

**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 Yvonne Bennett of Wiltshire Council, Trading Standards

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
The Polish Shop 62 Winchester Street	
<b>Post town</b> Salisbury	<b>Post code (if known)</b> SP1 1HL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Malgorzata Gumula
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<b>Number of premises licence or club premises certificate (if known)</b> 7893
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**Part 2 - Applicant details**

I am

**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**

**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 Yvonne Bennett Trading Standards Manager Wiltshire Council County Hall Bythesea Road Trowbridge Wiltshire BA14 8JD
Telephone number (if any) 01225 713556
E-mail address (optional) yvonne.bennett@wiltshire.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 1)**

Grounds for review A - Prevention of Crime and Disorder.

1. In March and April 2014, Trading Standards received intelligence that illegal tobacco and alcohol products were being sold at the The Polish Shop.

2. On 15th July 2014 Trading Standards Officers seized a significant quantity of cigarettes and hand rolled tobacco found on the premises. The products were labelled in various languages and were found to be illegal because the packaging did not bear the appropriate health warnings and failed to carry a UK duty paid fiscal mark.

3 Malgorzata Gumula claimed that the illegal products were for personal use and were not in her possession for supply. However, they were found on the shop premises, underneath the till area and in a store room. Some were also found in her vehicle.

4. The shop appeared to be under the control of inexperienced volunteers

Grounds for review B - Protection of Children from harm

1. At the beginning of October 2014, Trading Standards received a complaint alleging that alcohol was being sold at the Polish Shop to persons under the age of 18.

2. A test purchase attempt by a 16 year old volunteer resulted in a sale of alcohol on

30<sup>th</sup> October 2014.

3. On 30<sup>th</sup> October 2014, the 16 year old volunteer was also sold cigarettes.

4. The person who sold the tobacco and alcohol to the 16 year old spoke very little English and had insufficient retail experience and training to be left alone on the premises selling alcohol and tobacco products.

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

A - Prevention of Crime and Disorder

Grounds for review 1

1. On 7<sup>th</sup> March 2014 Trading Standards received an anonymous complaint that illegal tobacco and alcohol were being sold at the Polish Shop, 62 Winchester Street, Salisbury. It was alleged that the products were stored off the shop floor and only sold to customers known to staff.

2. On 10<sup>th</sup> April 2014, further intelligence was received from an anonymous source via the Food Standards Agency. This alleged that the owner/partner/ or an employee was involved in smuggling cigarettes from Poland. The informant claimed to have seen cigarettes being sold from the premises.

Grounds for review 2

1.. On 15<sup>th</sup> July 2014, at approximately 09.20hrs, Robin Green and Emma Carroll, Senior Trading Standards Enforcement Officers, visited the premises. They were accompanied by a dog handler and sniffer dogs provided by Wagtail UK Ltd, a specialist tobacco detection service. Malgorzata Gumula was not on the premises at the time but Robin Green spoke to her on the telephone and explained that Trading Standards wished to inspect the premises with a tobacco detection dog. .

2.. During the inspection, the dog found illegal tobacco behind the till. Cigarettes and alcohol were discovered in plastic bags located underneath the till area. The dog then led officers to store room at the rear of the shop where more illegal tobacco was found. When Ms Gumula arrived at the premises she was cautioned and asked to provide receipts for the tobacco but she said she would not be able to provide any because she had brought it in from Poland for personal use. Ms Gumula agreed to allow the officers to inspect her vehicle which was parked a short distance from the shop. Further illegal tobacco products were found inside the vehicle. In total, Trading Standards Officers seized 1,100 cigarettes and 1,150 grams of hand rolled tobacco comprising 11 different brands, in packaging marked in various languages eg Polish, German, English and Russian.

3.. The tobacco seized was illegal on two counts.

Firstly, the packaging did not bear the appropriate health warnings as required by the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002. The legislation requires that each packet is marked with the warning 'smoking kills' or 'smoking seriously harms you and others around you'. An additional picture warning is also required. None of these health warnings were present on either the cigarettes or hand rolled tobacco.

Secondly, the tobacco did not carry a compliant duty paid fiscal mark as required by the Tobacco Products duty Act 1979.

(Supporting evidence - Exhibit Schedule 1 & 2

Grounds for review 3

1.. When the personal licence holder, Malgorzata Gumula was interviewed by Trading Standards, she claimed that the products were for personal use or were gifts and were not in her possession for supply. However, the amount of illegal tobacco found on the premises seems greater than would be expected for personal use. If the products were indeed for personal use, they should not have been stored on the

shop premises, particularly in the area under the till near the point of sale, which was being staffed by inexperienced volunteers.

#### Ground for review 4

1..Robin Green, the Trading Standards enforcement officer visited the shop twice on 15<sup>th</sup> July 2015.

The first occasion was at 09.20 hrs when he found a fair haired lady who spoke with a Polish accent standing behind the counter. Ms Gumula was asked at her interview who this lady was. She said the lady was a cousin and was not an employee.

The second occasion Robin Green visited was later the same day. He approached a man standing behind the counter and asked him for his name. The man replied but Robin Green could not understand him. At her interview Ms Gumula said the man was another cousin and was not an employee. He was visiting on a 2 month holiday.

(Supporting evidence - Exhibit Schedule 3)

2. At her interview, Ms Gumula claimed that she was in the shop the majority of the day however, on both occasions when Trading Standards visited the premises, there was a different person behind the counter and on both occasions that person was alone in the shop. Bearing in mind that neither of these people were employed by Ms Gumula and at least one of them spoke very little English and was inexperienced, it was not appropriate to leave them unsupervised and in charge of the business.

#### B - Protection of Children from Harm

##### Grounds for review 1

1. At the beginning of October 2014, Trading Standards received a complaint from an employee of Wiltshire Council that the Polish Shop in Winchester Street, Salisbury was selling alcohol to persons under the age of 18. Her 17 year old daughter had told her that some of her friends, who were also 17, had been to the Polish Shop and purchased alcohol without being challenged about their age.

(Supporting evidence - Exhibit Schedule 4)

##### Grounds for review 2 & 3

1. On 2<sup>nd</sup> October 2014, Trading Standards sent a letter to the Malgorzata Gumula informing her that it was likely that in the near future, Trading Standards officers would be visiting the Polish Shop to make test purchases of age restricted products using underage volunteers. The letter reminded Ms Gumula and her staff to be diligent at all times and to request proof of age. It also invited Ms Gumula to contact Trading Standards on a given number for advice or information. In particular the letter pointed out the following to Ms Gumula:

- a) As an employer, she is responsible for ensuring her staff are trained and familiar with her procedures
- b) There is an online training resource available for her use - the website address was given.
- c) If any sales should be made during the imminent test purchasing exercise, it would be viewed very seriously, and
- d) If found guilty of selling alcohol to a person underage, her staff could receive an £80 penalty notice and she could face a fine of up to £10,000. She could also have her licence revoked.

Two copies of this letter were sent to Ms Gumula. One in English and the other in Polish. Ms Gumula did subsequently acknowledge receiving these.

(Supporting evidence - Exhibit Schedule 5)

2. On 30<sup>th</sup> October 2014 at approximately 6.15pm, a young female volunteer aged 16 years and 2 months entered the Polish Shop closely watched by Trading Standards Officers. She was 5ft 4ins tall. She was sold a bottle of beer and a packet of 20 Marlboro cigarettes by a Polish lady who later gave her name as Aleksandra Bonus. The girl had a covert camera on her which captured and recorded these events.

(Supporting evidence- Exhibit Schedule 6)

Grounds for review 4

1. On 30<sup>th</sup> October when these sales were made, the shop assistant, Aleksandra Bonus was 21 years of age, spoke very little English and had been in the UK for only approximately 6 months.. She had no previous retail experience and had only been working in the store for 10 days when the sales occurred. Nevertheless, she was left to work almost the whole of a 6 hour shift alone in the shop until it was due to close at 8pm, This was only her second shift working alone.

2. Both Ms Gumula and Aleksandra Bonus were interviewed by Trading Standards following the sales. In terms of training, Ms Gumula said she had given verbal messages to Miss Bonus regarding age restricted products. She had also shown Ms Bonus the letter sent by Trading Standards on 2<sup>nd</sup> October 2014 which warned that a test purchasing operation was likely to take place. Miss Bonus agreed that she had been shown this letter.

3. Ms Gumula has also produced a letter which she claims was signed and dated by Miss Bonus on her first day of employment. This letter is in English. Ms Gumula claims there is also a Polish version although this has not been produced. It is strange that Miss Bonus was specifically asked at her interview with Trading Standards if she had signed and dated any training material and she said she had not. In any event, this letter is scant and does not constitute adequate training.

(Supporting evidence - Exhibit Schedule 7)

Suggested outcome of the review

It is extremely unusual for Trading Standards to recommend revocation as an outcome of a review. However, in this instance this is thought to be the appropriate recommendation for the following reasons:

i) Two licencing objectives have been breached within the space of three and a half months. Although the licensing objective of preventing crime and disorder has been breached with respect to tobacco rather than alcohol, illegal tobacco and illegal alcohol are closely linked. Those dealing in illegal tobacco are also likely to deal with illegal alcohol. The Polish shop sells both tobacco and alcohol.

ii) Inadequate procedures are in place to prevent the sale of alcohol to those underage. This is demonstrated and reinforced by the fact that alcohol and tobacco were sold on the same occasion to a person under the age of 18.

iii) Inexperienced, inadequately trained staff with poor command of the English language were left alone in charge of the premises when it was known that illegal tobacco was present in the till area and age restricted products were on sale.

Should a revocation not be deemed appropriate, Trading Standards would suggest the following conditions:

i) No alcohol or tobacco for personal use or intended as a gift must be kept on the premises.

ii) Only employees of the business who have been formally trained on age restricted sales may serve behind the counter.

iii) Inexperienced staff must not be left alone on the premises.

iv) Full training records must be kept and should be available for inspection by an officer of Trading Standards at any reasonable hour.

v) The sale of alcohol should be temporarily stopped for an appropriate period of time as required to satisfy Trading Standards that conditions are met.



**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

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

N/A

**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

.....

Capacity    Trading Standards Manager

.....

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

Mrs Yvonne Bennett  
Trading Standards Manager  
Public Health and Public Protection  
County Hall  
Bythesea Road

**Post town**

Trowbridge

**Post Code**

BA14 8JD

**Telephone number (if any)** 01225 713556

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)** yvonne.bennett@wiltshire.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.