

**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 Sarah WATSON

(Insert name of applicant)

**apply for the review of a premises licence under section 51 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

**WAG 3
38 Bristol Road**

Post town Gloucester

Post code (if known) GL15SD

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

Asif JABARKHIL

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

Unknown

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sarah Watson Gloucestershire County Council Trading Standards Service Quayside House, Shire Hall, Westgate Street, Gloucester, GL12TG
Telephone number (if any) 01452 427686 / 07775 703151
E-mail address (optional) <u>sarah.watson@gloucestershire.gov.uk</u>

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

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

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 criminal legislation applicable to the sale of age restricted products to minors and the sale of illegal nicotine inhaling products "sometimes known as vapes". The sale to minors, and the sale of "illegal vapes" which is given to nicotine containing products with tank sizes over 2ml breaches the following legislation:

1. The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 (NIPs) makes it an offence for any person to sell nicotine inhaling products to anyone under the age of 18. The maximum sentence for an offence under these regulations is a fine of £2,500 on summary conviction
2. The Tobacco and Related Products Regulations 2016 (TaRP) states that a disposable electronic cigarette, single use cartridge or tank must not exceed 2 millilitres, must not contain nicotine in excess of 20 milligrams per millilitre. The vaping product must include instructions for use and storage, warnings for specific risk groups including adverse effects, addictiveness and toxicity. The contact details of the producer must also be present along with a health warning covering 30% of the area on both the front and back of the packaging stating "This product contains nicotine which is a highly addictive substance" packaging must also include the contact details for the producer. The maximum sentence for an offence under these regulations is 3 months imprisonment and / or a fine on summary conviction or 2 years imprisonment and / or a fine on conviction in indictment.

The government is concerned about the worrying rise in vaping among children, with vaping more than doubling in the last 5 years and one-in-four 11-15yr olds having tried vaping in 2023.

Due to youth vaping and the environmental impact of disposable vapes, a consultation commenced "Creating a smokefree generation and tackling youth vaping consultation", which identified that $\frac{3}{4}$ of respondents agreed a ban would be the best action and following this, The Environmental Protection (Single-use Vapes) (England) Regulations 2024 was passed and is

due to come into force on 1st April 2025 which brings in a total ban of single-use disposable vapes

Disposable vapes are the product of choice for the majority of young people vaping today but there is overall concern of young people being exposed to nicotine and further action by way of a Tobacco and Vapes Bill 2024 is currently working its way through parliament which is aimed to create a smoke and vape free generation.

Disposable vapes are produced in large numbers with many different flavours and variations which can be appealing to children. There are many reasons a young person may begin vaping such as the availability of appealing flavours, social influences and being able to have access to these products.

The NHS state that young peoples developing lungs and brains are more sensitive to the effects of nicotine and this is why there's a minimum age of sale for vaping products in the UK.

The Tobacco and Related Product Regulations 2016 restricts vape tank, pod and cartridge capacity to a maximum of 2ml. This was implemented to ensure that e-cigarettes and related products are used responsibly and that consumers are protected from excessive nicotine intake. It also provides guidance for labelling and the information provided to consumers and they should not be produced or supplied without specific information being present.

Trading Standards submits this application for the review of the premise licence held at WAG 3, 38 Bristol Road, Gloucester. The Trading Standards Service submits that WAG 3 is failing to comply with the licensing objective of the prevention of crime and disorder and the protection of children from harm by reason of the premises being a shop that, despite guidance and advice, sells disposable E-cigarettes to minors & the selling of illegal vapes.

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

Following an application by Gloucestershire Trading Standards, on 29th July 2021, a review of the store known as Wag 3 in Bristol Road, Gloucester was heard by the Licensing Sub-Committee. The result of this review which was raised following the sale of illegal tobacco from the premises, was a 21-day suspension of the stores premises licence.

In July 2023, the service received reports from the police and members of the public that illegal vapes were being sold at the store and that vapes were being regularly sold to children.

An officer from Trading Standards visited the store on 19th July 2023 and purchased a VapSolo King 10,000 puff vape which was illegal due to excessive tank size.

The service followed up these complaints and test purchase on 25th July 2023 where an officer from Trading Standards attended the store to inspect and discuss these issues. An inspection was conducted where 476 non-compliant vapes were seized due to excessive sized tanks. The officer raised concerns about age related sales and reports received and full advice was given concerning this and illegal vapes. During the visit, the officer asked Asif Jabarkhil the Licensee to review the CCTV for a vehicle that they claimed to have delivered the vapes but, contrary to licence conditions, he would not do it. See **SJW/1** which is a copy of the letter sent following the visit.

On 23rd August 2023, the service visited Wag 3 as part of an underage sales project. A 15yr old volunteer attempted a test purchase and the sale was refused, however it was identified by an officer that there were further illegal vapes for sale in store.

Following on from these complaints, on 25th September 2023, Trading Standards officers visited the store and spoke with Mr Asif Jabarkhil and following an inspection, a further 221 vapes were seized. Due to this being the second occasion the service has visited and the store had been fully advised, a written warning was issued stating “You must not sell Electronic Cigarettes that breach the Tobacco and related Products Regulations. Typical examples are vapes that have tanks larger than 2ml or approx. 600 puffs – for example – R&M Tornado 7000 or 9000, FireRose EX 4500 & ENE Elux Legend 3500. Purchase from reliable sources” This notice was signed by Asif Jabarkhil. See **SJW/2** for a copy of this notice. The visit was followed up by a letter re-iterating the advice provided. A copy of this letter is below marked **SJW/3**.

On the 25th October 2023, the store sought advice from Trading Standards concerning 0% nicotine vapes. An officer from the service discussed this with Asif Jabarkhil and sent the

following text: “Hi Asif. If the vapes are genuinely 0% nicotine, then the 2ml or 600 puff limit doesn't apply. Make sure that the box has the name and address of a UK importer printed on it. If it doesn't, that could be a problem. Rob at Trading Standards”.

On 13th December 2023, the service received a report from a concerned parent where their 14yr old daughter had purchased vapes and alcohol from the store and had to be collected from a local park after drinking half a bottle of vodka purchased earlier from the store. The child had said that Wag 3 was “where all the kids go”.

On 14th February 2024, a concerned parent reported that their 12 year old son and his friend, each purchased a vape from the store. On speaking with their son, he told his parent that this was the place to go for children who attended their school as the staff never challenge their age.

On 18th March 2024, a report was received by the safeguarding team at Gloucestershire County Council stating that they had received information that the store were selling vapes to underage children.

On 8th April 2024, the parent of a 13yr old child reported to the service that the store was regularly selling vapes to their child. A further report was received on 26th April 2024 from a concerned parent of a 15yr old daughter who had purchased vapes from the store and on visiting, they reported the person serving behind the counter was around 14yrs old.

Following the concerning number of reports received against the store in relation to underage sales, a visit was conducted by Gloucestershire Trading Standards service on 15th May 2024. The officer spoke with Awal Khan who identified himself as the owner and person in charge. The complaints were raised with Mr Khan and an inspection was initiated due to identifying further illegal vapes. We explained the reasons why children should not be allowed to purchase vapes and discussed their procedures and what they do when a minor attempts to purchase an age restricted product. We advised that they should not be asking for age but must ensure ID is produced, otherwise no sale. We ensured age restriction signs were up and visible and requested to see their training records and refusals register. The store could not provide us with any evidence of training and the refusals register had not been updated since September 2023. Mr Khan confirmed they purchase from other local stores as well as from Birmingham. A vape pack which included “No Proof of Age No Sale” (NPOANS) information was left with the store strongly advising them to sign up for free as Gloucestershire Trading Standards are covering the costs. 74 further illegal vapes were seized from the store despite previous warnings. A detailed letter summarising the visit and all the

advice provided was sent out the following day. See **SJW/4** for a copy of the letter.

As a result of the information, previous advice given and complaints received by the Trading Standards Service, Wag 3 was identified as a store of concern who are selling disposable vapes to minors and was therefore listed for a visit under an intelligence led, three-day test purchase operation across Gloucestershire. A test purchase was conducted on 29th May 2024. This involved a test purchaser aged 16 who, acting on behalf of the Trading Standards Service, entered WAG 3 and asked the male behind the counter for a disposable vape. The male responded giving the volunteer two different options, the volunteer selected one, paid £10 for the vape and left the store. On examination, this vape was a 5000 puff vape marked 0% nicotine but still contained the warnings not to sell to under 18s. See **SJW/5** for an image of this vape.

As the vape was identified as 0% nicotine, on 30th May 2024, the test purchase was repeated by a different test purchaser. The volunteer who was aged 15, was able to purchase a Sike vape which contained 2% nicotine with no challenges as to age or identification. See **SW/6** for an image of this vape.

On 5th June 2024, A letter was sent to Wag 3 advising them that a sale of a nicotine containing vape had occurred on 30th May 2024. This letter confirmed we would be visiting and once again providing the NPOANS information. See **SJW/7** for a copy of this letter.

On 9th July 2024 following the test purchases, a visit was made to the store by Trading Standards Officers. Questions were asked about why the sales had occurred and we were told that they were trained but didn't listen. We asked to see the training records but told there were none. We were then showed a letter from the police confirming a pass on a police alcohol test purchase and on checking the refusals log, there were three entries from June to date, this entry was not in the log. They were again advised to conduct and reference training, keep using the refusals register, use Challenge 25 and not to sell to anyone under this age unless they have Identification.

On 22nd July 2024, the service received a further report of illegal vapes being sold to children. The member of the public also reported that the trader was removing the packaging before handing over the vape to make it less obvious. By doing this, the user has no information on the use of the vape and this breaches the labelling requirements of the Tobacco and Related Product Regulations 2016.

On 11th September 2024, officers visited Wag 3 as well as a number of other stores to check

an urgent food safety alert for counterfeit vodka. The vodka subject to the alert was inspected and there were no issues. Whilst in the store, various food and pricing issues were identified and advised and on closer inspection of the 10,000 puff 0% nicotine vapes behind the counter, it was noted that these had been labelled over and on peeling back the label on these vapes it clearly showed they contained 2% nicotine and were therefore illegal due to their size. A total of 70 vapes were seized which included a mixed bag of used non-compliant vapes under the counter. We arranged to send off one of these vapes for testing and on receipt of the test report, it confirmed that they contained 15.2 mg/ml of nicotine. The liquid extracted confirmed that the tank held a minimum of 8.4ml where the maximum permitted amount identified in the Tobacco and Related Products Regulations 2016 is 2ml. See **SJW/8** which are photographs of the vapes and **SJW/9** is the test report.

On 29th October 2024, the service conducted a second underage sales exercise and visited a number of identified stores in Gloucestershire. Wag 3 was again visited due to the previous sale. On this occasion, 16yr old volunteers entered the store and was able to purchase a sike vape. During the sale, the seller removed the outer packaging from the vape and handed it to the minor with just the plastic packaging which had no labelling or usage instructions therefore breaching the Tobacco and Related Products Regulations 2016 as well as the sale to a minor. **SJW/10** is a photograph of the vape purchased.

On 5th November 2024 the service wrote to Asif Jabarkhil at Wag 3 advising him of this failure and inviting him in for interview regarding this and other issues raised above.

On 7th November 2024, Officers visited the store to request inspection of the CCTV around the time of the test purchase. This request was in line with licence requirements stating the store must retain CCTV for not less than 31 days, have a competent person who is able to fully operate the CCTV in store whilst open for business, and to download this on request to any appropriate authority. The male behind the counter provided his details and it was established that he was only 17yrs old and was in sole control of the store on our arrival. On asking for the owner to attend, a call was made and Mr Awal Khan attended the store. Both stated that they could not work the CCTV and download anything for us and therefore we proceeded to seize the CCTV box for examination advising we would return it as soon as we could download the required footage. The box was located and during this, Awal Khan located another box in a different part of the ceiling which officers identified was not the one that was plugged in. The CCTV box officers seized was placed on the counter whilst a seizure notice was written. Awal Khan stated he wanted to put the box in a bag and not ours and picked up the box slipping it under the counter for a moment then placing a CCTV box in

two blue bags. This box was then placed in a seizure bag and sealed. It was requested that Asif Jabarkhil provided us with the passcode to expedite the process. This was provided a few days later. See **SJW/11** which is a photograph of the box at the store.

On 14th November 2024, the service under video recording conditions, broke the seal and opened the packaging for the CCTV box. The box was set up and the passwords checked which did not work. During the examination, it was noted by officers that this was not the box we seized. The seized box was a “HiLook” CCTV box (as noted on the seizure notice) and the box in front of officers was “Floureon” CCTV box. It was therefore established that the box was intentionally switched by Awal Khan when he placed the CCTV box in the bag to obstruct officers carrying out their duties. See **SJW/12** which is the box that was swapped and provided to us.

Following discovery of this obstruction, officers visited Wag 3 later the same day. The male behind the counter would not provide any identification information and refused to sign any notice. The assistant was asked to call the owner to attend. During this time, it was noted that there was out of date food in the fridge area and the majority of items for sale in the store still had no indication of price despite being advised on 11th September 2024.

Following a call from the store assistant, Asif Jabarkhil attended around ten minutes later and we requested the HiLook CCTV box which was switched by the store. Asif Jabarkhil stated that he smashed up the box and threw it away as it was not working and that there was no CCTV to provide. There was no CCTV operating in the store during our visit. He also said that it only recorded for 7 days in any event so we would not be able to see the test purchase. This would again breach their licence conditions. A WM14 Notice was provided which is marked as **SJW/13**.

On 18th November 2024, Asif Jabarkhil called requesting advice about 0% nicotine vapes he was looking to buy following a visit from a man in a van at the store the previous evening. He said he has told staff not to sell to those underage or they would have to pay the fine. He was advised that he was responsible for his staff and should be undertaking training to prevent this happening. He was advised that the vapes enquired about were not suitable and that he should not purchase from this type of traders as per his licence conditions. Please see **SJW/14** for a copy of this email.

To summarise, the reasons for making this application for a review are:

1. In July 2023 complaints were received from concerned parents about the sale of disposable vapes to children.
2. On 25th July 2023, an inspection identified 476 non-compliant vapes. Full advice provided about underage sales, free sign up to No Proof Of Age No Sale (NPOANS) scheme and non-complaint vapes. The CCTV was not made available.
3. On 25th September 2023 a further 221 non-complaint vapes were seized, Mr Jabarkhil was again fully advised on illegal vapes and to purchase from reliable sources.
4. On 13th December 2023, it was reported that a 14yr old was collected from the park who was drunk from vodka purchased at the store. The child had said that Wag 3 was “where all the kids go”.
5. Between February and April 2024, a number of reports were received regarding children aged 12 – 15yrs old purchasing vapes and that it was the place to go as the staff never challenge their age. It was also alleged that there was a 14yr old minor serving.
6. On 15th May 2024, the store was visited and fully advised on underage sales, NPOANS scheme once again was recommended. The store was unable to provide any training records and the refusals register had not been completed since September 2023. Full advice provided and a further 74 non-compliant vapes were identified and seized.
7. Test purchases of an age restricted disposable vape by minors aged 15 & 16 were made from the premises on 29th May 2024 and a further one containing nicotine the following day on 30th May 2024
8. On 9th July 2024, the store was visited and were not able to provide any training records despite previous advice. Further advice on training, refusals log, under age sales and NPOANS sign up provided
9. On 22nd July 2024, a member of the public reported the store is selling to children and removing the packaging so the vape can be easily held
10. On 11th September 2024, 74 illegal vapes were seized which were labelled 0% nicotine which were 2%. Concerns by the service are that someone purchasing what

they believe to be 0% nicotine vape could be exposed to nicotine.

11. On 29th October 2024, a 2% nicotine containing vape was sold to a 16yr old volunteer with no questions as to age or identification.
12. On 7th November 2024 the store failed to provide the CCTV as requested and then Awal Khan intentionally obstructed officers by switching the seized box with a different one to evade evidence of the sales to minors.
13. Mr JABARKHIL/ WAG 3 continues to deny that he continues to sell disposable e-cigarettes to minors despite various test purchases and officer evidence. By continuing to do this, he has not demonstrated that he can be trusted to uphold the licensing objectives.

It is clear from the nature of and continuation of complaints, test purchase sales of vapes from the shop and seizure of illegal vapes that this is deliberate and pre-meditated. Whilst one of the test purchases have passed, 3 failed test purchases over a 6-month period shows this is not a one off or isolated incident. It is entirely plausible that Mr JABARKHIL and WAG 3 would have continued to sell to minors and stock and supply illegal vapes without the intervention of Trading Standards.

Tighter licencing conditions were set in July 2021 following a licence review. Various conditions have been identified that the store has failed to comply with since July 2023

Despite consistent advice provided by Gloucestershire Trading Standards service, sales to minors continued to occur and illegal vapes continued to be located and seized by the service.

Gloucestershire Trading Standards Service, as a responsible authority, respectfully submits that the Premises Licence for WAG 3, 38 Bristol Road, Gloucester should be revoked by the Licensing Committee on the grounds of preventing crime and disorder and the protection of children from harm. An ongoing investigation is being undertaken and a report will be submitted in due course.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year
2	9	07
2	0	21

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

Application was made by Gloucestershire Trading Standards and on 29th July 2021, a review of the store known as Wag 3 in Bristol Road, Gloucester was heard by the Licensing Sub-Committee. The result of this review which was raised following the sale of illegal tobacco from the premises, was a 21-day suspension of the stores premises licence.

Please tick ✓ yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 
.....

Date **18/12/2024**
.....

Capacity **Trading Standards Officer**
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Sarah Watson Gloucestershire County Council Trading Standards Service Quayside House, Shire Hall, Westgate Street,	
Post town Gloucester	Post Code GL12TG
Telephone number (if any) 07775 703151	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) sarah.watson@gloucestershire.gov.uk	

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.

Gloucester City Council provides Licensing Services to you. We will use your personal information to provide those services to you and may need to share your information with Statutory Bodies to enable us to do this. For further information about how the council uses information it holds about you please go to <http://www.gloucester.gov.uk/council/data-protection-and-foia/Pages/data-protection-GDPR.aspx>