



Trading Standards Service

Gloucester City Council
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www.tradingstandards.gov.uk/glos

Please ask for: Mr Cardew (rob.cardew@gloucestershire.gov.uk)

Phone: (01452) 887655

Our Ref:

Your Ref:

Date: 8 September 2015

Dear Sirs

Licensing Act 2003

Review of Premises Licence - Salim Rauf Osman

Costless (Zabka), 82 Eastgate Street, Gloucester, GL1 1QN

Gloucestershire County Council's Trading Standards Service, as a responsible Authority under the Licensing Act, is applying to Gloucester City Council, as Licensing Authority, for the review of the Premises Licence for the above named business which is held by Mr Salim Rauf Osman.

Please find enclosed a copy of the Application for the review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003.

Yours sincerely


Robert Cardew
Senior Trading Standards Officer

Enc. Application for the review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003.

Gloucester City Council

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 Robert Cardew..... (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	
Costless (formerly known as Zabka) 82 Eastgate Street	
Post town Gloucester	Post code (if known) GL1 1QN

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

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

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2) a responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |
| 3) a member of the club to which this application relates (please complete (A) below) | <input type="checkbox"/> |

ENVIRONMENTAL HEALTH & REGULATORY SERVICES

Gloucester City Council Tel 01452 396396 Fax 01452 396340
Herbert Warehouse Email heretohelp@gloucester.gov.uk
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**GLOUCESTER
CITY COUNCIL**

(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

Gloucestershire County Council Trading Standards Service
Tri Service Centre
Waterwells Drive
Gloucester GL2 2AX

Telephone number (if any) 01452 887655

E-mail address (optional) robert.cardew@gloucestershire.gcsx.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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

Section 51 of the Licensing Act 2003 makes provision for a responsible authority or any other person to apply to the Licensing Authority for a review of the premises licence.

Gloucestershire County Council Trading Standards Service (Trading Standards Service) is such a responsible authority.

As one of its functions, The Trading Standards Service enforces legislation applicable to the possession for sale and sale of "illegal tobacco" products. This term "illegal tobacco" is given to tobacco products (cigarettes and loose tobacco) that cannot lawfully be sold because it breaches certain legislation:

1. The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 which are made and enforced under the Consumer Protection Act 1987, require that tobacco products must bear certain information and health warnings. Cigarettes and tobacco must bear the warning "Smoking kills" or "Smoking seriously harms you and other around you" on the front of the packaging. The rear of the packaging must bear one of the specified picture warnings. These exact words must appear in the prescribed manner. Those warnings in a language other than English is not permitted.
2. The Trade Mark Act 1994 protects registered trade marks against unauthorised use. A trade mark is a sign of origin that show the consumer where a product originates. A counterfeit copy is not authorised by the trade mark holder and misleads consumers.
3. The Tobacco Products Duty Act 1979 states that tobacco should carry the fiscal mark indicating that the correct level of duty has been paid. This mark is "UK DUTY PAID". illegal tobacco has not had the required duty paid which consequently makes it far cheaper than legal tobacco.
4. The General Product Safety Regulations 2005 require that consumer goods be safe and in the case of cigarettes, these should meet reduced ignition propensity requirements which means they should self extinguish if not actively smoked. Some examples of illegal cigarettes fail to meet European requirements that mean they

should self extinguish if not actively smoked in an effort to reduce fire risk.

There are a number of reasons why the Trading Standards Service enforces legislation relating to the sale of illegal tobacco.

1. Illegal tobacco sells for between a third and a half of the price of legal cigarettes. This makes smoking affordable for those who might otherwise quit. It also makes smoking affordable for young people. Government health policy is designed to reduce smoking prevalence through taxation.
2. The sale of illegal tobacco damages honest business. A person purchasing their illegal tobacco from a shop takes trade away from shops lawfully selling tobacco products. Additionally, the purchaser of illegal tobacco may also purchase any other grocery items, including alcohol, from that same shop thereby taking non tobacco sales from honest businesses which are the backbone of Gloucester.
3. No UK Duty is paid on illegal tobacco therefore taking revenue from the Government. £2 billion is lost per year to illegal tobacco nationally.
4. In the case of counterfeit tobacco, the consumer is being misled about the provenance and quality of the product they are purchasing.
5. In the case of both "cheap white" cigarettes (which are those specifically made for smuggling) and counterfeit cigarettes, there is a danger that they will not meet reduced ignition propensity requirements and therefore pose a greater fire risk.

Illegal tobacco is a serious problem in Gloucester. Over the past 5 years, there have been many prosecutions brought by the Trading Standards Service against the owners of shops and their employees who have sold illegal tobacco from their shops. Those prosecutions in some instances have led to prison sentences which indicates the gravity of the offence.

Illegal cigarettes typically sell for between £3.00 and £5.00 for a pack of 20, depending on whether they are a smuggled legitimate brand, or a counterfeit copy or an unknown brand such as Richman or Fest. Legal cigarettes cost from around £6.50 for the very cheapest brand and around £9.50 for a premium brand.

Illegal loose tobacco typically sells for around £9 for a 50g pouch. Legal loose tobacco costs around £18.

The relevant duty rate is around £4.80 for cigarettes (it is determined with reference to the

selling price) and £9 for 50g of loose tobacco.

Trading Standards submits this application for the review of the premise licence held at Costless, 82 Eastgate Street, Gloucester. The Trading Standards Service submits that Costless is failing to comply with the licensing objective of the prevention of crime and disorder by reason of the premises being a shop that sells illegal tobacco.

The "Revised Guidance issued under section 182 of the Licensing Act 2003" states at paragraph 11.27 in a section of the Guidance concerned with Reviews arising in connection with crime:

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.*

Paragraph 11.28 states:

It is envisaged that licensing authorities, the police 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.

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

As previously mentioned, the sale of illegal tobacco from retail premises is widespread with a hotspot on Barton Street and Eastgate Street. Soon after Costless opened, a visit was carried out at the premises and the owner, Salim Rauf Osman, was provided with a leaflet in Kurdish, explaining the problems of illegal tobacco and the consequences of selling it. The purpose of this visit was to deter him from becoming involved with illegal tobacco.

In July and August 2015, information was received by the Trading Standards Service that Costless was selling illegal tobacco. As a result of this information, the Trading Standards Service initiated an investigation.

On 20 August 2015, a test purchaser was sent by the Trading Standards Service to Costless with instructions to ask for cheap Mayfair branded cigarettes. The test purchaser was sold a pack of 20 Mayfair cigarettes for £3.00. The cigarettes did not come from the cigarette display behind the counter but instead came from a bag under the counter. The cigarettes do not bear the correct health warnings as required by the Consumer Protection Act 1987 and they are believed to be a counterfeit copy. They are illegal cigarettes. The normal retail price for Mayfair cigarettes is around £7.50.

On 1 September 2015, a test purchaser was again sent by the Trading Standards Service to Costless with instructions to ask for cheap Mayfair branded cigarettes. The test purchaser was sold a pack of 20 Mayfair cigarettes for £3.00. The cigarettes did not come from the cigarette display behind the counter. The shop assistant checked under the counter and then went to a door at the rear of the premises and returned with Mayfair branded cigarettes. The cigarettes do not bear the correct health warnings as required by the Consumer Protection Act 1987 and they are believed to be a counterfeit copy. They are illegal cigarettes. The normal retail price for Mayfair cigarettes is around £7.50.

On 2 September 2015, officers from the Trading Standards Service and Police Officers entered Costless to carry out an inspection and to follow up the two test purchases made from the premises. The owner of the shop, Salim Rauf Osman was behind the counter. Another male, [REDACTED] who is known to officers, was also in the premises although he soon left. With the information from the test purchaser, the counter area and the stock room were checked for illegal tobacco. Illegal tobacco was found in a laundry bag in a kitchen unit in the stock room. That bag was seized by Trading Standards Officers and was found to contain 129 packets of cigarettes (2580 cigarette sticks) and 31 pouches of tobacco (1.55kg). Had this illegal tobacco been sold, it would have raised approximately £685. None

of the tobacco is "duty paid" and would be liable for approximately £915 of duty. Salim Rauf Osman denied all knowledge of the illegal tobacco despite it being found in his premises.

It is common practice for officers from the Trading Standards Service to seize and review CCTV footage from shop premises when illegal tobacco is seized. Such CCTV footage may show who brought the illegal tobacco into the shop, who obtains it from where it is stored and may enable officers to estimate how frequently illegal tobacco is sold. Such a CCTV system was installed at Costless in compliance with the licence condition which states:

"Installation and maintenance of a CCTV system, including retention of recorded images for 31 days and making images available to the relevant statutory authorities on reasonable request being made".

At the conclusion of the inspection at around 1820hrs, the CCTV unit, which was located on top of units behind the counter, was seized under Trading Standards powers. Unusually, the CCTV unit was connected to an internet router in close proximity. This would enable the CCTV unit's "remote access" function. The CCTV was accessed by Trading Standards Officers the following day for the purpose of reviewing recorded footage. The time was incorrectly set 1 hour slow. The only recorded footage found on the CCTV was recorded about 7 minutes after the Trading Standards inspection had commenced. No earlier footage existed. The system log for the CCTV showed that at 16:36 (which would have been 17:36 because the CCTV was 1 hour slow) the hard disk had been formatted i.e. all recordings had been deleted. The suppliers of the equipment, Swann, supply software called SwannView Link which allows remote viewing and administration of the CCTV box including the ability to remotely format the hard disk which takes around 20 seconds. When the user of the CCTV tries to format the disk, a warning appears on screen to the effect that all recordings will be lost. No reasonable explanation exists for the CCTV having been formatted at 16:36 other than a deliberate act.

Gloucestershire Trading Standards Service, as a responsible authority, respectfully submits that the Premises Licence for Costless, 82 Eastgate Street, Gloucester should be revoked by the Licensing Committee on the grounds of preventing crime and disorder.

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

Please tick yes

If yes please state the date of that application

Day Month Year

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unknown

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 8 SEPTEMBER 2015

Capacity SENIOR TRADING STANDARDS OFFICER

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)	

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.