



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 **Tim Argent**

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

ARFAN HUSSAIN
 Choice Foods
 62 High Street South
 Dunstable
 Beds

Post town Dunstable

Post code (if known) LU6 3HD

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

Mr Arfan HUSSAIN

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

Part 2 - Applicant details

I am Tim Argent

Please tick yes

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

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**Please tick**

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

Surname**First names****Please tick yes**

I am 18 years old or over

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 Tim Argent – Senior Enforcement Officer – Trading Standards Central Bedfordshire Council – Public Protection Priory House Monks Walk Chicksands Beds SG17 5TQ
Telephone number (if any) 0300 300 5090
E-mail address (optional) tim.argent@centralbedfordshire.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 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 1)

On the 21st February 2011 – at Luton Magistrates Court, the store was prosecuted by Central Bedfordshire Council for the offence of persistently selling alcohol to children. The store sold alcohol on 3 separate occasions to persons under the age of 18 years within 3 months.

The store has on several occasions (5+) received detailed advice and guidance from this service on setting up and implementing systems and procedure to prevent sale of age-restricted products to children.

Following the aforementioned prosecution an application to review the premise license was submitted. Following negotiations and agreement to voluntarily attach certain conditions to the licence the application to review was retracted.

On the 18th August 2011, a pre-warned underage sales test-purchase operation was carried out. The store owner Mr Arfan Hussain sold High Strength Alcohol and Cigarettes to a 16 year old.

Please provide as much information as possible to support the application

On the 21st February 2011 – at Luton Magistrates Court, the store was prosecuted by Central Bedfordshire Council for the offence of persistently selling alcohol to children contravening Section 147a of the Licensing Act 2003. The store sold alcohol on 3 separate occasions (26/04/10, 05/05/2010 & 04/06/2010) to persons under the age of 18 years.

Mr Arfan Hussain claims to have run the store since September 2009. Mr Hussain has on several occasions (5+) received detailed advice and guidance from his service on setting up and implementing systems and procedure to prevent sale of age-restricted products to children.

Following the aforementioned prosecution an application to review the premise license was submitted. Following negotiations and agreement to voluntarily attach certain conditions to the licence the application to review was retracted.

On the 18th August 2011, a pre-warned underage sales test-purchase of cigarettes and alcohol operation was carried out. On this occasion alcohol and cigarettes were again sold to a child. The seller was the store owner Mr Arfan Hussain who sold 10x Mayfair Smooth Cigarettes and 1x 35cl bottle of Petruskka Vodka (37.5%abv) to a 16 year old.

Attention should be drawn to the fact that despite the repeated advice and guidance from this service to prevent sales, a prosecution for persistently selling alcohol and detailed new licence condition implementing systems to help prevent further sales, alcohol and cigarettes were still sold to a child. On this occasion by the owner and person responsible for implementing such measure to prevent such sales.

The strength and type of the alcohol in question must also be considered. The alcohol sold was Vodka at 37.5%abv and had it been fully consumed by the 16 year old operative would have caused them serious harm. The alcohol was also stored on the shelves behind the counter meaning that Arfan Hussain had to take the order, turn around and remove the alcohol from the shelf himself, giving him ample time and opportunity to question the operatives age. This is further compounded as the store was required to have a 'Think 25' policy in that anybody who looks under 25 should be asked for ID, meaning either Arfan Hussain had misjudged the age by 10 years or recklessly sold the age restricted products.

It is worth mentioning that subsequent test-purchases were carried out at the store on the 27/08/11 & 15/09/11. No age-restricted products were sold but on both occasions comments were made to the operatives indicating they had been recognised by the staff.

Details of the History leading to the Prosecution:

As part of the operation Choice Foods, 62 High Street South, Dunstable, Beds, LU6 3HD was tested and alcohol namely 2 x70cl bottle of Archers Aqua Schnapps Raspberry & Peach (5% abv) was sold to the 16 year old operative. I witnessed the sale and clearly saw the seller who I later knew to be Sabran HUSSAIN 16/11/88 the store manager. HUSSAIN was questioned directly following the sale and stated that there was no refusals book in the store, no training records and no age check policy being used or enforced by owner Mr Arfan Hussain. I advised HUSSAIN to implement all these systems to prevent further sales being made.

On the 28th April 2004 I wrote to the owner of the store Mr Arfan HUSSAIN. The

warning letter explained that he should implement the aforementioned systems to prevent further sales from occurring. The letter also advised that the shop would be re-tested within 2 months. I enclosed a Trading Standards - Traders Charter Pack. The pack gives the store a refusals book, some basic staff training, and advice and guidance on the law.

On the 5th May 2010 (9 days after the first sale) I again visited the store during an under-age test purchase operation. On this occasion alcohol namely a 1 Litre bottle of White Ace Cider (7.5%abv) was sold to the 16 year old operative. I witnessed the sale being made by a young Indian male who later gave his name as Kishan BHATT 08/04/95 (only 15 years of age). BHATT was the only member of staff behind the till and no other member of staff could be seen on the shop floor. The other officer on the operation Lauren Stanley then went into the store and purchased some unrelated items. Again BHATT served her and no other member of staff could be seen. I then entered the store and waited in a queue of people to speak to BHATT. Whilst waiting in the queue BHATT served several customers alcohol and cigarettes, each of these sales was un-supervised. On questioning BHATT he called HUSSAIN (manager) who arrived from the rear of the shop (not shop floor). HUSSAIN stated that BHATT did not work in the store. No refusals book was in operation, there were also no staff training records or any age check policy operational in the store.

On the 26th May 2010 I again wrote to the owner of the store Arfan HUSSAIN. The letter invited Arfan HUSSAIN to attend a formal tape recorded interview. The letter also advised him that should he require any guidance or assistance on setting up and implementing adequate systems to prevent further sales from occurring he should contact me via the details given.

On the 4th June 2010 (4 weeks after the last sale) I again visited the store as part of an underage sale of alcohol operation. On this occasion alcohol namely a 75cl bottle of Stowells white wine (11%abv) was sold to the underage sales operatives. The seller on this occasion was a Mr Jayakrishna NADENDLA 23/02/85. NADENDLA stated that he had not signed any training records, there was no refusals book operational that he was aware of, and that he knew of no age check policy, he said he had worked in the store for 11 months.

On the 7th June 2010 I telephone HUSSAIN regarding the proposed interview scheduled for the 9th June. During the telephone conversation I explained to HUSSAIN the importance of immediately implementing systems such as documented staff training records, a refusals or challenge register in the store and the need to regularly check this, as well as implementing a challenge policy such as 'Think 21'.

HUSSAIN failed to attend the aforementioned interview and following the 3rd sale of alcohol (4th June 2010) I on the 17th June 2010 again invited HUSSAIN to attend a tape recorded interview scheduled for the 22nd June 2010. The letter also explained to HUSSAIN that should he require guidance or assistance on implementing and setting up adequate systems to prevent further sales of age restricted products to children he should contact me via the detail given. HUSSAIN failed to attend this interview.

On the 23rd September 2010 Arfan HUSSAIN attended a formal tape-recorded interview following the discovery of out of date food items in the store. Following this interview I conducted an interview with HUSSAIN regarding the 3 sales of alcohol to children. During the interview he stated that there was still no documented training record in the store. There was also no refusal or challenge register in use within the store as HUSSAIN claims he wasn't really sure what to do with one. He claims that only he and his father now serve alcohol and other age restricted products within the store. HUSSAIN also stated that he has at no point sought guidance or assistance from the Licensing Authority, Trading Standards, the Police or any Alcohol/retailer associations or groups to prevent further like sales to children from happening.

Attention should be brought to the fact that Arfan HUSSAIN is the controlling mind of the business and it is his name on the Premises Licence. He hadn't completed the personal Licence holder's course and has not sought any other training or guidance on running the business following each of the aforementioned sales from anywhere else except from his father who runs another store. He has been advised by this service on several occasions to implement systems to prevent sales from happening and has failed to do so. In addition to this each letter that HUSSAIN has received from this Service has stated how to contact this Service for guidance and advice on setting up systems to prevent underage sales and still he has refused to do so.

Attention should also be drawn to HUSSAIN's irresponsible methods of running of the shop. At the time none of his staff have any training documents, and there are no systems in place to assist them in refusing age restricted sales to underage children. On the second sale the store was left in the hands of a 15 year old boy, who was not of the legal age to retail alcohol and again had received no training. Following each sale it is apparent that HUSSAIN has failed to implement any measures or systems to prevent further sales from occurring. He claims to have spoken to his two members of staff but on the 2nd and 3rd sale each member of staff who are also family members (brother & cousin) state that they had not received any such training. HUSSAIN claims that before the first sale he had implemented a 'Challenge 21' policy which he had reinforced following each subsequent sale, but following each sale no member of staff was aware of this and there was no evidence of such a system within the store (posters, stickers etc. around the point of sale).

Further attention should also be drawn to the type of alcohol sold to the underage operatives. Although any alcohol sale to a child is an offence, the alcohol sold on two occasions was classed as high strength (7.5% & 11%abv) and in large volume (1 litre & 75cl). Had the purchasing operative consumed the entire product they could have been caused serious harm.

Recommendations:

1. Full revocation of the licence to sell alcohol.

Or:

2. Suspension of the license for 3 months, following this the current conditions continue to be in-force including a restriction on the hours alcohol can be sold. Suggested:

10:00am – 16:00pm – Monday-Friday.

10:00am – 15:00pm - Sat & Sun.

Please tick yes

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

If yes please state the date of that application

Day Month Year

0	7	0	4	2	0	1	1
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If you have made representations before relating to this premises please state what they were and when you made them

Review application made on the 07/04/2011 –

Recommended License Conditions Made in the review application:

3. Suspension of the Licence for 3 Months.
4. A 'Challenge 25' Policy to be implemented.
5. The 'Challenge 25' posters & signage to be displayed in the areas alcohol is exposed for sale and at the point of sale.
6. Documented staff training records covering the prevention of age-restricted sales should be implemented with 6 monthly refresher training. All training records to be signed by staff and the deliverer of the training.
7. Only a personal licence holder can sell alcohol within the store. This function can not be deputised to other members of staff.
8. After 5pm alcohol can only be sold following the production of Identification from every purchaser (passport, photo driving licence, accredited proof of age card) regardless of age.
9. A documented refusals book or electronic log must be maintained. The book or log must be checked and signed weekly by the DPS or premises licence holder. The check should include making sure staff are using the system and identifying any issues or training needs through lack of entries.
10. The store will implement and maintain cash registers with electronic 'till prompts' when selling alcohol.

Following consultation between both parties the conditions listed below were voluntarily added to the licence:

1. A 'Challenge 25' policy will be in place. Poster and signage to be displayed in the areas alcohol is exposed for sale and at the point of sale.
2. Documented staff training records covering the prevention of age-restricted sales and the 'challenge 25' policy will be in place. Documented refresher training will be carried out every 6 months for all staff. All training records to be signed by staff and the deliverer of the training.
3. Only a personal licence holder can sell alcohol within the store. This function can not be deputised to other members of staff.
4. For a period of two calendar months following the confirmation of the variation of this licence alcohol can only be sold from the store (after 5pm) following the production of valid identification from every purchaser (passport, photo driving licence, accredited proof of age card). This condition is regardless of the purchaser's age or if the purchaser is known to the store and the seller of the alcohol believes they have previously been shown ID from the purchaser (e.g. after 17:00 ever sale of alcohol must be accompanied by valid identification from the purchaser).
5. A documented Challenge register will be in place and maintained. The register will be checked and signed weekly by either the DPS or Premises licence holder. This check will include monitoring that staff

are using the register and identify any issues or training needs through trends or lack of entries.

6. The store within 2 months of the granting of this variation will implement and maintain cash registers with electronic till prompts that will alert the seller to check for proof of age of the purchaser every time alcohol is sold.

Please tick yes

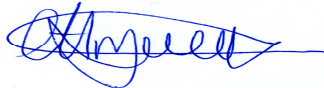
- ☒ I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- ☒ I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date: **21/11/2011**

Capacity : **Senior Enforcement Officer – Trading Standards**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

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) tim.argent@centralbedfordshire.gov.uk

Notes for Guidance

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