

REPORT FOR DECISION

DECISION OF:	LICENSING HEARINGS PANEL
DATE:	30th JANUARY 2019
SUBJECT:	AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF PREMIER OFF LICENCE, 29 CHESHAM ROAD, BURY, BL9 6LY
REPORT FROM:	ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
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 Premier Off Licence, 29 Chesham Road, Bury, BL9 6LY.
OPTIONS & RECOMMENDED OPTION	<ul style="list-style-type: none"> • 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
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Executive Director of Resources:	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.
Equality/Diversity implications:	Yes No (see paragraph below)
Considered by Monitoring Officer:	Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.
Wards Affected:	Moorside
Scrutiny Interest:	Overview and Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

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 The Premises Licence in respect of Premier Off Licence, 29 Chesham Road, Bury, BL9 6LY is held by Mr Mohammed Ayyaz Khan, 12 Wellington Road, Bury, BL9 9BG. Mr Khan is also the Designated Premises Supervisor (DPS).

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 on & off the premises:

Monday to Sunday 0900 to 22.00

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 1:

5.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITY

5.1 The Weights and Measures Authority will shortly expand upon their reason(s) for their representation to this application which they request the Panel to revoke the premises licence.

The representation is attached at appendix 2

6.0 REPRESENTATIONS FROM GREATER MANCHESTER POLICE

6.1 The Police will shortly expand upon the reason(s) for their representation in relation to this application.

The representation is attached at appendix 3

7.0 SECTION 182 LICENSING ACT GUIDANCE

7.1 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.

7.2 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.

8.0 OBSERVATIONS

- 8.1 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.

List of Background Papers:-

Review Application form
Representation received from Weights and Measures Authority
Representation received from Greater Manchester Police

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

Mr M Bridge
Licensing Office
3 Knowsley Place
Duke Street
Bury
BL9 0EJ
Telephone No: 0161 253 5209

LICENSING ACT 2003**CONDITIONS ATTACHED TO THE GRANT OF THIS LICENCE**

This licence is granted subject to any **Mandatory Conditions** imposed by the Licensing Act 2003, **Embedded Conditions** carried across on conversion of your previously held Justices Licence, **Conditions Converted** from any previously held Public Entertainments Licence, **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.

1. **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.
- c Any Door Security staff employed to carry out a security activity at the premises must be licensed with the Security Industry Authority (SIA).
- d In respect of the exhibition of films as mentioned below:
 - 1 The admission of children to the exhibitions of any film is restricted as follows:
 - 2 Where the film classification body is specified in the licence, unless 3(b) below applies, the admission of children is restricted in accordance with any recommendation of that body.
 - 3 Where:-
 - (a) the film classification body is not specified in this licence, or
 - (b) the licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 the admission of children is restricted in accordance with any recommendation made by the licensing authority.
 - 4 In relation to the above:

"children" means persons under the age of 18 years; and
 "film classification body" means the persons or person designated as the authority under section 4 of the Video Recordings Act 1984.

Conditions consistent with the Operating Schedule

- 1 CCTV system to be maintained and tapes to be safely retained for a minimum period of 31 days for viewing purposes by the authorities, including the police. Cameras shall encompass both internal and external areas of the premises.
- 2 Management and staff will use their best endeavours to prevent persons loitering outside the premises.
- 3 Fire extinguisher checks will be made and inspected on an annual basis.
- 4 To ensure regular and adequate refuse collections from the premises.

- 5 A challenge '21' scheme will be operated at the premises - the only form of valid ID being passport, photo driving licence or PASS hologram ID card.
- 6 To compile and maintain a refusal book containing records of instances/persons who have been refused the sale of alcohol on the basis of their perceived age.
- 7 Documented staff training to be given to all staff concerned in sale of alcohol, this training to include under age and drunkenness.

Conditions imposed at a Licensing Panel hearing on 29th May 2008.

1. That all alcohol containers in which alcohol is available for sale from the premises be uniquely marked in a manner approved and agreed by Greater Manchester Police;
2. That the following alcoholic drinks be kept behind the counter or in a place where customers do not have direct access to those products without the assistance of a member of staff, namely:
 - i. All spirits, flavoured spirits, Alco pops (i.e. spirit based drinks mixed with soft drinks / flavoured juice etc, which will include and not be limited to products such as "Bacardi Breezers" and similar products);
 - ii. Cider
 - iii. Lager
3. A Personal Licence Holder will be present on the premises on Thursday, Friday and Saturday between the hours of 16:00 and 23:00 when the premises are open to trade for the sale of alcohol



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.

Please have a look at the link below for guidance on completing the form and where to send it to. <http://www.bury.gov.uk/index.aspx?articleid=4025>

I Laura Jones – Deputy Licensing Officer

(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 Premier Off Licence 29 Chesham Road	
Post town Bury	Post code (if known) BL96LY
Name of premises licence holder or club holding club premises certificate (if known) Mohammed Ayyaz Khan	
Number of premises licence or club premises certificate (if known) PL0781	

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)

x

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 Resources and Regulations 3 Knowsley Place Duke Street Bury BL9 0EJ
Telephone number (if any) 01612537206
E-mail address (optional) laura.j.jones@bury.gov.uk

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

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

Please tick one or more boxes ✓

- x

x

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

Prevention of Crime and Disorder

Breach of licence conditions

History of underage sales

Lack of control over staff and their actions which undermine the licensing objectives

Protection of children from harm

Underage sales

CSE issues in the area – open packet of condoms found under the counter

See below for further details

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

Premier Off Licence is a general convenience store which has been licensed for the retail sale of alcohol for consumption off the premises under the authority of a Premises Licence granted by Bury Council on 5th June 2008.

Since that date Mr Mohammed Ayyaz Khan of 12 Wellington Road, Bury has been the holder of the Premises Licence and the Designated Premises Supervisor (DPS).

On the 29th May 2008, the Licensing Hearings Panel attached the following conditions to the Premises Licence following representations being made to the Premises Licence application by local residents and Greater Manchester Police regarding youth anti-social behaviour in the area and underage drinking.

1. That all alcohol containers in which alcohol is available for sale from the premises be uniquely marked in a manner approved and agreed by Greater Manchester Police.
2. That the following alcoholic drinks be kept behind the counter or in a place where customers do not have direct access to those products without the assistance of a member of staff, namely:
 - (i) All spirits, flavoured spirits, alco pops (i.e. spirit based drinks mixed with soft drinks / flavoured juice etc. which will include and not be limited to products such as "Bacardi Breezers" and similar products);
 - (ii) Cider
 - (iii) Lager
3. That a person who is a Personal Licence Holder or the Designated Premises Supervisor be on the premises at all times at which alcohol products are sold;
4. That alcohol be sold between the hours of 09.00 to 22.00hrs.

Mr Khan offered to have the conditions put on his licence that would restrict the types of alcohol that can be on open display and to alcohol products being sold from

his shop being uniquely and permanently marked. He also told the Panel that he would only employ staff who had undertaken the training that would enable them to become a Designated Premises Supervisor.

Licence condition 3 was later altered at the request of Mr [REDACTED] and with agreement by Greater Manchester Police to state that a Personal Licence Holder must be on the premises Thursday, Friday and Saturday between the hours of 4pm and 11pm as Mr [REDACTED] stated that to have a Personal Licence Holder on the premises at all times would not be financially viable.

The following licence conditions were also volunteered by Mr [REDACTED] on the Operating Schedule as part of his Premises Licence Application.

- 1 CCTV system to be maintained and tapes to be safely retained for a minimum period of 31 days for viewing purposes by the authorities, including the police. Cameras shall encompass both internal and external areas of the premises.
- 2 Management and staff will use their best endeavours to prevent persons loitering outside the premises.
- 3 Fire extinguisher checks will be made and inspected on an annual basis.
- 4 To ensure regular and adequate refuse collections from the premises.
- 5 A challenge '21' scheme will be operated at the premises - the only form of valid ID being passport, photo driving licence or PASS hologram ID card.
- 6 To compile and maintain a refusal book containing records of instances/persons who have been refused the sale of alcohol on the basis of their perceived age.
- 7 Documented staff training to be given to all staff concerned in sale of alcohol, this training to include under age and drunkenness.

Complaints were received in May and June 2010 regarding youths purchasing alcohol from Premier Off Licence. As a result of this a joint operation took place between

Greater Manchester Police and Licensing Enforcement Officers on 5th June 2010. A 17 year old male was apprehended outside the shop in possession of 4 cans of lager. However due to a problem with the shops CCTV Greater Manchester Police could not identify the member of staff who sold the alcohol.

On the 20th December 2011 PC Watson from Greater Manchester Police visited the premises and issued a fixed penalty notice to a member of staff, [REDACTED], for the sale of alcohol to a 16 year old. The notice was accepted by Mr [REDACTED] and [REDACTED] was spoken to by Greater Manchester Police to remind him of his responsibilities as the DPS.

On the 4th July 2014 a compliance check by Licensing Enforcement Officers found that no entries had been recorded in the refusals register since February 2014. Mr [REDACTED] was confronted over this issue and he admitted that other refusals had been made but had not been recorded.

At the request of Trading Standards a compliance check by Licensing Enforcement Officers was carried out on the 27th July 2017 at 8pm (a Friday evening) and found a number of breaches of licence conditions. Mr [REDACTED] was not present in the shop. A member of staff named Dean was working and informed us that Mr [REDACTED] had to attend A&E. Dean was not a Personal Licence Holder. This was a breach of the licence condition stating that a Personal Licence Holder must be on the premises between 4pm-11pm Thursday, Friday and Saturday. A check of the alcohol bottles on the shelves revealed that very few of the bottles had been marked.

Licensing Enforcement Officers re-visited the shop on 31st July 2017. Mr [REDACTED] was again not present and Dean was working. Mr [REDACTED] was spoken to on the phone and agreed to be present at the shop at 11am the following day. The visit took place and Mr [REDACTED] was present as arranged. The refusals register was inspected and consisted of a tea stained notepad with illegible writing. There were two entries one from 2015 and one from 2017. When questioned as to what staff he currently employed he

named himself, Dean and [REDACTED] who was currently in Pakistan. He was reminded of the conditions on his licence requiring a Personal Licence Holder being present and to marking his bottles. He admitted that he had been slack at ensuring this was done. An inspection of his CCTV revealed that the system was working and recording but Mr [REDACTED] was unable to work the system to show us CCTV footage from Friday evening.

On the 3rd April 2018 two PCSO's from Greater Manchester Police stopped two girls coming out of the shop. One was 13 years old and one 14 years old. Both had just purchased single cigarettes from the shop for 50p each. The PCSO's went into the shop and the man behind the counter, [REDACTED] produced an open pack from under the counter which was illicit, non-duty paid. He told the Officers that his boss, the shop owner, [REDACTED] tells him to sell the cigarettes to anyone. The cigarettes were seized by the Officers.

Following complaints regarding the sale of illicit cigarettes a Multi-Agency visit took place at the premises on 5th June 2018 involving partners from Licensing, Greater Manchester Police, Environmental Health, Trading Standards, Greater Manchester Fire Service, the Electricity Board and Immigration. Mr [REDACTED] was not present but his son, who was working in the shop, telephoned him and he later attended. The majority of bottles were found to be marked however there was evidence of a person sleeping in the rear of the shop and the electricity was turned off at the shop due to safety concerns over the meter.

A second multi agency visit by the same partners was carried out on 16th October 2018. Mr [REDACTED] was not present and working in the shop was [REDACTED] from an address in Fallowfield, Manchester. This visit involved the use of a tobacco dog trained to locate, amongst other things illicit tobacco and cigarettes. A bag found in the rear of the shop was found to contain a change of clothes, two condoms and a number of packets of illicit cigarettes and hand rolling tobacco. A jacket under the counter was also found to contain illicit cigarettes. Mr [REDACTED] claimed that both of

these items belonged to him. Under the counter was also found an open pack of cigarettes and an open pack of condoms. The bed in the store room was still present. Not all the bottles on the shelves were marked and cider and lager were present on the shelves not behind the counter as per the licence conditions (see photograph). Mr [REDACTED] was questioned as to what age a person could purchase alcohol and he stated 21 and 21 to buy cigarettes. He confirmed that he had received no training.

On 27th November 2018 Mr [REDACTED] attended the Town Hall for an interview under PACE at the request of Kelly Halligan, Senior Trading Standards Officer and myself. He was questioned regarding the breaches of condition of his Premises Licence and the illicit cigarettes found on the Premises. He stated that he had two members of staff other than himself and his son [REDACTED] who worked at the shop on an ad hoc basis when home from University. The staff are [REDACTED] and [REDACTED] neither hold a Personal Licence. Mr [REDACTED] admitted that he had issues with youths loitering outside the shop and causing issues inside the premises. Mr [REDACTED] stated that he had spoken to Mr [REDACTED] about the presence of the illicit cigarettes in his possession. When questioned as to why there was an open pack of condoms under the counter Mr [REDACTED] did not have an answer for this. When questioned as to Mr [REDACTED] selling single cigarettes to the underage girls he denied knowledge of this. He said that he had fired Mr [REDACTED] as he caught him stealing cigarettes from the shop and was being too friendly with the kids and serving to underage.

It is felt that there are a number of issues with the Premises that are not being controlled by Mr [REDACTED] as the Premises Licence Holder and the DPS.

The premises is in an area where Greater Manchester Police are aware of issues regarding CSE. Therefore an open pack of cigarettes being found under the counter together with youths being stopped having purchased single cigarettes and an open pack of condoms under the counter are facts that must be taken into consideration when deciding if the premises is being run in line with the licensing objectives of the Licensing Act 2003 to prevent crime and disorder and protect children from harm.

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

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

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

Please tick ✓ yes

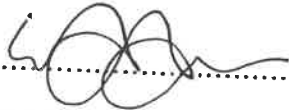
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate x
- I understand that if I do not comply with the above requirements my application will be rejected x

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

Part 3 – Signatures (please read guidance note 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 **05/12/18**

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)

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.

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J. G. Jacobsen

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The Licensing Act 2003

Responsible Authority Representation Form

Section 1 - Application Details	
<p>We object to the following Application: Chesham Convenience Store/Premier, 29 Chesham Road, Bury, BL96LY</p>	
<p>Type of application. Review of a Premises Licence</p>	
<p>Application Number (if known):</p>	

Section 2 – Responsible Authority’s Details	
<p>Responsible Authority’s Details: Please tick appropriate box:</p>	
<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
<input type="checkbox"/>	Licensing Authority
<input type="checkbox"/>	Immigration
<input type="checkbox"/>	Public Health Department
Full name:	Kelly Halligan
Job Title:	Inspector of Weights and Measures
Tele number:	01612535091
Email:	k.j.halligan@bury.gov.uk

Address: 3 Knowsley Place, Duke Street, Bury, BL90EJ

Section 3 – Representations

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | We object to the application being granted at all |
| <input type="checkbox"/> | We object to the application being granted in its current form* |
| <input checked="" type="checkbox"/> | I wish to add representations to the review application* |

*If you choose this option remember to tell us in section 3B what changes you would like to see.

You need to complete the boxes below as fully as possible. If you do not then the Licensing Sub-Committee may not understand why you have made a representation (objection).

Please attach supporting documents/further pages as necessary. Please number all extra pages and add the applicant's name and your name to each page.

Section 3A – The Objectives

To prevent crime and disorder

Please state your reasons:

Chesham Road Convenience, also known as Premier Off Licence is a general convenience store, which is currently licenced by Bury Councils Licensing Department. The Premises Licence Holder and Designated Premises Supervisor at the time of our visits was and still is Mohammed Khan.

In April 2018, I received some information from Greater Manchester Police, regarding an incident that had occurred, on the 3rd April 2018. On this date two Police community Support Officers employed by Greater Manchester Police on the Moorside beat, were on patrol in the Chesham road area. It was around 18.20 when the officers witnessed a group of youths

leaving the Convenience store at 29 Chesham Road, the officers noticed that one of the female youths had an unlit cigarette in her hand. The officers stopped the youths a couple of streets further down, and spoke to the girl who gave her name and date of birth, which made her 14 years old on the day she purchased the cigarette. She told the officers she had paid 50 pence for 1 cigarette.

The officers entered the premises and behind the counter was [REDACTED] he admitted selling the cigarettes to the girls, and produced the packet he had got them from and 2 unopened packets, from under the counter, not from the gantries behind. The packets were branded gold mount and had no UK duty paid stamps on the packet. When asked where the cigarettes had come from, he said the cigarettes were delivered by an unknown person, and his boss, the owner Mr Mohammed tells him to sell the cigarettes to anyone. The cigarettes were seized by the police officers. The officers have provided written witness statements, they are enclosed with this representation.

The keeping of none duty paid cigarettes on a licenced premises is an offence contrary to section 144 of the Licensing Act 2003. The maximum penalty for this offence is a fine of £1000. To supply or possess for supply the cigarettes, either singly or in the incorrect packaging would also be an offence under Regulation 12 of the Consumer Protection From Unfair Trading Regulations 2008, as the trader is stating or otherwise creating the impression that the product can legally be sold when it cannot. The penalty for this offence is on summary a fine not exceeding the statutory maximum, and on indictment, a fine or imprisonment not

exceeding 2 year or both. The supply of cigarettes not in the correct packaging is an offence under regulation 15 of The Standardised Packaging of Tobacco Products Regulations 2015. The penalty for producing or supplying tobacco products in breach of these regulations is on summary conviction to imprisonment for a term not exceeding three months, or a fine, or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both. The supply of single cigarettes is also an offence under the The Standardised Packaging of Tobacco Products Regulations 2015, as regulation 4 (8) states they have to be sold in 20's. The penalty is as stated above. The supply of products which do not contain the correct health warnings, or health warnings that are not in the correct format is an offence under regulation 48. The penalty is the same as that in the Standardised packaging regulations.

On the 5th June 2018, a multi-agency visit was carried out to the premises, with partners from Greater Manchester Police, the Fire Service, Immigration, Housing Standards, Environmental Health, Licensing and Electricity North West. Mr. Khan was not present, but his son was, the electricity meter was removed on the grounds of safety/abstraction, and there was evidence of someone sleeping in the room to the rear of the premises.

In August and September further complaints were received that the premises was selling cigarettes and tobacco from abroad, and selling to people under age. On the 16th October 2018, as part of a multi-agency day of action with partners, from Greater Manchester Police, Immigration, the Fire Service, Housing Standards, Licensing, Electricity North West and Wagtails, carried out a visit to the premises. Working in the shop on this

occasion was a [REDACTED]. The tobacco searching dog found some tobacco in a bag out back which the employee claimed was his and also found some in a jacket under the counter, again Mr [REDACTED] said it was his. Found in the bag was a foreign labelled packet of Amber Leaf, and 20 Marlboro not in Standardised packaging. In the jacket under the counter was 20 Richmond and 20 Marlboro again nether in Standardised packaging. Also under the counter was an open packet of 20 JPS that was Standardised packaging but there was only 10 cigarettes in the packet. Also behind the counter was an open packet of condoms. Mr [REDACTED] was asked about the age to buy alcohol and tobacco and he said 21 to both, he also admitted to having had no training.

The cigarettes have been examined by the relevant trade mark holders and been confirmed as counterfeit, witness statements to this affect are enclosed. The hand rolling tobacco is foreign labelled.

The possession of counterfeit cigarettes would be an offence under Section 92 of the Trade Marks Act 1994, and the offences for none standardised packaging and incorrectly labelled cigarettes and tobacco would be under regulation 15 of The Standardised Packaging of Tobacco Products Regulations 2015.

On the 27th November, Mr Khan attended the Town Hall for an interview under caution at the request of Laura Jones, Deputy Licensing Officer and myself. He was questioned regarding the breaching of his premises licence and also about illicit tobacco. He said he had two member of staff neither had a personal licence. He said he had issues with youths accumulating outside

his premises. Mr Khan said he had spoken to Mr ██████ about the illicit tobacco in his possession. When asked about the open packet of condoms he had no answer as to why they were there. Mr Khan claimed he knew nothing of his previous employee Mr ██████ selling single illicit cigarettes to underage girls. He also said that Mr ██████ had been sacked for stealing from the shop.

It is felt that there are a number of issues with the premises which are not being controlled adequately by Mr Khan. An open packet of cigarettes under the counter, along with youths being stopped having purchased single, illicit cigarettes and an open packet of condoms under the counter, are facts which need taking into consideration when deciding if the premises is being run in line with the licensing objectives and the Licensing Act 2003, to prevent crime and disorder and protect children from harm.

Public safety

Please state your reasons:

To prevent public nuisance

Please state your reasons:

The protection of children from harm

Please state your reasons:

Section 3B – Suggestions/Further information

Due to the conditions already on this premises licence, the only suggestion I can make in relation to this licence is that it is revoked.

Signed.....*K Malligan*.....

dated 17/12/18

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

WITNESS STATEMENT

Criminal Procedure Rules r 27.2; Criminal Justice Act 1967, s.9: Magistrates' Courts Act 1980, s.5B

URN

Statement of: **Christopher Fox**

Age if under 18:

(if over 18 insert 'over 18') Occupation: PCSO GMP BURY

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature:



Date: 13/04/2018

Check box if witness evidence is visually recorded (supply witness details on last page)

I am PCSO 70836 Mr Christopher Fox and currently employed by Greater Manchester Police as a Police Community Officer on the N1F1 Moorside Beat at Bury Police station.

On Tuesday 03/04/18 at 18:20hrs myself and my colleague PCSO Michael Deakin 69733 were on uniformed patrol on Moorside area in a livered police vehicle which 69733 was driving and I was positioned at front passenger seat. Whilst driving on Back Chesham Road South and the junction of Chesham Road we noticed several youths approximately 40 meters away leaving the shop at number 29 Chesham Road Bury, we noticed that one of the female youths had a single unlit cigarette in her hand and appeared to hide it once she noticed the police vehicle. We stopped the youths whilst walking away at the back Dawson Street Bury and they admitted buying the cigarette from the shop for 50 pence each, they stated that it was sold to them by an Asian looking gentleman who works in the shop.

The two girls who spoke with us about the sale of cigarettes to themselves gave their details as the following:

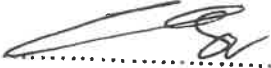
[REDACTED] address given

Myself and my colleague 69733 then entered the shop and spoke to the person working behind the counter about the sale of cigarettes to underage children, he admitted the sale of the cigarettes to the girls who had previously been in the shop. When asked by myself about what cigarettes he was selling to the youths he appeared nervous and then proceeded to show me the cigarettes he had been selling which he pulled out from under the shop counter near the till and not from the cigarette kiosk where all the other cigarettes are located. The packets were branded (Gold Mount) and had no UK duty stamps on the packet, he gave his name has [REDACTED] house number [REDACTED] when asked where he had got these cigarettes he stated that the cigarettes were delivered to the shop by an unknown person and his boss the shop owner Mr Mohammed tells him to sell the cigarettes to anyone and he just does what the owner tells him for fear of losing his job.

Signature: 

Signature witnessed by:

3 packets of cigarettes where handed to myself by [REDACTED] which I seized due to believing them to be fake and having no UK duty paid on them. The shop worker also gave the phone number of the owner of the shop [REDACTED] Mr Mohammed who was not present at the time and was not spoken too by myself or my colleague. The cigarettes were later booked into property at Bury police station for further investigation

Signature: 

Signature witnessed by:

WITNESS STATEMENT

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

URN

Statement of: **Michael Deakin PCSO 69733**

Age if under 18: OVER 18

(if over 18 insert 'over 18') Occupation: Police Community Support Officer

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: *M. Deakin*

Date: 13/04/2018

Check box if witness evidence is visually recorded (supply witness details on last page)

I am PCSO Michael Deakin and I am currently employed by Greater Manchester Police as a Police Community Support Officer with the Bury North Integrated Neighbourhood Policing Team Moorside Ward.

On Tuesday 3 April 2018 I was working a 12:00-22:00 shift.

At 18:20hrs I was driving a liveried Police vehicle in company with PCSO 70836 driving on Back Chesham Road South near to the junction with Brookshaw Street and Chesham Road when I saw a group of youths leaving the Convenience store at 29 Chesham Road, which was approximately 40 metres from where I was. The youths were a mixed group of boys and girls. As the youths left the shop one of the females had an unlit cigarette in her hand which she tried to conceal when she saw us. We followed the youths onto Back Dawson Street where we stopped them and I asked the female how much she had paid for the cigarette. She said she paid 50pence and she had bought it from an Asian male in the convenience store. The female gave her name and date of birth as [REDACTED] she was with another female who gave her name and date of birth as [REDACTED]. We returned to the convenience store and spoke to the member of staff who immediately admitted selling the cigarette to the youths. The member of staff gave his name as [REDACTED] and his address as [REDACTED]. [REDACTED] then produced one opened pack and two unopened packs of cigarettes from underneath the counter. The cigarette packets did not display UK government warnings. [REDACTED] explained that he knew it was unlawful to sell the cigarettes but he did so because he had been told to sell them by the shop owner who he named as [REDACTED]. [REDACTED] gave a telephone number for Mr Mohammed as [REDACTED].

Signature: *M. Deakin*

Signature witnessed by:



WITNESS STATEMENT

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)
Magistrates Courts Act 1980 S.5B.*

Statement of (Individual)
Paul Martin GREEN

Age of witness: over 18. B 10.4.48

Occupation of witness: Anti-Illicit Trade Executive

I am employed by Imperial Tobacco Ltd as a Regional AIT (Anti Illicit Trade) Executive. As part of my duties I am responsible for working with Trading Standards Officers and other Law Enforcement Agencies on the identification of counterfeit cigarettes and tobacco products

I have been employed by Imperial Tobacco Ltd since December 2000. I am authorised to make this declaration which I do so from my own knowledge unless otherwise indicated.

On Friday, 19th. October, 2018, I received from Miss Kelly HALLIGAN, Senior Trading Standards Officer with Bury Council the following sealed package –

Bag seal number 0005672. Containing 1 X 20 pkt of Richmond King Size cigarettes.

I examined this pkt.

I can now confirm that the print and materials used in the manufacture of the pkt of cigarettes was not consistent with Imperial Tobacco Ltd specifications.

Consequently, I can state that the pkt which I have examined was not made by Imperial Tobacco Ltd nor did Imperial Tobacco Ltd authorise their manufacture or sale.

It is in fact counterfeit.

I can confirm that Imperial Tobacco Ltd own the registered trade mark for Richmond. I produce copy of the trade mark certificate in respect of this brand PMG 1 refers.

Imperial Tobacco Limited's products are subject to Regulatory and Quality Control. I cannot say if similar criteria are applied in the production of counterfeit products.

A handwritten signature in black ink, appearing to be 'P. Martin Green', written over a horizontal line.

I returned the sample, resealed, to Miss HALLIGAN.

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a long horizontal line that loops back under the signature.

This statement, (consisting of2... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or not believe to be true.

Date: 25th. October, 2018.

A handwritten signature in black ink, identical to the one above, consisting of a large, stylized initial 'M' followed by a long horizontal line that loops back under the signature.

PMCA 1

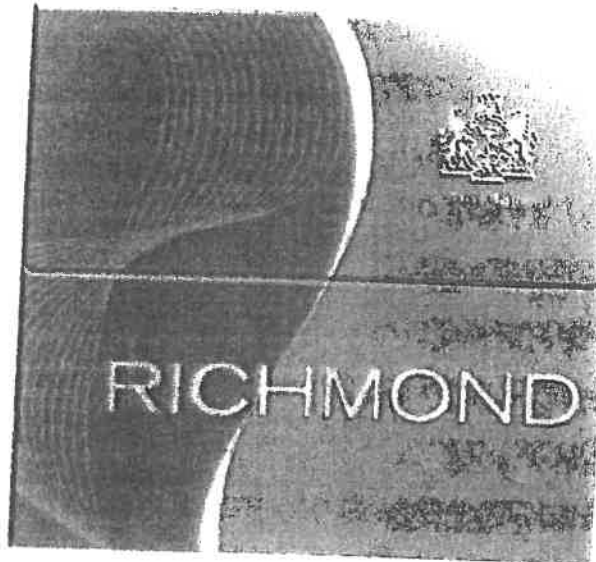
TRADE MARKS REGISTRY



REGISTRATION CERTIFICATE

Trade Marks Act 1994 of

Great Britain and Northern Ireland



The marks have been registered in respect of:

Class 34:

Tobacco, whether manufactured or unmanufactured; tobacco products; tobacco substitutes, none being for medicinal or curative purposes; cigarettes; cigarillos; cigars; hand-held machines for making cigarettes; cigarette tubes; cigarette filters; cigarette papers; matches and smoker's articles.

In the name of Imperial Tobacco Limited

The mark on this certificate was filed in colour and is reproduced here in colour. It has been scanned as accurately as our equipment allows but you should refer to the application form, which is available for public inspection, and any colour standard provided by the applicant to determine the exact colour(s).

Signed this day at my direction

John Alty

JOHN ALTY, Registrar of Trade Marks Intellectual Property Office

DATE 24 June 2011

Intellectual Property Office is an operating name of the Patent Office

TRADE MARKS
REGISTRY

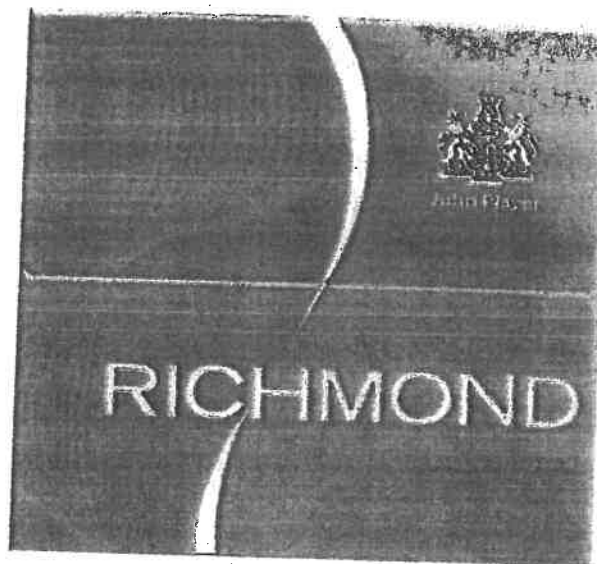
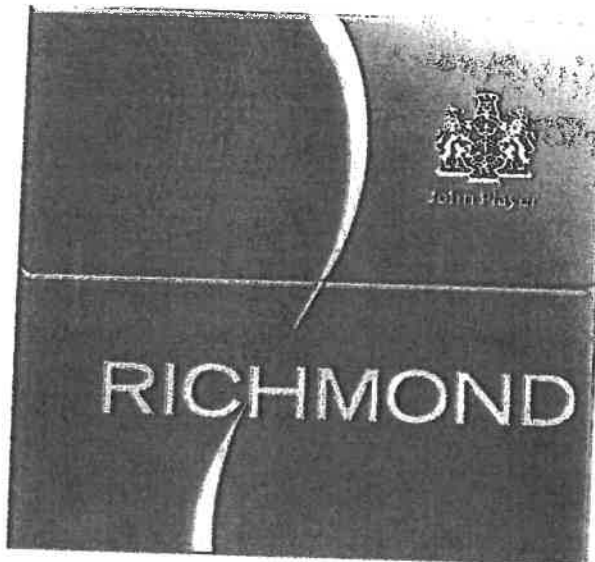


REGISTRATION
CERTIFICATE

Trade Marks Act 1994 of

Great Britain and Northern Ireland

The marks shown below have been registered as a series of three marks under No. 2571260 as of the date 04 February 2011.





STATEMENT OF WITNESS

(CJ Act 1967 s.9; MC Act 1980ss.5A(3)(a) and 5B; MC Rules 1981 r.70)

WITNESS:	Sarah Perrin
AGE:	Over 21
TITLE:	Sr. Analyst ITP Forensics, Philip Morris International Management SA
ADDRESS:	Avenue de Rhodanie 50, 1007 Lausanne - Switzerland

This statement, consisting of three (3) pages, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered as 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.

Date: November 23, 2018

Signature:

Credentials

I am currently employed as Sr. Analyst ITP Forensics, Philip Morris International Management SA. I have been specially trained to identify genuine and counterfeit tobacco products bearing trademarks owned by Philip Morris Products SA or Philip Morris Brands Sàrl or any of their affiliates or licensees (collectively referred to as "Philip Morris International" or "PMI"). I have participated in numerous in-house training courses, including the Philip Morris Internal Cigarette Manufacturing Technology Training and Cigarette Packaging Printing Technology Training. As part of my job responsibilities, I am also responsible for training law enforcement authorities on basic examination methods for recognizing and identifying counterfeit cigarettes. I have been an employee of Philip Morris International for more than twenty (20) years.

Introduction

Philip Morris International Management SA is responsible for verifying the authenticity of tobacco products manufactured by or on behalf of Philip Morris International, in the European Union, including the United Kingdom.

Philip Morris International is the registered owner of many trademarks in the United Kingdom, including but not limited to *MARLBORO*, *CHESTERFIELD*, *RAFFLES*, *L&M* and *BASIC*.

As part of my employment responsibilities, PMI has directed me to assist enforcement authorities, upon their request, with efforts to trace the manufacture and movement of tobacco products subject to seizure that bear PMI's trademarks. I am familiar with the manner in which PMI manufactures, packages, and presents its products and registered trademarks. I assist law enforcement organizations in the investigation of intellectual property theft by providing evidence of technical analysis and identification of illicit product.

Signed:



Attached to this statement is an appendix which identifies physical characteristics and features of our products that I typically examine and enable me to identify infringing (counterfeit) products. The appendix is intended as guidance for the benefit of prosecutors and can be further explained if necessary.

Chain of Custody – Prior to Analysis

On November 9, 2018, I received the Sample identified below, enclosed in Trading Standards evidence bag, as follows:

- evidence bag number 0005673: one (1) unopened pack of cigarettes (containing twenty (20) cigarettes) bearing the trademark *MARLBORO* Gold (2.0 Original) cigarettes (the "Sample"); our reference UK-2018-SZ-1444/01.

I understand from the UK law enforcement agencies that the aforementioned Sample was part of a seizure of forty (40) cigarettes bearing the trademark *MARLBORO*, seized in Bury (Reference: "c88316"), the United Kingdom on October 16, 2018.

The Sample was then transferred on October 18, 2018 to the law firm of Marks & Clerk Solicitors LLP in London, the United Kingdom, which in turn forwarded it on November 7, 2018 to Philip Morris International Management SA in Lausanne, Switzerland, for analysis on behalf of the trademark owner Philip Morris Products SA and/or Philip Morris Brands Sàrl.

Analysis and Conclusion

On November 22, 2018, I opened and examined the Sample as follows:

Counterfeit Sample:

Sample: UK-2018-SZ-1444/01 - *MARLBORO* Gold (2.0 Original) Universal Blank Box cigarettes.

Based on my examination of the Sample, I can confirm that the Sample in question was not produced by or with the authorization of Philip Morris International for, among others, the following reasons:

1. The printer marks on the hinge lid blank of the Sample (pack) are inconsistent with the printer marks on the hinge lid blanks used by Philip Morris International for the production of genuine products of the type represented by the Sample.
2. The application process of the production code onto the Sample (pack), is inconsistent with the application process of the production code that is used by Philip Morris International for the production of genuine products of the type represented by the Sample.
2. The tipping paper of the Samples (cigarettes) does not have tipping perforations, whereas the tipping paper used by Philip Morris International for the production of genuine cigarettes, of the type represented by the Samples, has tipping perforations in conjunction with the filtration system.

Signed: _____



PHILIP MORRIS INTERNATIONAL

In conclusion, I confirm that the Sample in question (UK-2018-SZ-1444/01) I examined was not produced by or with the permission of Philip Morris International and is therefore counterfeit.

In this Statement of Witness, I have provided information regarding the authenticity of Sample from a seizure of cigarettes made by UK law enforcement agencies, bearing the *MARLBORO* trademark.

I hereby confirm that the Sample UK-2018-SZ-1444/01 that I identified as counterfeit product above bore signs that are identical to the trademark *MARLBORO*.

I exhibit to this Statement of Witness extracts from the UK Intellectual Property Office Trade Mark Register with details of:

- *MARLBORO* trademark number EU000075606, registered in the name of Philip Morris Brands Sàrl, as **Exhibit SP 1**.

I also confirm that Philip Morris Brands Sàrl, the proprietor of the *MARLBORO* trademark has not authorized the use of their trademark on the Sample UK-2018-SZ-1444/01.

Chain of Custody – After Analysis

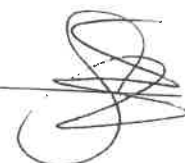
Please note that the Sample has been expended in its entirety for the purposes of analysis and therefore cannot be returned.

Signed:

**Exhibit SP 1 to the Statement of Witness
of Sarah Perrin**

*Details of the MARLBORO trademark
Extract from the register of the UK Intellectual Property Office*

Signed: _____

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.



Current case details for EU Trade Mark Number: EU000075606

[New Search](#)

[Glossary of terms](#)

[Normal Screen View](#)

Trade mark

Trade mark: MARLBORO
Status: Registered

Relevant dates

Filing date: 01 April 1996
Date of entry in register: 07 October 1998
Renewal date: 01 April 2026

Seniority details

Seniority date: 18 October 1954
Seniority country: United Kingdom
Seniority No: 735157

List of goods

Class 34: Tobacco, raw or manufactured; cigarettes, cigars, cigarillos, smoking and chewing tobacco; smokers' articles; matches.

Name and Address details

Holder's name: Philip Morris Brands Sàrl
Quai Jeanrenaud 3, Neuchâtel, Switzerland,
2000

Representative: HOYNG ROKH MONEGIER SPAIN LLP
Calle Ruiz de Alarcón, 7-2º Dcha, Madrid,
Spain, 28014

Publication details

First advert: Journal : 1997/029 Date of publication : 24
November 1997

The information displayed is our version of the details supplied by EUIPO. For the official register of the case please refer to the EUIPO website ([Click here](#)).

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Intellectual Property Office is an operating name of the Patent Office



PHILIP MORRIS INTERNATIONAL

GENERAL INFORMATION ON FLIP TOP BOX



Confidential

GENERAL INFORMATION ON SOFT PACK



Confidential

The Licensing Act 2003

Responsible Authority Representation Form

Section 1 - Application Details	
<p>Application for a premises licence review of the following premises by Laura Jones of Bury Council:</p> <p>Premier Off Licence 29 Chesham Road Bury BL9 6LY</p>	
<p>Type of application. Application for a premises licence review</p>	
<p>Application Number (if known):</p>	

Section 2 - Responsible Authority's Details															
<p>Responsible Authority's Details: Please tick appropriate box:</p> <table border="1"> <tr> <td><input checked="" type="checkbox"/></td> <td>Police</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Fire Authority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Planning Authority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Health and Safety</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Environmental Health Service</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Child Protection</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Weights and Measures</td> </tr> </table>		<input checked="" 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 type="checkbox"/>	Weights and Measures
<input checked="" 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 type="checkbox"/>	Weights and Measures														
Full name:	PC 14501 John Caulfield														
Job Title:	Licensing Officer.														
Tele number:	0161-856-8111														
Email:	14501@gmp.police.uk														

Address:

Licensing and Partnership Team
Bury Police Division Headquarters.
Dunster Road,
Bury
BL9 0RD

Section 3 – Representations

- We object to the application being granted at all
 We object to the application being granted in it's current form*

*If you choose this option remember to tell us in section 3B what changes you would like to see.

You need to complete the boxes below as fully as possible. If you do not then the Licensing Sub-Committee may not understand why you have made a representation (objection).

Please attach supporting documents/further pages as necessary. Please number all extra pages and add the applicant's name and your name to each page.

Section 3A – The Objectives

TO PREVENT CRIME AND DISORDER

Please state your reasons:

Licencing Enforcement Officer Laura Jones has submitted an application on behalf of Bury Council for a premises licence review in respect of Premier Off Licence, 29 Chesham Road, Bury BL9 6LY

We have noted the contents of the application, and would like to add the following in support of a licence revocation.

We concur that we have engaged in multi-agency visits to the premises on 5th June and 16th October 2018 and have had a number of concerns which have been referenced in Ms Jones'

	<p>application. We fully support the comments made in the application and wish to add some additional points noted below.</p>
<p>PUBLIC SAFETY</p>	
<p>TO PREVENT PUBLIC NUISANCE</p>	<p>Neighbourhood Beat Officer PC Joanne Simms covers the Moorside Area of Bury, where the premises is located, and is assisted in her role by PCSO's Deakin and Fox.</p> <p>She advises that this premises is a persistent issue on her beat, and regularly gets reports from members of the public regarding the store and the anti-social behaviour it attracts.</p> <p>PC Simms advises that the store is situated it is across the road from a dirt path. This path leads directly to an address for vulnerable children. The children from this address have been attending the store and believed to be engaging in the smoking of cannabis outside and although it cannot be confirmed that it is being supplied by staff there, the complaints received suggest this is the case.</p> <p>PC Simms goes on to state that Anti-Social Behaviour is a big issue regarding the store. Most evenings there are gangs of 8 + youths outside the store and over spilling into the road. Although there is a park nearby the youths are drawn to this location. They are regularly told to move on however they always return. The store continues to be a drain on her time and that of other officers. PC Simms remarks that while she is dealing with issues surrounding this store she not dealing with victims of crime and other demanding areas on her beat.</p>

**THE
PROTECTION
OF CHILDREN
FROM HARM**

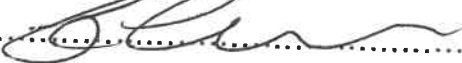
We continue to receive complaints of underage sales of alcohol and tobacco. In April 2018, 2 officers stopped a 13 year old female and a 14 year old female leaving the premises who confirmed that they had just purchased single cigarettes from there for 50p each. It has been noted that on our visits to the shop they have failed to mark a number alcohol containers as specified in their conditions.

Recently a member of staff has invited children, known to frequent the store, to their home address which is near to the store. These youths have failed to return to their own address resulting in missing reports being submitted to Greater Manchester Police by their guardians. The harbouring of children is a serious issue and raised questions regarding the sensibility of that member of staff and raises the potential for further incidents to be reported.

Section 3B – Suggestions/Further information

It is the opinion of the Chief Constable of Greater Manchester Police that the premises licence holder, Mr Mohammed Khan, is not always in full control of his premises or staff. Although he personally may not be responsible for some of the issues described within the review application it is his responsibility to ensure that the Licensing Objectives are being supported. It is clear that there are a number of poor choices being made, and over a number of years has failed to learn from the previous issues. The management of the shop is poor and it is noted that the Mr Khan is unable to provide a legitimate explanation for some of the issues discovered during the visits by Greater Manchester Police and other agencies.

It is important to note that Mr Khan has made a number of complaints to Greater Manchester Police regarding youths congregating or causing issues at his premises. While these appear to be legitimate reports, previous actions by Mr Khan and his staff members may have created the problem by causing these youths to frequent his store in the first.

Signed..........dated 02/01/2019

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