premises and in addition there being agreement as to proposed additional licence conditions, the Panel was satisfied that there were causes for concern so far as the promotion of the following Licensing Objectives were concerned:

- The Prevention of Public Nuisance
- the Prevention of Crime and Disorder
- the Protection of Children from Harm

The Panel was further satisfied that in all of the circumstances, in order to deal with those concerns it considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence and the agreement reached, **to** modify the conditions attached to the licence by the additions of the following;

Prevention Of Public Nuisance

- Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
- Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.
- Where the premises provide food to the public for consumption off the premises there shall be provided at or near the exits, one waste bin to enable the disposal of waste food, food containers, wrappings etc.
- Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. *Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.*

The Prevention of Crime and Disorder

- The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number / positioning of cameras is to be agreed in liaison with the police. The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 consecutive days and are to be made available to the police / Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.
- On an annual basis [or at a greater frequency specified] the premises licence holder or the DPS is to notify the licensing office in writing that the cctv system has been checked, maintained to any recognised specification and is in working order. An action plan to be agreed to rectify any recorded malfunction or planned alterations.
- A Personal Licence holder must be on the premises on Thursday, Friday and Saturday between 15.00 hrs and close of business and have a personal licence on their person which can be produced on request by police / authorised officers of the Licensing Authority.
- Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
- No alcoholic drink shall be removed from the premises in an unsealed container.

Protection of Children from Harm

- The premises will operate a "Challenge 25" proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold / supplied alcohol. Only a passport or photo-card driving licence should be accepted as proof of age.

- A documented Challenge 25 scheme will be operated at the premises. The Challenge 25 scheme shall be actively promoted and advertised at the premises and will ensure that any person purchasing alcohol, who appears to be under 25 years of age, shall be asked to provide acceptable identification to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.
 - Where a purchaser is asked for Identification, only the following forms of identification will be acceptable:-
 - (a) Photo driving licence
 - (b) Passport or
 - (c) Her Majesty's Forces Warrant Card
 - The premises is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The book must be made available to the police / authorised officers of the Licensing Authority on request.
 - All individual alcohol containers (e.g. bottles/cans/cartons) before going on display for sale are to be uniquely and indelibly marked in a manner approved by the Greater Manchester Police and Bury Council. The mark shall be the letter 'K' permanently marked on the bottles/cans/cartons.
- 1.4 At the time of the submission of this review application on the 2 October 2023, the Premises Licence in respect of Killon Street Off Licence, 26 Price Street, Bury, BL9 7EB is held by Mr Syed Khurshid Hassain Shah, 13 Andrew Street, Bury, BL9 7HD. Mr Shah is also the Designated Premises Supervisor (DPS). The application for review is attached at Appendix 1 along with appendices 2 to 8

1.5 The premises licence was transferred to Mr Shah on the 20 August 2020.

2.0 PROCEDURE

- 2.1 The Responsible Authority has complied with all the necessary procedural requirements laid down by the Act.
- 2.2 As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council web site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.
- 2.3 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
- a) the prevention of crime and disorder
 - b) public safety

- c) prevention of public nuisance and
- d) protection of children from harm

3.0 CURRENT LICENSABLE ACTIVITIES

3.1 The current licensable activities are as follows:

a. The Supply of alcohol – For consumption off the premises:

Monday to Sunday 08.00 to 23.00

b. Non Standard Timings

Christmas Day 12.00 to 15.00

Christmas Day 19.00 to 22.30

Good Friday 08.00 to 22.30

c. Opening Hours

Monday to Saturday 07.00 to 23.00

Sunday 08.00 to 23.00

4.0 CURRENT CONDITIONS ATTACHED TO THE PREMISES LICENCE:

4.1 The conditions, consistent with the premises operating schedule are attached to the current premises licence are attached at appendix 9:

5.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITY

5.1 The Trading Standards Service will shortly expand upon the reason(s) for their representation in relation to this application. The representation is attached at appendix 10 which contains two witness statements and photographs.

6.0 SECTION 182 LICENSING ACT GUIDANCE (August 2023)

Section 3.7 states the following:-

From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme(AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized.

Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at:

<https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>

Section 10.2 states the following:-

Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

Section 11.24 states the following:-

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.

Section 11.26 states the following:-

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

Section 11.27 states the following:-

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 or storage of smuggled tobacco and alcohol.

Section 11.28 states the following:-

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.

7.0 OBSERVATIONS

7.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

Community impact/links with Community Strategy

Not Applicable

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
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The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics.

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
There are no specific issues from the report other than potential costs/risks associated with legal appeals.	

Consultation:

Not Applicable

Legal Implications:

Yes, under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

Financial Implications:

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Report Author and Contact Details:

For further information on the details of this report, please contact:

Mr M Bridge
Licensing Office
Town Hall
Bury
Telephone No: 0161 253 5209
Email: m.bridge@bury.gov.uk

Background papers:

List of Background Papers:-
Application form
Representation received

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning

Appendix One to Eight

Review application for Killon Street Off Licence

**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 Laura Jones.....

(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	
Killon Street Off Licence 26 Price Street	
Post town Bury	Post code (if known) BL9 7EB

Name of premises licence holder or club holding club premises certificate (if known) Syed Khurshid Hussain Shah

Number of premises licence or club premises certificate (if known) PL0475

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 Laura Jones Deputy Licensing Officer Licensing – Bury Council 3 Knowsley Place Duke Street Bury BL9 0EJ
Telephone number (if any) 0161 253 7206
E-mail address (optional) laura.j.jones@bury.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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input 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 2)

The prevention of crime and disorder

- Breaches of conditions of the licence that were attached at a previous review.
- Not able to work the CCTV system which is key if any serious incident were to occur on the premises.
- Open bottles of alcohol on the premises.
- Single cigarettes on the premises.
- Illicit cigarettes and illegal vapes on the premises.

The protection of children from harm

- No refusals register to show that underage sales are being prevented.
- Alcohol not always marked as required which was a condition to be able to track where alcohol had been sold from if confiscated from anyone who is underage.

More information on the above is provided in the section below.

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

Mr Syed Khurshid Hussain Shah has been the Premises Licence Holder and Designated Premises Supervisor since 20 August 2020 when the licence was transferred to him.

Following the transfer, on the 21 September 2020 I visited the shop to introduce myself to the new licence holder and to run through the conditions on the licence that had been added following the previous review to ensure that the new licence holder understood what he had to comply with. At the time of my visit Mr Shah was not present, the member of staff working at the time was unable to produce a refusals book and when I checked the alcohol on the shelves none of it was marked as required. A written warning sent to Mr Shah the same day see Appendix 1.

On the 1 October 2020 I re visited at 3pm when according to the conditions, a Personal Licence Holder must be present. A member of staff was present who was not a personal licence holder he confirmed his shift as being 8am-4pm and that he would be on his own until 4pm when the licence holder would take over until close. He was able to produce a refusals book the last entry in it was from 29 September 2020 and there were quite a few from previous days. I checked the bottles and cans in the fridges all marked with a K but also with a T. The member of staff explained that was because it has been brought over from Mr Shahs other shop Topshop where he is also PLH and DPS. Visit lasted until 3.05pm and I sat outside for another few minutes. There was no Personal Licence Holder on the premises from 3pm as per the conditions. A second written warning was hand delivered to the licence holders home address on 5 October 2020. This is attached at Appendix 2.

On 15 January 2021 at 8pm I visited alongside my colleague on evening enforcement duties. A member of staff was present on his own and he was not a personal licence holder. All alcohol was marked with a K. I asked where the DPS Mr Shah was, the member of staff rang him on his mobile and he was working at Topshop, we informed him that we would come there. There was no power at the shop due to the old owner not paying the bill so the electricity had been cut off. Everything in shop, fridges, till etc was connected via extension leads with wire trailing through the shop and out of the door then connected by more extension leads to the flat above. This issue was reported to GMFRS at 7.45am the next morning and then by email to Environmental Health on the Monday morning. The same evening we went to Topshop and Mr Shah was present. I advised about the requirement for a Personal Lic Holder at Killon St after 3pm Thursday - Saturday. He said that the previous owner had not told them about this. I explained that this was not an excuse as PLH and DPS Mr Shah should read and be aware of the conditions and two previous written warning letters had been sent. We advised that the shop at Killon St should be closed due to the danger of the extension leads.

On the 18 January 2021 the shop was closed by Environmental Health due to their being no power. I was advised by the licence holder that this was rectified and the shop re opened on 19 January 2021.

On the 22 January 2021 I visited again as part of a multi agency visit with Trading Standards and GMP. This was a Friday. The same member of staff was again present in the shop. He was reminded that no alcohol could be sold after 3pm unless a Personal Licence Holder was present.

On the 25 January 2021 I emailed a request for CCTV to Mr Shah to cover the time period 2.30pm – 9pm on 22 January 2021 to be collected by myself on 28 January 2021. On this date I visited the shop but Mr Shah could not produce the CCTV he said he was waiting on a specialist to come and download it later that day as he did not know how to work it. I reminded him that it is a condition of the licence that it be produced in no more than 12 hrs and I had given him 5 days notice. He said he had to ring the old owner to get the password first then he didn't know what to do. I explained that he must learn how to work the system and one other person as well in line with the conditions. Another notice was given to collect the CCTV the next day, 29 January.

I returned to collect the CCTV on 29 January and was informed that there was an error on the hard drive so the CCTV couldn't be downloaded and it had not been recording. I informed Mr Shah that it must be immediately rectified and upgraded so that it records for the required 28 days.

Due to all these incidents Mr Shah was invited in for an interview on 18 February 2021 which he attended alongside his son. All the breaches of conditions and the two previous written warnings were discussed. Mr Shah was informed that the shop was high on our list of premises so would be receiving a lot of visits and that the licensing service is not happy with how the shop is being run and it was on the verge of a review being sought. Strong advice was given to read all the conditions not just for this premises and ensure they are all being complied with. Strong advice was given to Mr Shah that he should be on the premises after 3pm Thursday -Sunday, or someone else with a personal licence employed who could be present. He seemed to take this on board and be in agreement that he needed to get everything in order.

On the 22 February 2021 all the points from the interview were put into a letter to serve as a final written warning and sent to Mr Shah. This is attached at Appendix 3.

On the 28 February 2021 a further visit took place, a personal licence holder was present and all alcohol was marked.

A further visit took place on 23 March 2021 and everything was in order.

On 1 May 2021 I visited alongside Trading Standards at 5.45pm on Saturday evening. A member of staff was present who was not a personal licence holder. He said Mr Shah's son had been there but had to leave due to his son being unwell. Whilst I was checking that the alcohol was marked, which it was, at 5.50pm the member of staff made an alcohol sale which is a breach of the condition. He was advised about this and when leaving Mr Shah was just entering. I advised and warned Mr Shah that alcohol had been sold whilst no Personal Licence Holder was on the premises. He explained he had to leave suddenly as his wife called an ambulance for his son. I acknowledged that this was an emergency circumstance but he should have either closed the shop or made the member of staff fully aware not to sell. He agreed. We also discussed unsafe electrics in his store room TS took a photo which was passed to the relevant department.

On 29 June 2021 I visited again, all alcohol was marked and the member of staff who has always been present now has a personal licence. As this was a major issue now rectified, no further visits took place for some time.

On 18 April 2023 I visited the premises alongside Trading Standards and GMP who had a warrant. We entered the premises at 8.40am Mr Shah was present. One empty 200ml vodka bottle was found in the storeroom and a vape was on the floor. Under the counter in a black rubbish bag there were 6 empty bottles which were a 700ml Jack Daniels, 2 x 350ml Jack Daniels, 3 x 200ml Jack Daniels and 1 200ml Smirnoff. There were also 3 single cigarettes under the counter. When questioned Mr Shah told me that as its Ramadan he was serving a shot with coke into a water bottle, but no coke or empty water bottles under found under the counter. He told me that his son Mohzam Shah works every night. Very little alcohol was marked with a K in the fridges and none of the spirits behind the counter were marked.

There was no current refusals register and the only one that Mr Shah could produce was from 2021 with very few entries.

39 illegal vapes and 40 illicit cigarettes were seized.

Mr Shah as PLH / DPS when questioned, said that he doesn't know how to work the CCTV but that his son knows and that it is recording.

On 19 April Mr Shah's other shop was visited as part of Op Avro alongside Trading Standards and GMP. Drugs were found at this premises. GMP applied for a summary review and the licence was later revoked. Whilst this was ongoing, Killon Street was not revisited until the Hearing had taken place.

The next visit took place on the evening of 14 July 2023, a Friday, at 18.35 hrs 14/7/23. 2 members of staff were present 1 male and 1 female, the female informed me that the male staff member was new and she is training him. She informed me that she is the wife of Mr Shahs son. Most of the alcohol was marked, but they could not produce a refusals register and didn't know what this was. There was 1 open pack of Benson and Hedges behind counter that the female informed me were her husbands. There was also 1 open pack of illicit cigarettes that the male claimed belonged to him, there was an empty packet of the same brand in the bin. A half empty 70cl bottle of Jack Daniels was behind the counter that the female claimed belonged to her husbands friend and he had left it there. I informed her that this must be removed immediately and reminded her that no alcohol should be served or drunk on the premises. There was no personal licence holder present as per the conditions of the licence, Her husband had apparently gone home for a meal. Neither staff had a personal licence. I informed her that no alcohol should be sold until he returns and to remind him of the condition.

On 18 July 2023 a CCTV request was hand delivered to the shop and given to the Premises Licence Holder asking for footage from 3pm-9pm on Friday 14 July to be downloaded which I would collect on 20 July.

On this date I went to the shop to collect as per the request and the CCTV could not be produced. Mr Shah PLH put me on the phone to his son who said that he had tried to access the system, put the password in but then didn't know what to do. He said he tried to ring the engineer but he didn't answer the phone. I explained that he is in breach of his conditions and not complying with the licence and he must urgently get hold of the engineer and be shown what to do.

On 14 August Mr Shah was invited in for interview with myself and Kelly Halligan from Trading Standards which he attended alongside his son. An earlier interview had been arranged but had been rescheduled to this date at Mr Shah's request.

A copy of the transcript from this interview is attached at Appendix 4.

Photographs shown to Mr Shah during the interview are attached as Appendices as detailed below

- Appendix 5 photograph of the refusals register produced during the visit on 18 April 2023.
- Appendix 6 empty bottle of vodka and vape in storeroom found during the visit on 18 April 2023.
- Appendix 7 empty bottles of alcohol found under the counter during the visit on 18 April 2023.
- Appendix 8 half empty bottle of Jack Daniels found under the counter during the visit on 14 July 2023.

During the interview Mr Shahs son told us that the lease for the shop, business rates and the bills, electric etc are in his name but the licence is in his father's name. We discussed the past visits and warning letters, and both agreed that they had plenty of opportunity to familiarise themselves with the conditions of the licence.

When questioned as to why there were empty bottles of alcohol in the shop on our visit on 18 April Mr Shah's son explained that it was one of the members of staff, who would serve a regular customer the alcohol by emptying out a soft drink bottle and filling it with the alcohol to hide what was inside. He was questioned as to the amount of alcohol for this to be happening as Mr Shah stated that this was over a two-week period, but all the bottles were found in a black rubbish bag behind the counter that cannot have been there for two weeks due to what else was in the bag otherwise there would have been a smell to it. Mr Shah was asked why he allowed this to continue for a two-week period before putting a stop to it. He said the member of staff was told to stop but was disguising what he was doing by going to the toilet and doing it. Mr Shah was challenged on this as if the customer had wanted to hide buying alcohol some of the empty bottles were small enough to fit in a coat pocket.

It was explained to him that opening bottles of alcohol and serving them on the premises is not permitted in a shop licensed for off sales.

He admitted that the refusals register had not been used in a while and that he could not find the book.

Mr Shah was asked when this member of staff worked, we were told his shifts were 2pm until 8pm Monday to Thursday. When asked if he had a personal licence the answer was no. I asked how could he work on a Thursday then when the condition is that a personal licence holder must be on the premises from 3pm on a Thursday. Mr Shah's son then changed his answer to say the shifts were Monday to Wednesday and Mr Shah's son would be there Thursday to Saturday and Mr Shah on a Sunday. He was asked where the illicit cigarettes had come from. The answer was that the same member of staff smoked these, but he didn't know why they were in a bag under the counter, he also said he didn't know about the single cigarettes then said that they were his.

Mr Shah's son said that following this the customer had been barred.

We then discussed the visit on the 14 July when two members of staff were present one being Mr Shah's son's wife. He could not give an explanation as to why there was a half empty bottle of alcohol behind the counter. I stated that his wife had said it belonged to his friend. He said he has no friends that drink. He could not provide a plausible reason as to why there was no personal licence holder on shift at the time.

Mr Shah's son told us during interview that he trains all the staff. It would appear that he is responsible in many ways for the running of the shop. He said that he was going to transfer the licence into his name and change the DPS to himself. However, the interview was on the 14 August and to date no application has been made.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year

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

I made a representation for a review brought by Trading Standards in 2019 when the licence was held by the previous owner.
My representation was due to breaches of conditions of the licence and a failure to transfer the licence when the shop had been sold.
Following this review further conditions were added to the licence.

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, 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 2/10/23
.....

Capacity Deputy Licensing Officer
.....

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)	

Data Protection agreement

In this form, we may ask for some personal information (such as name, address, date of birth, etc.) in order to fulfil your request for information or services.

This information will be held securely and will be used to provide you with the service you have requested.

Any processing will be performed in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation.

Bury Council is the Data Controller for the information you give us. Further details about how we process personal data can be found in our privacy notice at: <https://www.bury.gov.uk/privacy>

Consent

I consent to the Council capturing and storing the personal details in this form for providing the service requested. I understand that I can request for my details to be removed from your records

Signed Applicant _____ Date 19/9/23

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.

Privacy Policy

Please visit www.bury.gov.uk/privacy to read our recently updated Privacy Policy which explains how Bury Council uses and shares your personal data to give you the best possible experience across our services.

Donna Ball
Executive Director

Our Ref PL0475
Your Ref
Date 21st September 2020
Please ask for Laura Jones
Direct Line 0161 253 7206
E-mail laura.j.jones@bury.gov.uk

Syed Khurshid Hussain Shah
13 Andrew Street
Bury
BL9 7HD

Dear Mr Shah

Licensing Act 2003 – Killon Street Off Licence, Price Street, Bury

Further to the message that I have left on your voicemail, the above premises was visited today by a Licensing Enforcement Officer.

A number of breaches of the conditions attached to the premises licence were found.

Please find below the conditions that apply to the licence which you should quickly familiarise yourself with.

Conditions applied following review of licence 25th April 2019

Prevention Of Public Nuisance

1. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
2. Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.
3. Where the premises provide food to the public for consumption off the premises there shall be provided at or near the exits, one waste bin to enable the disposal of waste food, food containers, wrappings etc.
4. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.

The Prevention of Crime and Disorder

5. The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system

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and the number / positioning of cameras is to be agreed in liaison with the police. The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 consecutive days and are to be made available to the police / Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.

6. On an annual basis [or at a greater frequency specified] the premises licence holder or the DPS is to notify the licensing office in writing that the cctv system has been checked, maintained to any recognised specification and is in working order. An action plan to be agreed to rectify any recorded malfunction or planned alterations.

7. A Personal Licence holder must be on the premises on Thursday, Friday and Saturday between 15.00 hrs and close of business and have a personal licence on their person which can be produced on request by police / authorised officers of the Licensing Authority.

8. Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.

9. No alcoholic drink shall be removed from the premises in an unsealed container.

Protection of Children from Harm

10. The premises will operate a "Challenge 25" proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold / supplied alcohol. Only a passport or photo-card driving licence should to be accepted as proof of age.

11. A documented Challenge 25 scheme will be operated at the premises. The Challenge 25 scheme shall be actively promoted and advertised at the premises and will ensure that any person purchasing alcohol, who appears to be under 25 years of age, shall be asked to provide acceptable identification to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.

12. Where a purchaser is asked for Identification, only the following forms of identification will be acceptable:-

- (a) Photo driving licence
- (b) Passport or
- (c) Her Majesty's Forces Warrant Card

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13. The premises is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The book must be made available to the police / authorised officers of the Licensing Authority on request.

14. All individual alcohol containers (e.g. bottles/cans/cartons) before going on display for sale are to be uniquely and indelibly marked in a manner approved by the Greater Manchester Police and Bury Council. The mark shall be the letter 'K' permanently marked on the bottles/cans/cartons.

The member of staff that was present in the shop today was unable to produce a refusals book. This leads me to assume that there is no book, or that the staff member has not been trained to know where this is and when to use it. Both would be breaches of conditions.

I also checked the cans and bottles of alcohol on the shelves in the fridges. Not a single one had been marked with the letter K as per the conditions.

As the Premises Licence Holder and the Designated Premises Supervisor, it is your responsibility to ensure that these conditions are met at all times and to ensure that staff are also aware of this, in order to uphold the licensing objectives under the Licensing Act 2003.

Further visits to the premises will be made to ensure future compliance. If breaches are found to have been committed again, further action may be taken.

If there is any part of this letter that you would like clarifying, please do not hesitate to contact me as above.

Yours sincerely

**Laura Jones
Deputy Licensing Officer**

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Town Hall, Knowsley Street, Bury BL9 0SW
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Donna Ball
Executive Director



Our Ref PL0475
Your Ref
Date 5th October 2020
Please ask for Laura Jones
Direct Line 0161 253 7206
E-mail laura.j.jones@bury.gov.uk

Syed Khurshid Hussain Shah
13 Andrew Street
Bury
BL9 7HD

Dear Mr Shah

Licensing Act 2003 – Killon Street Off Licence, Price Street, Bury

Further to my previous letter of 21st September, the above premises was visited again on Thursday 1st October by a Licensing Enforcement Officer.

In my previous letter I explained that there were a number of breaches of the conditions attached to the premises licence and the conditions were outlined in the letter. I also had a telephone conversation where I stressed to you the importance of the conditions.

I was pleased to see that a refusals book was now in place and able to be produced to me by Mr Javed who was working in the shop.

I could also see that all the cans and bottles were marked with a K. However the majority were also marked with a T for Topshop which you are also the Premises Licence Holder and Designated Premises Supervisor for. **Going forward the alcohol in either shop can only be marked with one letter K if it is on sale at Killon Street and T if it is on sale at Topshop.**

However there was one condition that was breached on my visit of 1st October. This condition is as below.

7. A Personal Licence holder must be on the premises on Thursday, Friday and Saturday between 15.00 hrs and close of business and have a personal licence on their person which can be produced on request by police / authorised officers of the Licensing Authority.

I arrived at the shop at 3pm. Mr Javed was alone in the shop. He confirmed to me that he does not hold a Personal Licence. He also confirmed that he was working the 8am-4pm shift and that he would be alone until 4pm when you would take over from him until close.

This is a clear breach of condition 7 where a Personal Licence holder must be on the premises Thursday, Friday and Saturday between 3pm and close.

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As the Premises Licence Holder and the Designated Premises Supervisor, it is your responsibility to ensure that these conditions are met at all times and to ensure that staff are also aware of this, in order to uphold the licensing objectives under the Licensing Act 2003.

A further visit to the premises will be made to ensure future compliance. As this is your second warning letter, if any further breaches are found, a review of the licence will be sought.

If there is any part of this letter that you would like clarifying, please do not hesitate to contact me as above.

Yours sincerely

**Laura Jones
Deputy Licensing Officer**

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Town Hall, Knowsley Street, Bury BL9 0SW
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Donna Ball
Executive Director

Our Ref PL0475
Your Ref
Date 22nd February 2021
Please ask for Laura Jones
Direct Line 0161 253 7206
E-mail laura.j.jones@bury.gov.uk

Syed Khurshid Hussain Shah
13 Andrew Street
Bury
BL9 7HD

Dear Mr Shah

Licensing Act 2003 – Killon Street Off Licence, Price Street, Bury

Further to our meeting on 18th February I would like to take this opportunity to formally record what we discussed.

The purpose of the meeting was to discuss the various breaches of the licence that have occurred since the licence was transferred to you and the subsequent two warning letters and closure of your premises by Environmental Health. During the meeting we discussed the conditions attached to the licence and that as the Premises Licence Holder and the Designated Premises Supervisor, it is your responsibility to ensure that these conditions are met at all times and to ensure that staff are also aware of this, in order to uphold the licensing objectives under the Licensing Act 2003.

You assured me that you would go away and familiarise yourself with the conditions and ensure that all were being complied with including yourself being at the premises from 3pm – close on Thursday, Friday and Saturdays until you have another member of staff who has a personal licence.

As discussed your premises is considered high risk and therefore further visits to the premises will be made to ensure future compliance. As you have already received two warning letters, the meeting on the 18th February was held to discuss issues with you and we agreed on a way forward as above. This letter is now to serve as a final warning. If any further breaches are found, a review of the licence will be sought.

If there is any part of this letter that you would like clarifying, please do not hesitate to contact me as above.

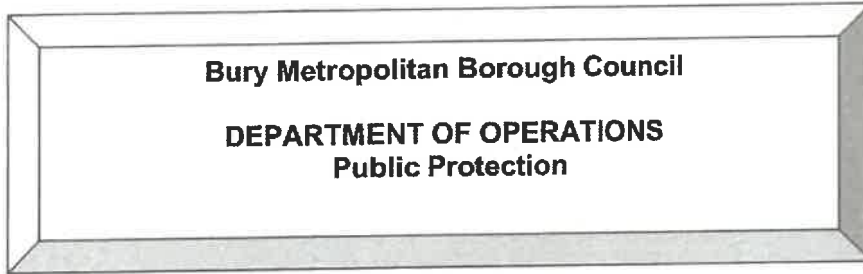
Yours sincerely



Laura Jones
Deputy Licensing Officer

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RECORD OF DIGITALLY RECORDED INTERVIEW

Person interviewed: Syed K H Shah		Defendant: Syed K H Shah	
Place & Date of Interview: Bury Council Offices, 3 Knowsley Place, Bury –14 August 2023		Signed (Justice of the Peace)	Date
TIME	Commenced 13.09	Concluded 13.47	Court
CD Reference Number(s) TS758d		EXH Reference	
Interviewing Officer(s) Laura Jones, Deputy Licensing Officer Kelly Halligan, Trading Standards Unit Manager		Other Person(s) Present: M. Ali Shah (son of S K H Shah).	

DECLARATION:

Signature:

Officer's Name:	Position:
Signature of Officer preparing record (if different to above)	
Officer's Name:	Position:

Person Interviewed Syed K H Shah M. Ali Shah	Signature of Officer	Page 1 of 14
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BURY METROPOLITAN BOROUGH COUNCIL Public Protection Service		
<i>Record of Digitally Recorded Interview</i>		
Times	Laura Jones	It is 13.09 on the 14 th August at 3 Knowsley Place. I am Laura Jones the Deputy Licensing Officer, also present
Times	Kelly Halligan	Kelly Halligan, Trading Standards Unit Manager.
	Laura Jones	Mr Shah, can you just give us your full name
	S K H Shah	My name is Syed Khurshid Shah.
	Laura Jones	Syed Khurshid Shah, OK. And you are joined by?
	S K H Shah	M (<i>inaudible</i>) Ali Shah
	Laura Jones	Your son
	S K H Shah	My son, yeah.
	Laura Jones	Mr Shah, just give me your address.
	S K H Shah	My address is number 13 Andrew Street
	Laura Jones	13 Andrew Street, and you are the designated property supervisor and the premises licence holder of the off licence in Killon Street Off Licence at 23 Price Street, is that correct?
	S K H Shah	Yes.
	Laura Jones	OK. So, you are wholly responsible for the licence and everything that goes on there alcohol wise.
	S K H Shah	Yeah.
	Laura Jones	Yeah, OK. So if we start off by having a look at the licence.
	Kelly Halligan	Can I just ask Mr Shah junior, what is your part within the shop? Do you own the shop?
	M A Shah	Yes, the business is in my name.
	Kelly Halligan	The business is in your name, but the licence is in your dad's name.
	M A Shah	Yes.
	Laura Jones	When you say the business is in your name..
	M A Shah	The lease, basically most of like, the actual, bills and stuff are all in my name,
	Laura Jones	Right, and the lease with the landlord
	M A Shah	Yeah, that's in my name
	Laura Jones	Business rates and all that.
	M A Shah	Yeah, business rates as well
	Laura Jones	Why is the licence not in your name then?
	M A Shah	Er, don't know, I did enquire about this last time to get the licence swapped over, but I just left it still in dad's name, but I will get it.
	Laura Jones	Because you do have a personal licence don't you?
	M A Shah	Yeah, I do have a personal licence yeah.
	Laura Jones	Right, so you should be familiar with this licence and all the conditions that are on it, Nothing has changed in the last few years, so you have got various conditions, if we have a look at it, so it is to prevent people loitering outside, to have bins for the rubbish, to operate the effective CCTV system, to know how to work it and to provide it within 12 hours of the time of request. To check that it is working on an annual basis. This one, a personal license holder must be on the premises Thursday, Friday and Saturday between 3pm and close of business and have their personal license on their person. To give staff training on the Licensing Act, to not remove any alcoholic drink from the premises in an unsealed container, to have Challenge 25, to maintain a refusals book, to mark all your alcohol with a K, yeah, do those sound familiar those conditions?
Person Interviewed Syed K H Shah M. Ali Shah		Signature of Officer

	M A Shah	Yeah
	S K H Shah	Yeah (<i>inaudible</i>)
	Laura Jones	OK, so you know we have been into the shop various times over various years
	S K H Shah	Yeah
	Laura Jones	I think you have been in to see us in here before haven't you, we've had a chat in here before.
	M A Shah	I think it was in Radcliffe
	Laura Jones	Was it at Radcliffe, so September 2020, we sent you a letter Mr Shah to say that we had visited, there was a number of breaches of the conditions on the licence, and to familiarise yourself with them, and in the letter we spelt out all the conditions, and we told you then that we would make further visit to the premises to make sure you were complying with those conditions, so that was September 2020. In October 2020, we came back again, following that letter, and there was still a number of breaches of the conditions, you had fixed some of them, but one of them was that there was no personal licence holder on the premises at the times as needed, but you did have your refusals book then, and you did have your alcohol marked with a K.
	M A Shah	I think at that time my dad had to go home, I think there was a time when you came when he wasn't there, but we had cover in the shop.
	Laura Jones	Mr Javid, yes, so I arrived at the shop at 3pm, Mr Javid was alone in the shop and confirmed to me he doesn't hold personal licence, he also confirmed he was working the 8am to 4pm shift so he was scheduled to be there until 4pm when he is not a personal licence holder.
	M A Shah	I think it says after 3pm, so we did tell him that after 3pm do not sell any alcohol.
	Laura Jones	So that was back in 2020, then you had a fire issue where you got closed down by Environmental Health for all the electricity.
	M A Shah	Yeah, yeah, I remember that yeah.
	Laura Jones	Then February 2021 was after we had the meeting to discuss the various breaches of the licence. You assured me that you would go away and familiarise yourself with the conditions and ensure they were all being complied with. As discussed, your premises is considered high risk and therefore you would be getting more visits and that was to be a final warning letter. Yeah. So would you agree that you have had plenty of advice about those conditions on your licence?
	M A Shah	Yeah
	Laura Jones	Plenty of opportunities to put things right, familiarise yourself with them, plenty of advice given to do that?
	M A Shah	Yeah
	Laura Jones	So, if we come back to this year then, on the 18 th April, Kelly and myself alongside GMP came into the premises early in the morning, you Mr Shah were there
	S K H Shah	Yeah,
	Laura Jones	We found various things that caused us concern. Kelly will come on to the Trading Standards part in a moment, but I would just like you to give me an explanation, when I show you this photograph as to why there was all these empty alcohol bottles under the counter in the shop, and another one in the store room.

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	M A Shah	It was one of the staff members that was working there, he's an older gentleman, he had a customer regularly come in and they were emptying out, because I think it was Ramadan at the time, they would empty out the bottle and then they would put it inside like a coke bottle, to kind of hide what was inside, because he didn't take it, and I did tell him afterwards that you can't be doing this and to tell the customer that they either buy it or they don't buy it, they can't be you know emptying.....
	Laura Jones	So how was he doing, he was pouring like shots into a coke bottle.
	M A Shah	Yeah, he'd buy coke bottles, he'd leave the plastic empty bottles in the shop and then he'll go home with the contents inside a coke bottle.
	Laura Jones	The full contents of the bottle?
	M A Shah	Erm, I'm not sure.
	Laura Jones	Because some of these are quite large bottles aren't they, I know some of them are only small, but there was, I think one that was bigger, so that's not going to fit in a coke bottle.
	M A Shah	No, I'm not sure if he had two coke bottles, but that's all the staff member told me.
	Laura Jones	I don't understand why, why decant it from one bottle into another.
	M A Shah	Because he didn't want to be seen with alcohol bottle because of Ramadan, so any....
	S K H Shah	A Muslim is not allowed drinking.
	M A Shah	You're not supposed to be drinking anyway as a Muslim, and in the month of Ramadan it is more strict that you can't behave, so I think he was just, if any Muslims passed by, and they saw him with a bottle, word spreads around, so I think that was why he was just trying to hide himself, but I did not know at this time,
	Kelly Halligan	That is a lot of bottles for one person to have took out of a shop
	M A Shah	No, he takes it, I think he was coming every day.
	S K H Shah	A week to two weeks of bags <i>(inaudible)</i>
	M A Shah	Yeah, he said it was over the course of two weeks,
	Kelly Halligan	That rubbish bag wasn't two weeks old, because I went through the rubbish bag and it wasn't two weeks old, it would have stunk if it had been there more than a few days considering what was contained within it, it wasn't two weeks old that bag, hung on the till.
	M A Shah	He said it was two weeks old.
	Laura Jones	What about the one in the store room?
	Kelly Halligan	With the vape
	M A Shah	I'm not sure, but I'm guessing it must've been the same. There was only one customer that was doing,,
	S K H Shah	<i>(inaudible)</i>
	M A Shah	Yeah, he is just saying they were just going into the back and emptying it, sometimes, he said what they will do, because he did tell the customer that, after I told him. that they are not supposed to open any alcohol in the shop, but what that person would do is say he is going to the toilet, and then he'd actually empty it out even through we've told him not to, and this is when I obviously barred the customer because he wasn't listening.
	Laura Jones	So when did you bar...?
	M A Shah	We'll tell him that....
	S K H Shah	<i>(inaudible)</i>

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	M A Shah	It was after, the second time you came this year, that we barred him because we did tell him, because he comes at certain times that the staff member was working there, he wasn't when I was there was there or my dad was there, so....
	Laura Jones	But to accumulate this many bottles over the course of if you say two weeks, why did you not do something about this sooner, if you've got two weeks' worth of bottles there, so this has been carrying on then and you have been allowing it to carry on.
	M A Shah	No, the bottles have stayed there, but we did tell the customer that, you know, don't empty it or open it in the shop, either take the bottle outside or don't buy it, and then that is when he would then say to the older gentleman that was working there that he is going to the toilet, then after I think a week when I noticed there was more bottles, that's when I started saying that he is still emptying it, he said that he doesn't tell me, he just says he's going to the toilet, so he was kind of making it up afterwards that he was going to the toilet just to empty it again, and then after having a few more (<i>inaudible</i>) I decided to bar him from the shop.
	Laura Jones	It just doesn't sound like a plausible explanation, a bottle this tiny if you wanted to disguise it that would fit in your pocket no problem, but you empty that into a full coke bottle, unless he is just doing shots, a bit at a time, not the full bottle, in which case how were you charging for it?
	M A Shah	What do you mean?
	Laura Jones	Were you charging him for a full bottle, is he charging him by the shot?
	M A Shah	It would've been for the full bottle because he has opened it so we would charge him for what he, he would have been charged for the full thing.
	Laura Jones	Obviously you know you are an off licence, and it does pretty much what it says on the can, you are meant to serve off the premises, one of your conditions is that no alcohol is to leave in an unsealed container, which is exactly what is going on, if you are opening a coke bottle, putting alcohol in it and letting him walk out, that's unsealed, you are serving as if you are a bar, as if you are a pub, which is not what you are, you are an off-licence. The other thing, your refusals register that we found, is definitely not being kept up-to-date, that is a copy of the one, the only one that could be produced on the 18 th April, where you can see obviously your last one's 2021.
	M A Shah	There was one more, after that, but
	Laura Jones	Well, Mr Shah couldn't produce it.
	M A Shah	I had a look in the shop, but there was one...
	Laura Jones	It's obviously not being used on a daily basis then.
	M A Shah	When someone doesn't have ID we do write it down, but, it must've been a while since someone has come, because we always refuse people who don't have ID, that obviously look young, so
	Laura Jones	There's a while and there is 2021
	M A Shah	No, after that there was another book, but I'm just saying that other book has not been used in a while
	Laura Jones	What couldn't be produced, either
	M A Shah	Yeah, we couldn't find it, even I tried to have a look, couldn't find it. Because everyone knows by now that if you've got no ID you can't get served, if it's obvious that your underage you're definitely not getting served, so word spread around, so that's why no-one really comes in without ID
	Laura Jones	So when does this member of staff work? Does he work every day?
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	M A Shah	No he doesn't work anymore,
	Laura Jones	Did he work every day?
	M A Shah	When he was working, yeah, every day.
	Laura Jones	So Mr Shah is usually there in the day time, Mr Shah told me that you are there every night, so when does he work?
	M A Shah	He comes in erm
	S K H Shah	<i>(inaudible)</i>
	M A Shah	2 until 8.
	Laura Jones	2 until 8. And then you come on at 8?
	S K H Shah	And then I come on at 8
	Laura Jones	And did he have a personal licence?
	M A Shah	No he didn't have a personal licence, That was only Monday to Thursday.
	Laura Jones	Well Thursday, somebody is supposed to have a personal licence from 3..
	M A Shah	Yeah, no I mean Monday to Wednesday, Thursday, Friday, Saturday I would be there, and then Sunday my dad would be there with another member of staff, a lady, she'd be working there on a Sunday.
	Laura Jones	OK, so the other breach when we came on that day, was that there was very little alcohol that had been marked with a K.
	M A Shah	Yeah, that's one of the reasons I was just going to say why we had to let him go, because he was always forgetting, I did tell him all the time that we needed to make sure there is a K on every single thing that has alcohol inside, and what he would do is he will starting them on then half-way through he'd just start putting them on the shelves, and then I told him that this can't be acceptable, because I did say that licencing come and they check these things, and if there was any time that the requirements aren't met then we would have to let him go and he did accept that, so we had to let him go because, I don't know why, but he put them on half and on the other half he just not done them, he kind of put them at the front, and then the ones at the back won't have them on,
	Laura Jones	But you're there every night, Mr Shah who is the licence holder is there every day.
	M A Shah	We tell him, have you put them on and he'll say yeah, so even the ones, like I said, he'll put them on the front and then they'll be a few at the back that won't have them on, because we're not checking every single item, really you know, we are just having a quick look around, picking up the first few at the front, and it is always the ones at the front that have got K on them,
	Laura Jones	Well not on that occasion it wasn't because we didn't go digging to the back, it was the ones at the front.
	M A Shah	Right, I don't know. because I do check, I tell all staff members to make sure that there is a K on, As soon as I unload my vehicle with stock I give them a marker and say right put K on, and they do, they do it in front of me, so I don't know when I've left the shop whether they do or not, but I do tell them to do it, I know that we've had to choose another staff, it's Javid that's working his shift now, so Javid knows he's been there for a while now, so he's back at the shop, so he knows to put a K on.
	Laura Jones	OK. So there were other things that were found on that day as well.
	S K H Shah	<i>(inaudible)</i>
	Kelly Halligan	No, any idea where these have come from, the cigarettes.
	S K H Shah	<i>(inaudible)</i>
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	M A Shah	Yeah, the old man he was a smoker of these cigarettes.
	Kelly Halligan	The old man who was working in the shop, or the old man who was filling his bottles with alcohol?
	M A Shah	No the old man that was working at the shop. They belong to him, but the vapes
	Kelly Halligan	Vapes
	M A Shah	I bought them because I thought they were legal, I did think they were, because there was a vape shop that was selling these, the smaller sizes, and he didn't saying nothing about, I just thought, you know, I can buy it, because he sold it to me, so didn't think there would be a problem, and then just when they were taken and that I realised that they are not supposed to be there.
	Kelly Halligan	So the cigarettes belong to the guy who worked in the shop?
	M A Shah	Yeah, the cigarettes belonged to him
	Kelly Halligan	So why were they in bag under the counter?
	M A Shah	I don't know, because he was quite a big smoker, but I don't know why there were in a bag, I think what he did, he took them from home to put in the shop and he'd just smoke them whenever he felt like it, but I don't know why he brought that many,
	Kelly Halligan	Why were there single cigarettes under the counter as well?
	M A Shah	I don't know about the single cigarettes.
	Kelly Halligan	On the black bag, where the empty bottles of alcohol were, there were 3 cigarettes,
	M A Shah	What....
	Kelly Halligan	No, they were Benson & Hedges, they weren't Panama or Gold Leaf, they were Benson & Hedges.
	M A Shah	I smoke Benson & Hedges
	Kelly Halligan	But why was there 3 singles just laid under, where the chocolate is stored?
	M A Shah	Where's that?
	Kelly Halligan	Where the bin bag was, the chocolate confectionary stand, there was 3 on the shelf there.
	M A Shah	I'm not sure, I must've left there. I smoke Benson Blue, I don't smoke them, he smokes them.
	Kelly Halligan	You need to make sure you don't have single cigarettes in the shop because that implies you are selling single cigarettes to somebody.
	M A Shah	No they are for me to smoke, I don't sell singles.
	Kelly Halligan	But for me walking in, what does that look like
	M A Shah	Yeah, I know what you mean
	Kelly Halligan	If they are yours they should be in a packet on your person,
	M A Shah	They usually are, on me or in my coat pocket
	Kelly Halligan	But they are right next to the bottles of empty alcohol.
	M A Shah	I don't know, I don't know why, but they belong to him. And the vapes, I thought they were legal to sell, because I don't know why they are illegal, all I know is that....over 2%
	Kelly Halligan	Over 2%, so anything above 600 puffs, the tank size will be greater than 2%. What it contains within the tank, will mean there's more than 2% nicotine in it.

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	M A Shah	I know why it's illegal because it's over 2, but then I don't understand is if someone can buy 3 single vapes that are all 2% that's equal to one of them.
	Kelly Halligan	It's to do with the nicotine content within a normal sized vape. So if you've got a tank greater than that, there is more nicotine in there than there would normally be, more than the 2%, where as if you want to buy 3 singles you've still only got 2% in each one. You don't know how much percent you've got in an illegal vape because it contains too large of a tank.
	M A Shah	So it has more nicotine in in it?
	Kelly Halligan	Yeah.
	M A Shah	Right, because I was just thinking....
	S K H Shah	<i>(inaudible)</i>
	M A Shah	<i>(inaudible)</i> ...nicotine....
	S K H Shah	The nicotine <i>(inaudible)</i>
	M A Shah	Yeah....
	Kelly Halligan	So the maximum permitted in the UK is 600, you shouldn't be buying or having on your shelf anything above 600 puffs....
	M A Shah	What if it is 2% and it's 700 puffs
	Kelly Halligan	You've got to be sure that what you are getting is correct
	M A Shah	Because there is a new supplier who is telling me that he has got 2%, it actually says it on 2%, and it's.....
	Kelly Halligan	Well just be cautious what he is telling you, if that is then taken away and tested and found to be wrong, you will then be caught with.
	M A Shah	He's part of quite a famous brand, so I don't think....
	Kelly Halligan	Which brand is that?
	M A Shah	I think Voopoo or something, it's quite largely known in the vape industry, so
	Kelly Halligan	So there is a new one at 700 but it's only got 2% puffs, 2% nicotine... I mean you had lots and lots of these on the shelves, but the ones under the counter were the ones that were above the maximum, hidden away, Why were the maximum ones underneath the counter?
	M A Shah	There was no room on the shelf, plus the guy who supplied the vape stand said that only our products can go there. If you want to like get your own products or add more flavours, you can't put them on our stand, because there was no room and because they're quite expensive as well, I didn't want to put them near the till where a customer could easily reach them,....
	Kelly Halligan	What do you mean by quite expensive, how much do you normally sell your six hundreds for?
	M A Shah	We sell them for £6, these are £10, or £12, 2 for 10, sorry 2 for 20. Works out £10 each and a single one is £12. So I didn't want them within a reach of a customer because they can just grab a box and run off so that's why I had them under the till.
	Kelly Halligan	So you knew that the maximum was 2%?
	M A Shah	Not at the time I didn't no. because the place that I bought them for he was selling the normal ones as well.
	Kelly Halligan	Where did you buy it from?
	M A Shah	I brought it from Manchester.
	Kelly Halligan	Cheetham Hill?

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	M A Shah	Yeah, it was a vape shop that had all the legal ones and these so I assumed you know maybe these are.... It's more the fact that customers have been asking and me getting them, I have had customers coming in and when they ask for these I say I've not got them and then they won't even think about buying the normal ones they just walk away, so I bought them just the fact that customers have been asking.
	Kelly Halligan	Did you know that vapes should have a warning on them about being dangerous, so you know the skull and crossbones and stuff like that, did you know that they should be contained within them.
	M A Shah	It says warning
	Kelly Halligan	Actually on the packet they should have a warning, like an embossed skull and crossbone.
	M A Shah	No I didn't know that.
	Kelly Halligan	Have you had any advice of anybody about buying vapes.
	M A Shah	Only when....
	Kelly Halligan	We've sent out letters
	M A Shah	...you took these off us, that's when I find out, because I didn't understand why you took them and not the others, but at first I didn't realise that over 2% is not legal.
	Kelly Halligan	OK.
	S K H Shah	<i>(inaudible)</i>
	M A Shah	He's asking if he will be able to get them back, not for selling..
	Kelly Halligan	No, they're not legally allowed to be supplied in the UK. The cigarettes aren't because they are not in standardised packaging, and the vapes are maximum permitted 2% and they are well above that, so I can't give you them back because they are not legal products.
	M A Shah	Right. Because he smokes himself so he's saying not to sell them but,,
	Kelly Halligan	No
	Laura Jones	OK, so following that visit, we came back on the 14 th July in the evening, at 6.35pm, you had two staff present in the shop, one male and one female. The female of Farla, is that your wife?...
	M A Shah	Yeah, yeah
	Laura Jones	...said she was training the other member of staff, Mohammed Razaq. On that occasion most of the alcohol was marked with a K, but still couldn't produce a refusals register, didn't know what refusals register wasn't was, there was one open packet of Benson & Hedges behind the counter, one open pack of illicit cigarettes that Mr Razaq claimed belonged to him, the same brand with an empty packet in the bin, and again, another half empty bottle of Jack Daniels tucked behind the counter, as in the photograph there
	M A Shah	So that was there when you...
	Laura Jones	That was there on the 14 th July which is 3 months after that first time that we came.
	M A Shah	Right.
	Laura Jones	So what was the explanation for that one.
	M A Shah	I'm not sure about that one, because I told that customer that obviously he wasn't allowed to come back.
	Kelly Halligan	When was that?
	M A Shah	That was, a few weeks after the first visit, so...

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	Kelly Halligan	But well before us coming back in July
	M A Shah	Yeah, it was before that yeah, because there was only the one customer that was buying it every day who would leave the empty bottles behind.
	Laura Jones	Well we asked, Farla, am I saying that right?
	M A Shah	Yeah, yeah
	Laura Joneswhy that was there and she told me that it belonged to your friend and he'd left it there.
	M A Shah	Right, well he's not a friend of mine, because I don't have any friends that drink, unless she thought he was a friend.
	Laura Jones	Do we know what happened to that?
	M A Shah	I think it was discarded, put in a bin, after
	Laura Jones	OK, so the other issue was, obviously that was a Friday evening, 6.35pm, no personal licence holder there.
	M A Shah	Dad you was at home, er he went to eat so, I don't know
	Laura Jones	Well Farla told me you had gone home to eat and that you should've been there
	M A Shah	No, it was my dad, well I was at home at the time, but t then told my dad to go to shop, because he lives round the corner from the shop, I live in Walmersley so I went home and I told my dad that I'm going home can you go to the shop, so
	Laura Jones	So who should've been there
	M A Shah	Well it should've been me but because I had gone home to eat, I then told my dad to go to the shop and I think he was just getting ready to go to the shop
	Laura Jones	But when I walked in that shop, neither the lady or the gent that were there knew that a personal licence holder had to be on the premises, so you hadn't obviously said to them you can't sell any alcohol whilst I go home and have a meal because there is no personal licence holder there, they knew nothing about it.
	M A Shah	Well I tell my dad to go to the shop because I'm going home, so they might not have known that you can't sell alcohol but then my dad would've been there if any customer came.
	Kelly Halligan	But it is your responsibility, it is your dad's responsibility, not entirely yours, it's your dad's responsibility for any staff that are on that premise, that are going to serve alcohol to be trained, and by training them, they should know the requirements of the licence, they should know that there should be someone on that premise, and if there isn't they can't sell alcohol, that is your responsibility, well it is your dad's actually because he is the licence holder, not you, but you should be passing this information on.
	M A Shah	Right.
	Kelly Halligan	I mean you presumably passed the information on about filling in the refusals book and writing K;s on the bottles and doing all of this, did you not explain to them when someone under the age of 18 comes in to prove they are old enough.
	M A Shah	Yeah, they know all that yeah.
	Kelly Halligan	Yeah, so if you are going to go through that then obviously there are other parts of the licence that they should be aware of.
	M A Shah	Right, well I didn't explain to them properly, I just told my dad that I'm going home can he go to the shop.
	Kelly Halligan	Well perhaps you shouldn't have left until your dad arrived.
	M A Shah	Yeah, I shouldn't have, that's the best, a better idea.

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	Laura Jones	These conditions are there for a reason, they are part of the licence that allows you to sell alcohol, if you can't meet those conditions you can't sell alcohol, it's a simple as that. You need to be a fit and proper person to hold that licence, and at the minute, you are just not proving that you are. We've had these breaches now over what the last 3 years, you've had a final warning and they are still carrying on.
	M A Shah	Right.
	Laura Jones	So we came back on the 18 th July and gave you that CCTV request, came back on the 20 th to pick it up and it couldn't be produced.
	M A Shah	Yeah, because I've never used the camera before to provide any footage so I didn't know how to...
	Laura Jones	But again, the conditions of the licence say you need to know how to use it.
	M A Shah	I've got a friend who works with CCTVs who replaced the hard drive and I even asked him if he could come but he wasn't free at the time, because he knew how to work the..
	Kelly Halligan	But it is your system, it is your responsibility, one of the terms of your licence are that the CCTV is up and running and working.
	M A Shah	I know how to rewind you know if you want to watch the footage, but not to record it onto...
	Kelly Halligan	But that's not what it says, if there was a serious incident on your premise, right, a serious incident on your premise, the police will want it and they would want it now, not for you to mess about...
	M A Shah	No, it's happened before where the police have wanted it and they've done it themselves because I've told them that I don't know how to do it and they've,,,,,
	Kelly Halligan	But it is your CCTV, you are the one responsible for it, you should know how to work it.
	M A Shah	Yeah, I understand but if anything serious would've happened I am sure the police would have been able to get the footage themselves. I know it is my responsibility but...
	Laura Jones	Do you know how to work it now?
	M A Shah	Yeah I know how to work it now.
	Laura Jones	So you are able to download it now, you know what to do...
	M A Shah	Yeah I know what to do now.
	Laura Jones	If a request comes in
	M A Shah	Yeah, yeah.
	Laura Jones	It is just not looking good is it.
	M A Shah	No, no, I do apologise,,,
	Laura Jones	So when you train your staff, what do you train them on, who does the training?
	M A Shah	Me, I do the training
	Laura Jones	What do you train them on?
	M A Shah	I train them on the refusal book, writing K on all the bottles of alcohol, and then I've got a sheet that has objectives on, you know prevent crime in the area, children from getting harmed. it's on a piece of paper, I just tell them to memorise it, get familiar with themselves, I do the fire, if there is a fire, what do they do, there is actually a picture on the wall that tells them where to go, in case, you know if there is any fire. Where the extinguishers, are, I just give them a piece of paper and I tell them to familiarise it and make sure they know what they are doing.
	Laura Jones	OK. Are there only you two with personal licences?
	M A Shah	Three now, because I got rid of the older fella, who kept making mistakes, and I've got another person working there, who is an old staff who has just come back, who has got a licence as well.

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	Laura Jones	What's his name?
	M A Shah	Javid
	Laura Jones	Javid?
	M A Shah	Javid S(<i>inaudible</i>).
	Laura Jones	So he's got a personal licence.
	M A Shah	Yeah, he's got a licence now, because he got a licence after the first time he came, he applied for this licence.
	Laura Jones	I think I've met him actually when I've been in.
	Kelly Halligan	So do you work somewhere else?
	M A Shah	Yeah I do, I work in the mornings, I do deliveries, parcels then I come in at nighttime.
	Kelly Halligan	It is just with you not being present in the shop I presumed you went to another job that you were...
	M A Shah	Yeah, because I just prefer doing mornings, doing another job in the mornings.
	Laura Jones	Right, have you got anything else you want to say?
	M A Shah	Yeah, I was speaking to my dad about the licence being in his name, he had it in his name because he had another shop as well, (<i>inaudible</i>) Street, but he's not got that anymore, and he's saying that he wants me to put the shop in my name as well so me being the DPS and the licence holder, so
	Laura Jones	Well it is a simple application, it is a transfer and a change of DPS, put it in your name
	M A Shah	I was going to ask how it's done
	Laura Jones	You just go online, Bury Council website, look up alcohol, find it on there its an online application, It's £23 for the transfer, £23 for the change of DPS.
	M A Shah	Right
	Laura Jones	But then that makes you responsible then, because at the minute your dad is responsible, but then that makes you responsible.
	M A Shah	Yeah, it's only in his name, the licence, because his English is not the best (<i>inaudible</i>). Any staff that come in it's actually me doing the training so he said it would be better off if you know it was just in your name,
	S K H Shah	(<i>inaudible</i>)
	M A Shah	He's asking about (<i>inaudible</i>) Street, is he able to get the licence back on that shop?
	Laura Jones	Have you still got the lease on it? I was under the impression somebody else had the lease.
	S K H Shah	Lease, no no.
	M A Shah	No, but he said if he was to acquire the shop again would he able to get the licence?
	Laura Jones	We can't stop you putting a new application in, I'm not going to say that the police are not going to object to it, or that Trading Standards might object to it, there may be representations, I would probably fully expect there would be, but there is nothing to stop a new application going in.
	S K H Shah	(<i>inaudible</i>)
	Laura Jones	Yeah, OK. Have you got anything else to add?
	Kelly Halligan	No.
	Laura Jones	Have you got anything else you want to say?
	M A Shah	No, just about the changes of licence (<i>inaudible</i>)
	Laura Jones	We are intending to take further action with this, you have had a final warning, we can't keep on giving your final warnings.
	M A Shah	Right

Person Interviewed Syed K H Shah M. Ali Shah	Signature of Officer	Page 12 of 14
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	Laura Jones	We are going to go back and discuss it, look at all the evidence and see which path we are going to go down, but it may well end up being a review of the licence, the same way that Top Shop was, that we put the licence back before the Councillors with all this and they decide what happens with it.
	M A Shah	Right
	Laura Jones	OK. It's not going to happen immediately, we need to go back, we need to look at it, but put you on notice.
	M A Shah	Yeah, that's fine, I mean I did get rid of one staff, got him replaced by another one, that is more up-to-date with the rules, like Javid he knows that, what the rules are and the terms and conditions of the licence, so there is one part that has been taken of, like these empty bottles, that won't happen again because Javid is working at the shop and he knows very well that there is no empty bottles to be left.
	Kelly Halligan	But it did happen
	Laura Jones	It did happen. If you are saying these were there for 2 weeks and you're in the shop every day, you knew this was going on and let it continue, it wasn't a one-off that you put a stop to straight away, 3 months later it's still there.
	M A Shah	No I told the customer not to come back
	Kelly Halligan	Yeah but 3 months later, we've another empty bottle.
	M A Shah	I don't know about that empty bottle, Javid, I don't think he was there, no he wouldn't have been there because,
	Kelly Halligan	So you've not got rid of the problem then if he..
	M A Shah	No Javid is there now
	Kelly Halligan	I thought Javid was the member of staff that was there when,,
	M A Shah	No, that was the older, when my wife was there.,,
	Laura Jones	Was this Mohamed Razaq a new member of staff
	M A Shah	No, no, he was getting trained but he didn't understand the work
	Laura Jones	So he's gone now
	M A Shah	Yeah, he's not, he used to work there. It is just me, my dad and Javid and then my wife she helps now and then, but it is mainly us 3, all 3 of us have got a personal licence, to sell alcohol and we know the rules and terms and conditions of the licence.
	Laura Jones	OK. You may well get more visits, so I suggest you go away, look at the conditions of that licence and put everything into place now. You get a refusals register, you bring it up-to-date, you make all the staff aware of where it is, make sure all that alcohol is marked, make sure your CCTV is recording, make sure there is a personal licence holder there,
	M A Shah	Yeah, that's fine.
	Laura Jones	Like I said, we will be in touch.
	S K H Shah	Weekend?
	Laura Jones	It could be anytime.
	Kelly Halligan	But the personal licence holder has to be there Thursday, Friday, Saturday from 3pm onwards.
	S K H Shah	Yeah, weekend, Thursday, Friday, Saturday
	Laura Jones	So have you got the full copy of your licence? Have you got all that?
	M A Shah	Yeah, we've got that yeah.
	Laura Jones	So you can go away and look at those conditions yeah?
	M A Shah	Yeah

Person Interviewed Syed K H Shah M. Ali Shah	Signature of Officer	Page 13 of 14
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	Laura Jones	I think you've got the front page up on display like you are supposed to but have you got all the rest of it?
	M A Shah	Yeah, we've got that yeah.
	Laura Jones	OK then, if there is nothing else to add we'll stop it there and we'll be in touch. So it is 13.47 and I am returning the recorder off.

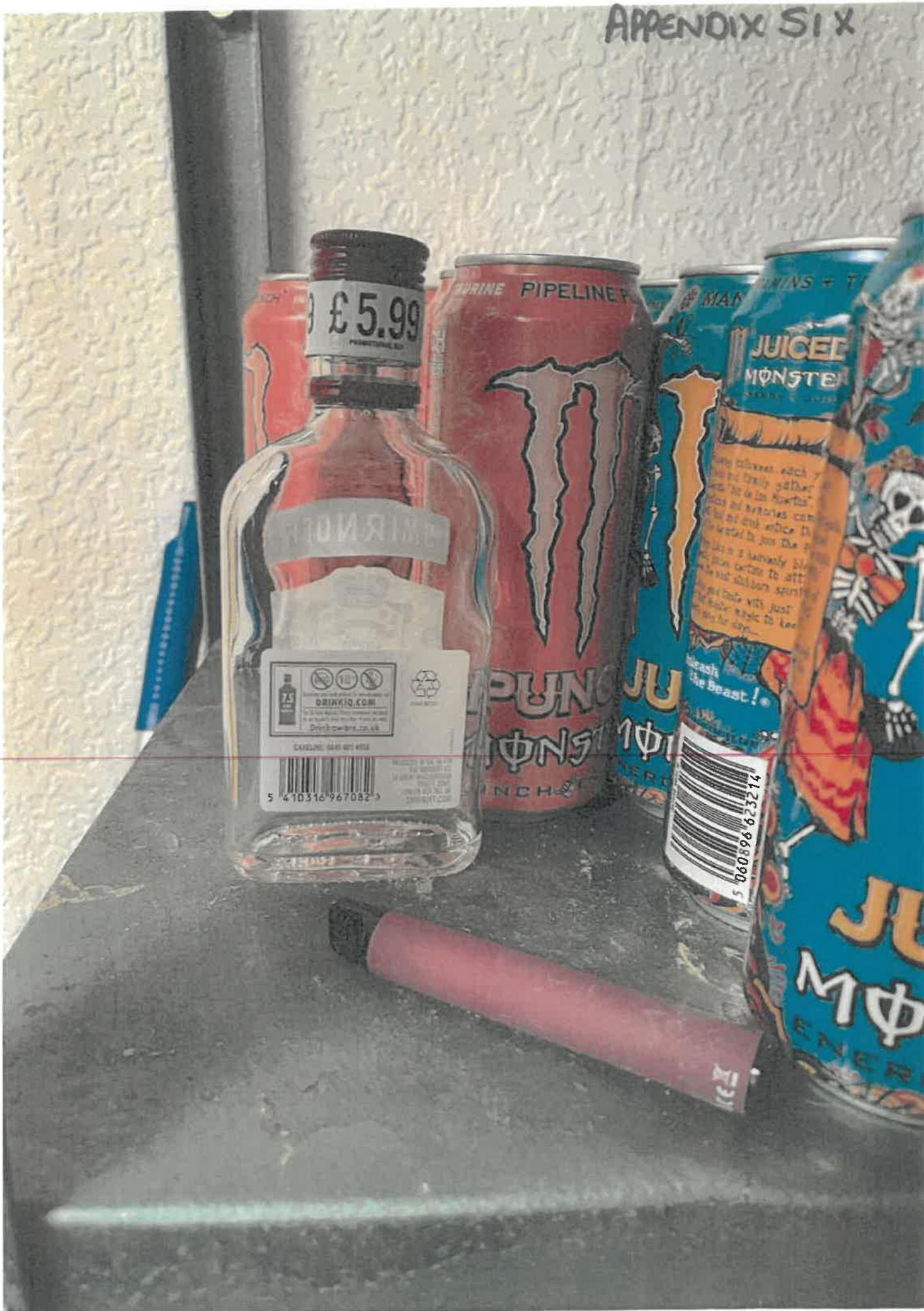
Person Interviewed Syed K H Shah M. Ali Shah	Signature of Officer	Page 14 of 14
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APPENDIX FIVE

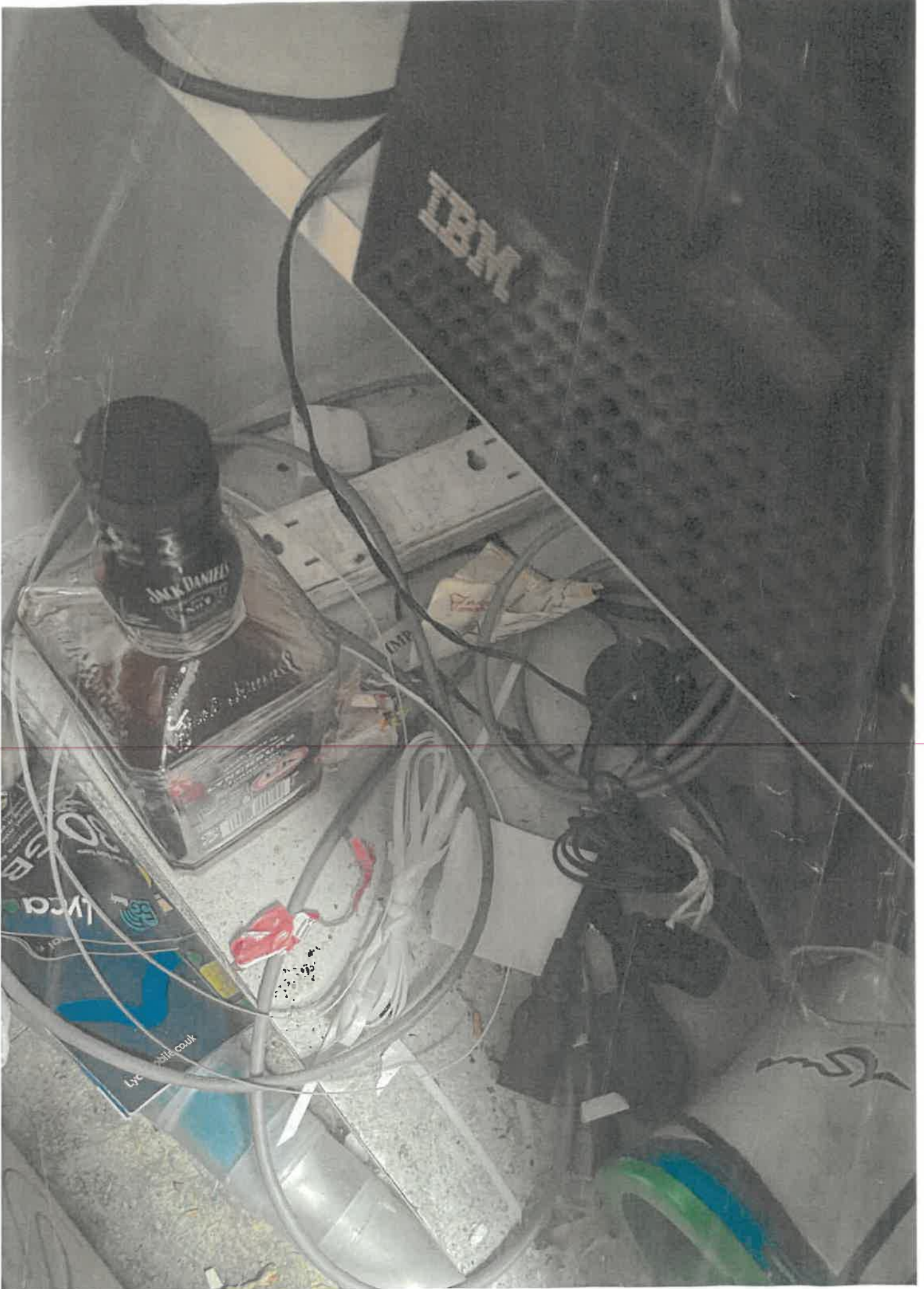
DATE	TIME	PRODUCT	Reason	Sign
21-6-21	11:00	Cig	Underage	AC
25-6-21	8:00	ALC	Underage	AC
13-7-21	1:00	E-Cig	"	AC
15-7-21	10:00	Cig	Underage	AC
15-8-21	12:00	ALC	No I.D. Underage	AC
25-8-21	11:00	ALC	"	AC
12-09-21	9:00	ALC	"	AC
26-9-21	4:00	ALC	"	AC
11-10-21	5:00	Cig	No I.D.	AC
15-11-21	6:00	Cig	Underage	AC
29-11-21	8:00	Cig	"	AC
12-12-21	4:00	ALC	"	AC
20-12-21	7:00	"	"	AC

DATE	TIME	PRODUCT	REASON	SIGN
1-6-21	11:00	Cig	Underage	AC
7-6-21	20:00	Alcohol	Underage	AC
12-07-21	15:00	E-Cig	Underage	AC
13/07/2021	15:20	Cig	Underage	AC
18/07/21	11:45	ALcohol	No I.D. Underage	AC
23/07/21	7:51	Cigarettes	Underage	AC
25/08/21	14:22	alcohol	Underage No ID	AC
3/10/21	11:25	Alcohol	Underage No ID	AC

APPENDIX SIX







Appendix 9

Conditions contained on the Premises Licence

This licence is granted subject to any Mandatory Conditions imposed by the Licensing Act 2003, and conditions volunteered on the application form to be undertaken by the applicant and where necessary, conditions imposed by the Licensing Authority in order to promote the Licensing Objectives.

Mandatory Conditions:

a No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor (DPS) in respect of the Premises Licence OR at a time when the Designated Premises Supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.

b Every supply of alcohol under the Premises Licence must be made or authorized by a person who holds a Personal Licence.

Mandatory Conditions pursuant to The Licensing Act 2003
Mandatory Licensing Conditions (Amendment) Order 2014

3. (1) 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.

(2) 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.

(3) 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.

Definition:

Responsible person - as defined by section 153 (4) Licensing Act 2003 -

(a) In relation to a licensed premises -

(i) The holder of a premises licence in relation to a premise

(ii) The designated premises supervisor (if any) under such a licence.

(iii) Any individual aged 18 or over who is authorized for the purposes of this section by such a holder or supervisor.

(b) 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 him to prevent the supply in question.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

1. 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.

2. 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-

$$P = D + (D \times V)$$

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.

3. 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.

4. (1) 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.

(2) 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.

Conditions applied following review of licence 25th April 2019

Prevention Of Public Nuisance

1. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.

2. Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.

3. Where the premises provide food to the public for consumption off the premises there shall be provided at or near the exits, one waste bin to enable the disposal of waste food, food containers, wrappings etc.

4. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.

The Prevention of Crime and Disorder

5. The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number / positioning of cameras is to be agreed in liaison with the police. The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 consecutive days and are to be made available to the police / Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.

6. On an annual basis [or at a greater frequency specified] the premises licence holder or the DPS is to notify the licensing office in writing that the cctv system has been checked, maintained to any recognised specification and is in working order. An action plan to be agreed to rectify any recorded malfunction or planned alterations.

7. A Personal Licence holder must be on the premises on Thursday, Friday and Saturday between 15.00 hrs and close of business and have a personal licence on their person which can be produced on request by police / authorised officers of the Licensing Authority.

8. Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.

9. No alcoholic drink shall be removed from the premises in an unsealed container.

Protection of Children from Harm

10. The premises will operate a "Challenge 25" proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold / supplied alcohol. Only a passport or photo-card driving licence should to be accepted as proof of age.

11. A documented Challenge 25 scheme will be operated at the premises. The Challenge 25 scheme shall be actively promoted and advertised at the premises and will ensure that any person purchasing alcohol, who appears to be under 25 years of age, shall be asked to provide acceptable identification to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.

12. Where a purchaser is asked for Identification, only the following forms of identification will be acceptable:-

- (a) Photo driving licence
- (b) Passport or
- (c) Her Majesty's Forces Warrant Card

13. The premises is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The book must be made available to the police / authorised officers of the Licensing Authority on request.

14. All individual alcohol containers (e.g. bottles/cans/cartons) before going on display for sale are to be uniquely and indelibly marked in a manner approved by the Greater Manchester Police and Bury Council. The mark shall be the letter 'K' permanently marked on the bottles/cans/cartons.

Appendix 10

Representation from Trading Standards

Bury Metropolitan Borough Council

The Licensing Act 2003

Responsible Authority Representation Form

<i>Section 1 - Application Details</i>	
We object to the following Application:	
Killon Street Off Licence 26 Price Street Bury	
Type of application. Review	
Application Number (if known):	PL0475

<i>Section 2 - Responsible Authority's Details</i>	
Responsible Authority's Details:	
Please tick appropriate box:	
<input type="checkbox"/>	Police
<input type="checkbox"/>	Fire Authority
<input type="checkbox"/>	Planning Authority
<input type="checkbox"/>	Health and Safety
<input type="checkbox"/>	Environmental Health Service
<input type="checkbox"/>	Child Protection
<input checked="" type="checkbox"/>	Weights and Measures

Section 3A – The Objectives	
To prevent crime and disorder	See witness statement attached, referring to illicit tobacco, opened bottles of alcohol, single cigarettes and non compliant vapes
Public safety	Please state your reasons:
To prevent public nuisance	<i>Please state your reasons:</i>

<p>The protection of children from harm</p>	<p>See witness statement attached, referring to illicit tobacco, opened bottles of alcohol, single cigarettes and non compliant vapes</p>

Section 3B – Suggestions/Further information

Signed: ... *K. Halligan* Dated: 3rd October 2023

N.B if you do make a representation, you will be expected to attend the Licensing Sub-Committee hearing and any subsequent appeal proceedings.



STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

STATEMENT OF Kelly Halligan

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

This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

I am employed by Bury Council, in the Department of Operations, in the Trading Standards Section, as a Trading Standards Unit Manager. On the 18th April 2023, I accompanied Greater Manchester Police on a warrant at Killon Street Off licence, 26 Price Street, Bury, BL99EB. Also present with me was Laura Jones – Deputy Licensing Officer at Bury Council. Whilst in the shop we had a look around at the stock, and what was on sale. Behind the counter was Syed Khurshid Shah who said he was the licence holder, but his son owns the shop. I had a look behind the counter and in a black bin bag hanging off the counter I found empty bottles of alcohol, 1 x 70 cl Jack Daniels, 2 x 350 cl Jack Daniels, 1 x 20cl vodka and 2 x 20 cl Jack Daniels, also 3 single cigarettes, B&H but no full packets. I took pictures of the items I found I produce these as exhibits KJH/KS/1 to 4, all signed and dated by me. Also under the counter was a bag containing 30 x 20 gold leaf cigarettes, 10 x 20 Pall Mall cigarettes neither of which were in standardised packaging so breached the Tobacco and Related Product Regulations 2016, also under the counter I found 39 disposable vapes which also breached the same legislation, all above the maximum permitted limit. I seized the cigarettes, and the disposable vapes and gave Mr Shah a receipt for the items, and I left him with a notice of powers and rights, I produce a copy of these as exhibit KJH/KS/5 & 6, both signed and dated by me. In the stock room we found an empty



20cl vodka bottle and a vape. We checked the bottles on the shelves, but not all were marked. Mr Shah couldn't work the CCTV when requested, neither could he find the refusals book. On the 14th August 2023, Mr Shah Senior and Mr Shah Junior was interviewed at 3 Knowsley Place, by Laura Jones and myself.

K Halligan

K Halligan

K Halligan

Signed: (witness)

Date:14/8/23.....

BURY COUNCIL

I identify the exhibit described below as that referred to in the statement made and signed by me.

Signed *K Malligan* Date *14.8.23*

Exhibit No: *KJH/ KS/1*

in the case of *Killon St Off licence*

Description of Exhibit *Photo of empty bottles from Bin Bag*

Identifying Mark.....

Officer taking possession of item

.....

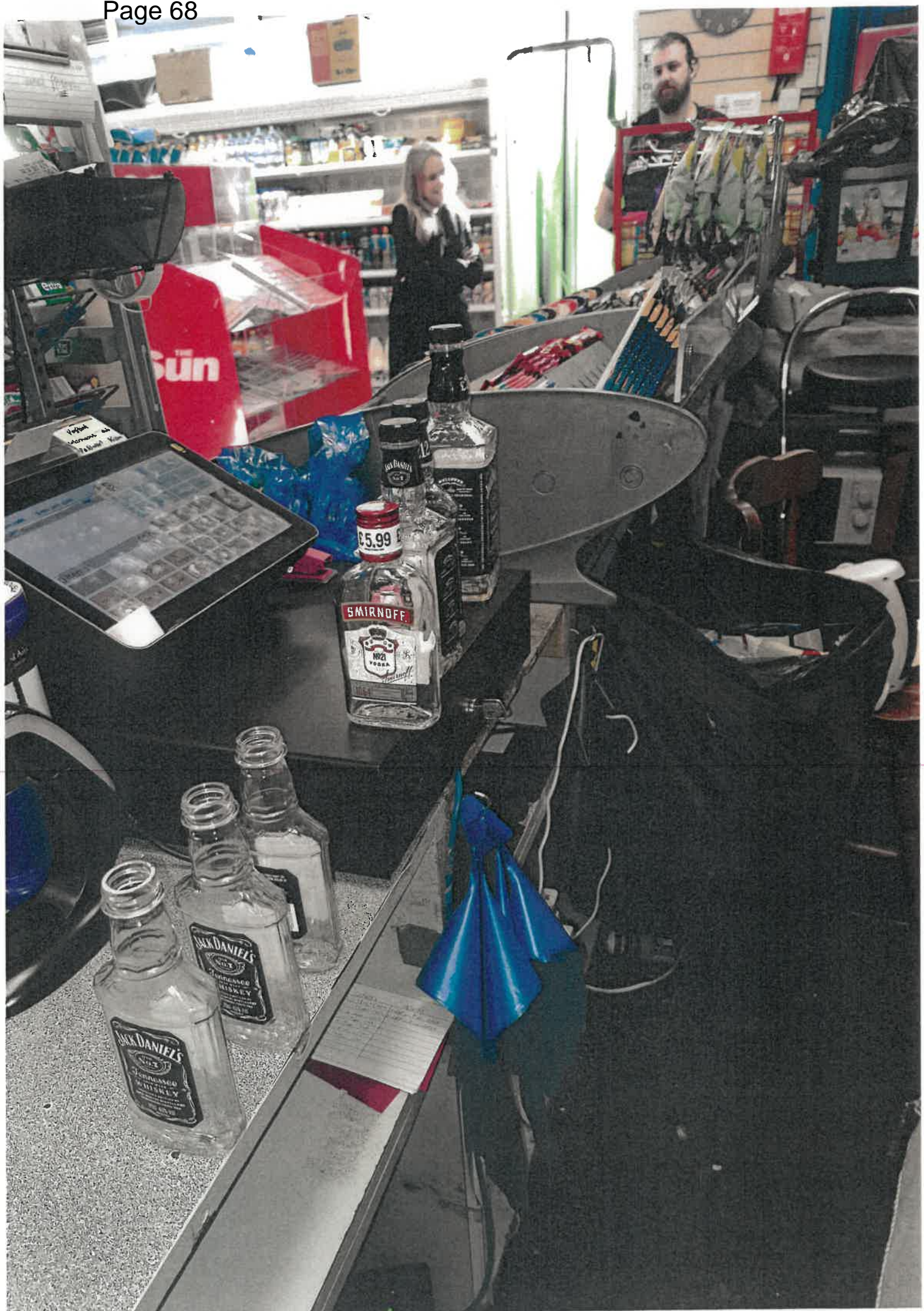
Signature Date
.....

I certify that I have seen the exhibit

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....



BURY COUNCIL

I identify the exhibit described below as that referred to in the statement made and signed by me.

Signed *K. Haugan* Date *14-8-23*

Exhibit No: *K.H. / KS / 2*

in the case of *Killoe St off Licence*

Description of Exhibit *Photo of empty bottles from Bin Bag*

Identifying Mark.....

Officer taking possession of item

Signature

Date

I certify that I have seen the exhibit

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....





BURY COUNCIL

I identify the exhibit described below as that referred to in the statement made and signed by me.

Signed *K. Malinga* Date *14.8.23*

Exhibit No: *(K.M.) / K.S. / 4*

in the case of *Killan St. Off. licence*

Description of Exhibit *Photo's of*

Single cigarette under Confectionary Stand
Identifying Mark

Officer taking possession of item

.....

Signature Date

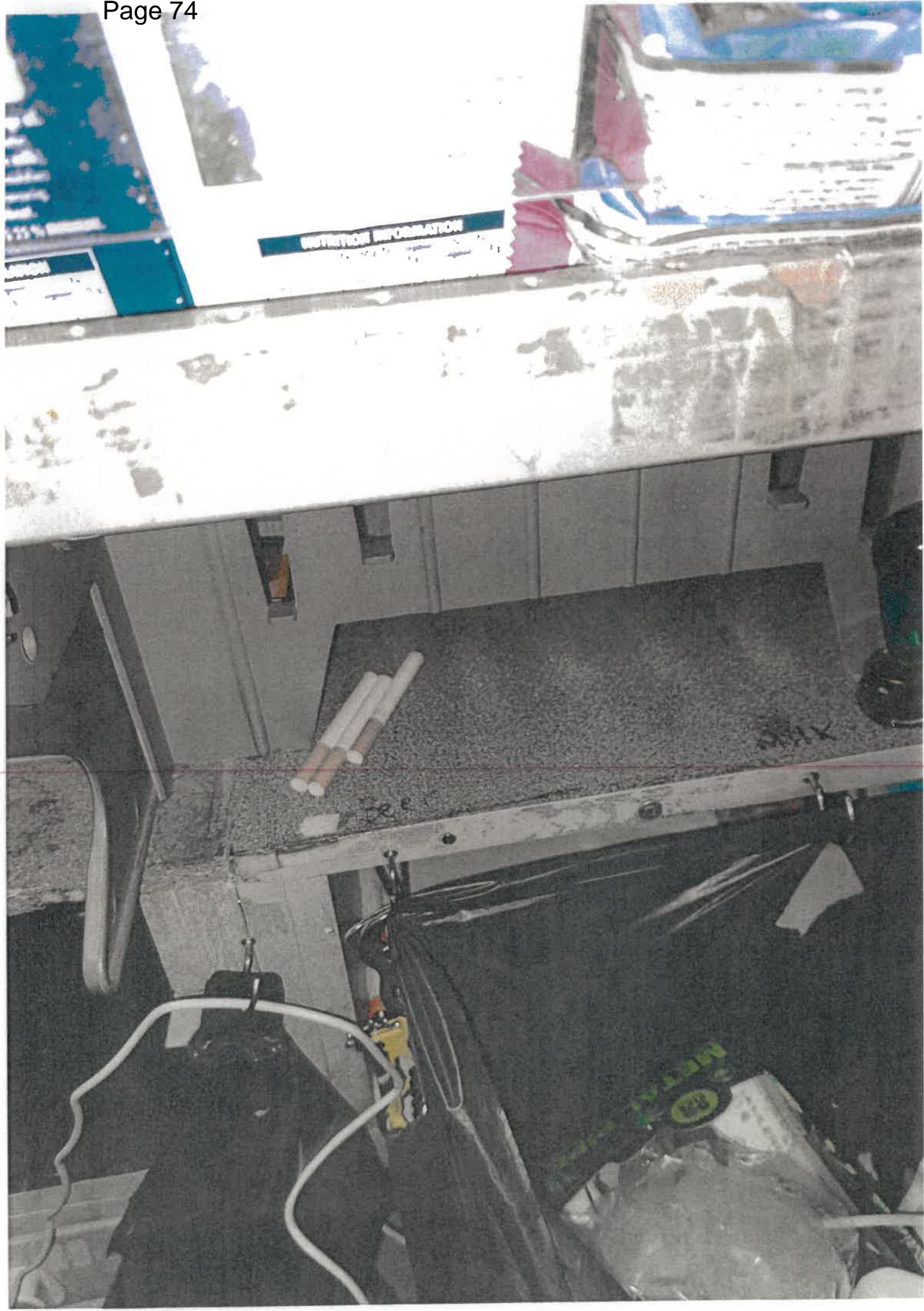
.....

I certify that I have seen the exhibit

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....



BURY COUNCIL

I identify the exhibit described below as that referred to in the statement made and signed by me.

Signed *K. Manning* Date *14.8.23*

Exhibit No: *K.M. / K.S / S*

in the case of *Killan St off lane*

Description of Exhibit *Copy of receipt for items seized*

Identifying Mark.....

Officer taking possession of item

.....

Signature Date

.....

I certify that I have seen the exhibit

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....

BURY COUNCIL

I identify the exhibit described below as that referred to in the statement made and signed by me.

Signed *K. Mulligan* Date *14.8.23*

Exhibit No: *K. Mulligan 155/6*

in the case of *K. Mulligan St off license*

Description of Exhibit: *copy of*

PACE Code B notice

Identifying Mark.....

Officer taking possession of item

.....

Signature Date

.....

I certify that I have seen the exhibit

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....

(475)

Notice of powers and rights to occupier

To Killar St Off licence LA ref

Address 26 Pnce St, Bury

Date 18/4/23 Time in 8:40 Time out

Officer(s) Khalilgan / L Jones + GMP

Person seen Mr SHAH Position *Owner / PL



Trading Standards
 0161 253 5353
 tradingstandards@bury.gov.uk

* If you are an employee you should pass this notice to the business owner(s) or the relevant manager or company director etc.

Code of Practice – Powers of Entry (Section 48 (1)(a) of the Protection of Freedoms Act 2012)
 Police and Criminal Evidence Act 1984 (PACE) Code B

Visit conducted Without warrant Under warrant -GMP warrant

This notice is issued in accordance with paragraph 7.1 of the above Code, or PACE Code B (if you are suspected of committing an offence and/or entry is under warrant).
 It informs you about your rights when an authorised officer who has powers of entry wishes to exercise those powers. It also explains officers' associated powers and any compensation or complaints procedures.

Reason for visit Routine inspection Enquiry / complaint investigation Campaign / project Revisit

Officers powers

Authorised officers have a legal right to enter and inspect business premises when they are open for business or at any reasonable time. They may visit by appointment if appropriate but often will not, as to do so may defeat the purpose of the inspection or not be practicable. You should ask to see an officer's official credentials or identification before allowing them to proceed. It is good practice to do so as criminals do sometimes pose as bogus officials.
 Powers do vary depending on the legislation but in most cases officers will have powers to;

- enter and inspect all parts of the premises
- observe the operation of the business
- interview staff during the inspection
- seize and retain any food, goods, computers or documents that may be required as evidence
- break open containers or vending machines
- make test purchases, take samples and photographs
- inspect and test any goods, equipment or installations
- seize items that are liable to forfeiture
- require the production and take copies of recordings (including computer records), documents and video recordings associated with the business
- access electronic devices to obtain or access information

Where entry is under a warrant any type of premises may be entered - with reasonable force if necessary.

Powers exercised are contained in statutory instruments enforced by this Service including those listed below

Consumer Rights Act 2015 <input checked="" type="checkbox"/>	General Product Safety Regulations 2005 <input type="checkbox"/>	Prices Act 1974 <input type="checkbox"/>
Consumer Protection from Unfair Trading Regulations 2008 <input checked="" type="checkbox"/>	Trade Descriptions Act 1968 <input type="checkbox"/>	
Business Protection from Misleading Marketing Regulations 2008 <input type="checkbox"/>	Weights and Measures Act 1985 <input type="checkbox"/>	
Copyright Designs and Patents Act 1988 <input type="checkbox"/>	Trade Marks Act 1994 <input checked="" type="checkbox"/>	Consumer Protection Act 1987 <input type="checkbox"/>
Hallmarking Act 1973 <input type="checkbox"/>	Licensing Act 2003 <input checked="" type="checkbox"/>	Food Safety Act 1990 <input type="checkbox"/>
Tobacco Advertising and Promotion Act 2002 <input type="checkbox"/>	Other <input checked="" type="checkbox"/> (insert detail) <u>Tobacco + Related Product Regs</u>	
Product specific safety regulations <input type="checkbox"/> (insert detail)		

Obstruction of officers or failure to provide assistance

It may be an offence to obstruct, fail to comply with a requirement imposed, or fail to give any assistance or information reasonably required by the officer, or to give false or misleading information (this includes providing access to locked or secure areas). On conviction the offence is punishable by fine and/or imprisonment.

Consent of landowner or occupier (paragraph 8.1 of the Code*) or PACE Code B

Consent obtained Consent not requested Consent requested but not obtained

This section is to confirm that the occupier has been notified about the purpose of the visit and, for exercising powers of entry and associated powers, what these powers are and how they will be used.
 *Reasonable effort should also be made to obtain the consent of the landowner or occupier, unless obtaining consent would frustrate the purpose of the visit, for example by causing undue delay. Further information overleaf.

Declaration of landowner or occupier

I confirm receipt of this notice. I understand that I am not obliged to consent and may withdraw consent at any time. I understand if I refuse or withdraw consent officers can still exercise lawful authority to enter and exercise powers. I also understand the consequences or penalty for obstructing officers when exercising their powers.
 I hereby consent to officers entering the premises for the stated purposes - Yes No Not requested

Name of person signing Mr Shah Signature S. Khan

Bury Council endeavours to adopt a positive and proactive approach towards ensuring compliance. We have regard to the Regulators' Code and previously adopted the Government's Enforcement Concordat. We believe that close partnership between local business and the Council means:

- better consumer and business protection
- clarity about what is required and by when
- fair and consistent regulation
- action required is proportionate to the risks identified

Officers are always pleased to help if you need advice on any of the areas we regulate including fair trading, price marking, product safety, tobacco control, weights and measures and age verification. Business advice on these subjects and more can be found via the Council's website along with our enforcement policy and service standards.

If at the time of conducting an inspection or search you are suspected of committing an offence officers should have regard to the Police and Criminal Evidence Act (PACE) Code B.

Your rights at inspections – further information

- When you are required or advised to do something you have the right on request to a written explanation of what you need to do, by when and why, and whether it is a legal requirement or a recommendation of good practice
- When immediate enforcement action is taken you have the right to a written explanation as to why this action was necessary
- When other enforcement action is taken or proposed you have the right to have your point of view heard and for any alternative action (which must be equally effective) to be discussed
- When enforcement action is taken, you have the right to be told of any appeals mechanisms

If you are concerned about the possible implications for your business ask the inspecting officer what happens next.

Seizure of property

- Where property is seized officers should have regard to PACE Code B
- Before items are seized from occupied premises the officer must show the occupier their credentials if reasonably practicable
- The officer will also take reasonable steps to inform the person from whom items have been seized about the seizure and provide a written record of what has been seized
- Items seized will not be retained for longer than three months, unless the goods are reasonably required to be detained for a longer period for a purpose for which they were seized, in which case they will not be detained for longer than required for that purpose. This does not apply to goods seized for testing, that are liable to forfeiture or that are required as evidence
- Appeal rights may exist under the legislation concerned. These generally involve taking action in the Magistrates' Court. You should seek independent legal advice if you wish to appeal against any seizure
- Compensation for loss or damage resulting from a seizure of goods may be payable where there has been no infringement or breach of legislation. In the event of dispute such compensation, or right to it, shall be determined by arbitration

Access to seized property

- The occupier or representative can be allowed supervised access to items seized to examine or photograph them, or should be provided with a photograph or copy where possible, in either case within a reasonable time following any request and at their own expense
- Such requests may not be granted if there are reasonable grounds for believing this would prejudice the investigation of any offence or criminal proceedings; lead to the commission of an offence by providing access to unlawful material; or compromise the personal safety of security staff and/or the security of storage facilities

Further information & complaints

Please contact us for any further advice or guidance or e-copies of these codes – contact details are shown overleaf.

- You may access the Code of Practice on Powers of Entry via www.gov.uk/powers-of-entry
- PACE Codes are available for inspection at police stations or can be accessed via the GOV.UK website
- For further information on the Statutory Code of Practice for Regulators please visit the GOV.UK website

If you are unhappy with the inspection then you can complain using the Council's complaints procedure by writing to the Trading Standards Manager at the address overleaf or use our corporates complaints and feedback facility at www.bury.gov.uk

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

STATEMENT OF Jane Garland

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

This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

I am employed by Bury Metropolitan Borough Council, in the Department of Operations, in the Trading Standards Section, as a Senior Trading Standards Officer and as such I am authorised for the purpose of the Tobacco and Related Product Regulations and the Regulation (EC) No 1272/2008 as amended. On the 4th July 2023 I was instructed by Kelly Halligan, a Trading Standards Unit Manager also employed by Bury Council, to remove from the secure store in the offices of 3 Knowsley Place, Duke Street used by Trading Standards one bag with tamper evident tag number 2127407, to catalogue its contents. I opened the bag with tamper evident tag number 2127407 and examined the nicotine inhaling products contained within that bag. I counted them and found there to be 39 ENE Legend 3500. I examined them to check elements of the labelling for compliance with the requirements of the Tobacco and Related Product Regulations and the Regulation (EC) No 1272/2008 as amended. The nicotine inhaling products did not comply with the Tobacco and Related Product Regulations 2016, in that the size of the tank was be greater than the 2ml permitted and there was no batch number. There were no contact details of a responsible person within Great Britain, on the leaflet printed on the bag inside the boxes as required by that legislation. They further did not meet the requirements of Regulation (EC) No 1272/2008 as amended, in that; a quantity of nicotine liquid was not indicated; they did not have the Name, address and telephone number of the responsible person in Great Britain, and they did not have the signal word 'Danger' displayed. On completion of the examination, I returned the nicotine inhaling products to the to the bag together with the original tag number 2127407, which I resealed with tamper evident tag 2127550. I then returned the sealed bag to the secure store,

Signed:  (witness)

Date: 23/8/23