## LICENSING SERVICE

For Office us	se only
LalPac Application No.	
Licence Number	PL1772

# APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

**LICENSING ACT 2003** 

Review requested by: Weights and Measures

Blackpool will be a Vibrant, Inclusive, Healthy, Safe and Prosperous Town



### 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. You may wish to keep a copy of the completed form for your records.

I Glen Phoenix of Blackpool Weights and Measures Department

[insert name of person requesting review]

apply for the review of a premises licence under section 51 or 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.

### Part 1 - Premises Details

Postal address of p	remises or club premises if a	ny, or if none the ordinance survey	map	refe	renc	e or c	lesci	riptio	n.		
Premises Name and Address	Stall 13, Abingdon Street Market  Abingdon Street										
	State the Name of certificate (if know		er or the name of the club holdi	ng t	he cl	lub p	orem	ises			
Kailasben Gandh	İ										
Premises Licence	or Club Premises Certifica	te Reference Number (if known	)	PL1	772						

### Part 2 - Applicant details

#### I am:

		Please tick
1) an	interested party (please also complete sections 2A or 2B 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 re	esponsible authority (please also complete 2C below)	x
3) am	ember of a club to which this application relates (also complete section 2A below)	

### (2A) Individual Applicants (fill in as applicable)

										 Please		
Title:	Mr	Mrs	Miss	Ms	Other	I am 18 years old or over		Y	es		No	
Forenames						Surname						
		10(405)										
Home address											_	_
						Post Code						
Telephone Number		4414, 14				Mobile Number						
E-Mail Address												
(2B) Other A	pplicant	or Rep	resenti	ng Bod	у							
Name												
Address												
Address					B750-75	Post Code						
Telephone Number												
E-Mail Address				4.0								
(2C) Respons	sible Aut	hority	applica	nt								
Name	Glen P	hoenix	of Black	pool We	eights and M	leasures Depart	men	t				
	Numbe	r One. I	Bickerst	affe Sau	are, Talbot	Gateway, Talbo	t Ros	ad.				
Address	Blackp	7,										
	Lancas	hire				Post Code	F	Y	1	3	A	Н
Telephone Number	01253 4	178381										

E-Mail Address

### glen.phoenix@blackpool.gov.uk

#### Part 3 - Reason for Review

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

	Please tick
1) the prevention of crime and disorder	x
2) public safety	X
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 before completing)

The review is brought on behalf of the Licensing Authority following concerns that the Licensing Objectives are not being properly promoted when the premises are selling alcohol.

The circumstances leading to this review are that on the 12<sup>th</sup> January 2015 the premises were visited by Trading Standards, Health and Safety and the Police as part of a series of routine inspections of off licences. An inspection behind the counter revealed what appeared to be counterfeit bottles of Glen's Vodka that were exposed for sale alongside bottles of genuine alcohol. These bottles, 6 in total, were subsequently seized and sent for examination by the Quality Manager of the Loch Lomand Group, which produces Glen's Vodka. In due course it was confirmed that the seized vodka was counterfeit.

This raises concerns on many levels. Firstly, the position in society held by an operator of an off licence is a trusted one. The selling of counterfeit vodka to the unsuspecting public is a breach of that position of trust. It is safe to say that whoever produces the vodka has little regard for quality control procedures and most people, under the impression that they were buying genuine Glen's vodka, at the genuine price, would not voluntarily drink it. In this respect the activity constitutes a breach of the licensing objective relating to public safety.

In respect of the licensing objective relating to the prevention of crime and disorder, the selling of counterfeit vodka is a clear offence under the Trade Marks Act 1994 and the Food Safety Act 1990. The Home Office published "Amended Guidance Issued under Section 182 of the Licensing Act 2003" dated June 2013, discusses in part 11, Reviews arising in connection with crime. Paragraph 11.27 outlines certain criminal activity that may arise in in connection with licenced premises which should be treated particularly seriously. Eleven examples are given of criminal activity. The last one states, "For the sale of smuggled alcohol or tobacco." It is accepted that the vodka in issue is not smuggled, but if we apply a more liberal interpretation of the guidance, it is within the spirit of the guidance that the sale of counterfeit alcohol should also be treated particularly seriously.

In support of this application I include evidence from Public Protection Officer Steven Ash, the Officer involved in the investigation into the counterfeit vodka. I include his statement as Document 1 and supporting evidence referred to in his statement as Documents 2 - 6 respectively. I also

include a photograph of the counterfeit vodka as document 7. At the time of this application the interview referred to has not yet taken place.

Please provide as much information as possible to support the application. Continue on a separate sheet if necessary. (Please read guidance note 2 before completing)

#### **Document 1**

#### RESTRICTED (when complete)

FORM MG11

Witness Statement

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

Statement of Steven John Ash

Age if under 18 Over 18 (if over 18 insert "over 18"). Occupation Public Protection Officer

This statement (consisting of 2 page(s) 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 do not believe to be true.

Dated the 23r day of January 2015

Tick if witness evidence is visually recorded

Signature

I am the above named and am employed as a Public Protection Officer within the Trading Standards (Enforcement) Section of the Public Protection Division. In this role I am authorised to enforce the provisions of the Trade Marks Act 1994. On the 12th January 2015 I was part of a multi-agency operation with Blackpool's Health and Safety Section and the Police. We were visiting a series of Off Licences to offer advice and inspect their premises as appropriate. At 13:40 we entered Abingdon News, Unit 13, Abingdon Street Market, Abingdon Street, Blackpool. The only person in attendance was the husband of premise licence holder Arvind Gandhi. I introduced myself and asked to go behind the counter. I identified the Glen's Vodka and visually inspected it for signs of authenticity. There were a few visual clues that suggested the vodka was counterfeit. I expressed my concerns to Mr Gandhi and informed him that I would be seizing the bottles. As I was in conversation with Mr Gandhi, the premise licence holder, Kailashen Gandhi entered the premise. I advised her of my suspicions and handed a Code B notice of Powers to Mr Gandhi. I seized the bottles, six in total, and left the premises. The bottles were immediately transferred to secure storage and an exhibit to be sent to the producer for an opinion was selected and sealed with Tag: 00539228. I produce a copy of the Code B Notice of Powers as exhibit SJA/AN/1. On the 13th January 2015 I sent a letter and receipt to Mrs Gandhi, copies of which I produce as exhibits SJA/AN/2 - 3. On the 14th January 2015 I sent an exhibit of the seized Glen's Vodka to Tom Taylor, Quality Manager of the Loch Lomand Group, which produces Glen's Vodka. On the 21st January 2015 I

Signature

Signature witnessed by

emailed Tom Taylor to confirm that he had received the exhibit. He confirmed he had and that the sample was counterfeit. I produce this email was exhibit SJA/AN/4. Later that day I hand delivered a letter to Abingdon News, where Mr Gandhi was in attendance. I explained that the vodka was counterfeit and that Mrs Gandhi was invited to attend a formal interview. I produce a copy of this letter as exhibit SJA/AN/5.

Signature witnessed by

LS/F/005/12/1

Signature

### **BlackpoolCouncil**

Trading Standards (Enforcement), Enforcement and Quality Standards Division, 125 Albert Road, Blackpool, Lancs, FY1 4PW

Tel: 01253 478381

4
4
-
premises.
_Age

#### Summary of Officer's Statutory Powers

Time/Date of Search \_\_

This notice should only be regarded as a summary as it is impractical to list all powers in full for each statute. The powers will vary between each statute. A copy of the appropriate tegislation may be consulted at the above address.

#### POWER TO ENTER PREMISES AND INSPECT GOODS OR EQUIPMENT

CONSUMER OF REDITACT 1974, CONSUMER PROTECTION ACT 1987, FAIR TRADING ACT 1973, FOOD SAFETY ACT 1990, GENERAL PRODUCT SAFETY REGULATIONS 1994, HALLMARKING ACT 1975, PACKAGE TRAVEL PACKAGE HOLDAYS, PACKAGE TOURS REGULATIONS 1992, POISONS ACT 1972, TRADE MARKS ACT 1994, VIDEO RECORDINGS ACT 1984, CONSTRUCTION PRODUCTS REGULATIONS 1991, WEIGHTS AND MEASURES ACT 1985, THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008, THE BUSINESS PROTECTION FROM UNFAIR TRADING REGULATIONS 2008, THE BUSINESS PROTECTION FROM MISLEADING MARKETING REGULATIONS 2008.

A duly authorised officer may at all reasonable times and on production if so requested of his credentials enter any premises, other than premises used solely as a dwelling and inspect goods. Officers authorised under the Weights and Measures Act 1985 may inspect and test any weighing or measuring equipment used for trade. They may weigh or otherwise measure or count goods.

## IIMESHARE ACT 1992, PROPERTY MISDESCRIPTIONS ACT 1991, ESTATE AGENTS ACT 1979, POISONS ACT 1972.

If an officer has reasonable grounds to suspect an offence has been committed he may at all reasonable times and on production if so requested of his credentials enter any premises to determine whether an offence had been committed

### PROCUREMENT OF SAMPLES FOOD SAFETY ACT 1990

#### An Officer may

- i) purchase a sample of any food or substance capable of being used in the preparation of food
- ii) take a sample of any food or substance appearing to have been sold or intended for sale for human consumption or is found on or in premises which the Officer has power of entry
- iii) take samples from any food source or contact material.
- take samples of articles or substances found on such premises which may be required as evidence in proceedings.

POWER TO REQUIRE OR REQUEST THE PRODUCTION OF BOOKS, DOCUMENTS OR RECORDS

#### PRICES ACT 1974 (AND ABOVE LEGISLATION)

1

An officer can request the production of documents relating to the business and may make copies

#### FOOD SAFETY ACT 1990

An officer may inspect any records relating to a food business and have access to and inspect any computer which may be used in connection with the records.

THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008,
HALLMARKING ACT 1973, VIDEO RECORDINGS ACT 1984, FAIR TRADING ACT 1973,
CONSUMER CREDIT ACT 1974, "CONSUMER PROTECTION ACT 1987), ESTATE
AGENTS ACT 1979, GENERAL PRODUCT SAFETY REGULATIONS 1994, PACKAGE
TRAVEL PACKAGE HOLIDAYS, PACKAGE TOURS REGULATIONS, PROPERTY
MISDESCRIPTIONS ACT 1991, TIMESHARE ACT 1992.

If an Officer has reasonable cause to believe an offence has been committed he may require the production of books or documents ('records) and may make copies.

### POWERS OF SEIZURE WEIGHTS AND MEASURES ACT 1985

An officer may selze and detain any weighing or measuring equipment if he has reasonable cause to believe it may be liable to be forfeited

An officer may seize and detain goods or documents that he/she believes may be required as evidence.

THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008, HALL MARKING ACT 1973, VIDEO RECORDINGS ACT 1984, TRADE MARKS ACT 1994, FAIR TRADING ACT 1973 ("CONSUMER PROTECTION ACT 1987) ("CONSUMER RECITED TO ACT 1987) ("CONSUMER CREDIT ACT 1974) (THE SHARE ACT 1992) PROPERTY MISDESCRIPTIONS ACT 1991, (ESTATE AGENTS ACT 1979) ("GENERAL PRODUCTS SAFETY REGULATIONS 1994) PACKAGE TRAVEL PACKAGE HOLIDAYS, PACKAGE TOUR REGULATIONS 1992

If an officer has reasonable cause to believe an offence has been committed he may seize and detain goods in order to ascertain whether an offence has been committed. If an officer believes they may be required as evidence he may seize and detain any goods of documents ("goods or records) (goods, books or documents) (books and documents) (documents). In exercising his right to seize property, the officer may require any person having authority to do so, to break open any container and if that request is not complied with the officer may do it himself.

An officer may seize and detain any records which he has reason to believe may be required as evidence and where records are kept on computer, may require the production of the records in a form in which they may be taken away.

#### POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODE B).

#### Rights of the Occupier/Owner of Property

- Searches must be made at a reasonable hour unless this might frustrate the purpose of the search. (Taken from Para 5.2 of Code B of the Codes of Practice)
- If any of your property is kept by an officer you are entitled, on request, to be provided with a list or description of the property within the reasonable time. Such applications may be made to the address given above. (Taken from Para 6.8 of Code B of the Codes of Practice)
- If you wish you or your representative will be allowed supervised access to your property so that you can examine it or have it photographed or copied.

Alternatively you may be provided with a photograph or copy. In either case you are responsible for the costs. Access etc will not be allowed if the officer in charge of the investigation believes that this would prejudice the investigation of an offence or any criminal proceedings. (Taken from Para 6.9 of Code B of the Codes of Practice)

- A warrant authorises an entry on one occasion only. (Taken from Para 5.3 of Code B of the Codes of Practice)
- A copy of the warrant should, if practicable, be given to the occupier before the search begins, (Taken from Para 5.8 of Code B of the Codes of Practice)

- If the occupier is not present, copies of the warrant and this notice should be left in a prominent place. (Taken from Para 5.8 of Code B of the Codes of Practice)
- A duly authorised officer of the Department may enter and search any premises with the written consent of a person entitled to grant entry to the premises. Where practicable the written consent will be recorded on this notice. (Taken from Para 4.1 of Code B of the Codes of Practice)
- Consent to a search must, if practicable, be given in writing on the front of this notice (Taken from Para 4.1 of Code B of the Codes of Practice)
- Where consent is withdrawn before the search is completed, the search must stop (Taken from Para 4.3 of Code B of the Codes of Practice)
- 11. If you reside in a lodging house or similar accommodation your landlord can consent to your room or rooms being searched if you are unavailable at the time and the matter is urgent. (Taken from Note of Guidance 4A to Code B of the Codes of Practice)

In appropriate cases, compensation may be payable for damage caused in entering and searching premises and any application should be directed to:

The Chief Trading Standards Officer at the address above A copy of the Codes of Practice can be consulted at the address above.

## Blackpool Council

Date: 13th January 2015

Mrs K Gandhi Abingdon News Stall 13 Abingdon Street Market 16 – 20 Abingdon Street Blackpool Our Ref: SA/ 1730253 Direct Line: (01253) 478388 Email: steve.ash@blackpool.gov.uk

Dear Mrs Gandhi

#### Trade Marks Act 1994

The Blackpool Trading Standards Section enforces the provisions of the above legislation.

On the 12<sup>th</sup> January 2015 I visited your premises, Abingdon News, Abingdon Street Market, with the Police and Blackpool Council's Health and Safety Section. The purpose of the visit was to carry out a routine multi agency inspection.

On inspection I noticed that selected bottles of Glen's vodka appeared to be counterfeit. Six Bottles were behind the counter and were exposed for sale. These bottles were consequently seized and will be subject to investigation to establish whether they are authentic or not. I enclose a receipt in respect of the seized bottles.

When the investigation into the authenticity of the vodka has been concluded I will be in contact to advise you of the next course of action. In the meantime if you wish to discuss this matter further, please do not hesitate to contact me.

Yours faithfully,

Steven Ash Public Protection Officer, Trading Standards Enforcement

Trading Standards Enforcement| Community and Environmental Services
Department | Blackpool Council| Number One | Bickerstaff Square | Talbot Road |
Blackpool | FY1 3AH

Contact T: (01253) 478388

W: www.blackpool.gov.uk



BlackpoolCou	TR	ACKPOOL COUNCIL ADING STANDARDS	125 Albert Road Blackpool Lancs
Name: Aba	Je Bu	Abrical Street Helice	e. /15 (,
S.12-	l G. wle	- Tile rocks At 1994	2.0ks
No:	2032	Laspoeter /Authorised Officer: PSO S	A3h 84875_02-07

## **BlackpoolCouncil**

Date: 21st January 2015

Mrs K Gandhi Abingdon News Stall 13 Abingdon Street Market 16 – 20 Abingdon Street Blackpool Our Ref: SA/ 1730253 Direct Line: (01253) 478388 Email: steve.ash@blackpool.gov.uk

Dear Mrs Gandhi

#### Trade Marks Act 1994

I refer to my previous letter dated the 13th January 2015 and my visit of the 12th January 2015.

During this visit I seized a quantity of Glen's vodka. I have now had conformation that the vodka is counterfeit, it is therefore alleged that you have committed an offence contrary to the Trade Marks Act 1994.

The purpose of this letter is to invite you to attend a formal, tape recorded, interview. The interview will be conducted under caution in accordance with the Police and Criminal Evidence Act and will take place at the Municipal Buildings, Corporation Street, FY1 1NF at 11:00 AM, Friday, 30<sup>th</sup> January 2015.

The purpose of the interview is to give you a chance to explain your actions and to put forward any defences that you feel may be relevant. I strongly advise you to bring any paperwork that you wish to rely on (invoices etc). Please be aware that any comments you make in response to this letter, in writing or otherwise, will be made under caution. The caution reads -

You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence.

It may be advisable for you to seek independent legal advice whether or not you decide to respond to this letter. If you fail to respond to this letter or you fail to attend for interview, a report will be submitted to the Public Protection Manager for consideration of legal proceedings.

I would also draw your attention to the provisions of Section 34 of the Criminal Justice and Public Order Act 1994, which, under certain circumstances, enables a Court to draw inference from an accused person's failure to mention facts when questioned about a criminal offence.

Trading Standards Enforcement | Community and Environmental Services
Department | Blackpool Council | Number One | Bickerstaff Square | Talbot Road |
Blackpool | FY1 3AH

Contact T: (01253) 478388

W: www.blackpool.gov.uk



## **BlackpoolCouncil**

Yours faithfully,

Steven Ash Public Protection Officer, Trading Standards Enforcement

Trading Standards Enforcement | Community and Environmental Services
Department | Blackpool Council | Number One | Bickerstaff Square | Talbot Road |
Blackpool | FY1 3AH

T: (01253) 478388

W: www.blackpool.gov.uk



#### Steven Ash

From:

Steven Ash

Sent:

21 January 2015 13:07

To:

Tom Taylor

Subject:

RE: Glen's Vodka

Hi Tom,

Thanks very much for that. Yes, I would appreciate two separate statements.

I take your point about getting them tested by our analyst.

Thanks again and best regards,

Steve.

From: Tom Taylor [mailto:tom.taylor@lochlomondgroup.com]

Sent: 21 January 2015 12:24

To: Steven Ash

Subject: RE: Glen's Vodka

Hi Steve,

I received the bottles that you sent and I can confirm that both are counterfeit and were not produced by our company.

I will provide Section 9 witness statements confirming my findings. Please let me know if require two separate statements as the seizures were from two premises as advised in your covering letter.

I would recommend that you send bottles to your Public Analyst for analysis to make sure that the contents are not detrimental to health.

We can carry out basic analysis in our Lab for strength, colour and other quality parameters etc. but we don't have the specialised equipment required for analysing counterfeit product for methanol, and other harmful chemicals that may be present.

#### Best regards

Tom Taylor Quality Manager Loch Lomond Group

01290 551211 Work Tom.Taylor@lochlomondgroup.com

7 Laigh Road, Catrine, Mauchline Ayrshire KA5 6SQ

From: Steven Ash [mailto:Steven.Ash@blackpool.gov.uk]

Sent: 21 January 2015 11:55

To: Tom Taylor Subject: Glen's Vodka Hi Tom,

I recently sent you 2 exhibits of Glen's vodka which I suspected were counterfeit. I just wanted to check that you had received them?

Best regards,

Steve Ash (BA Hons)

Public Protection Officer

Trading Standards Enforcement | Public Protection Division | Community and Environmental Services Department |
Blackpool Council | Number One | Bickerstaffe Square | Talbot Road | Blackpool | FY1 3AH

T. 01253 478388

E. steve.ash@blackpool.gov.uk

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### Part 4 – Other relevant information

If you have made representations before relating to this premises, please state what they where and when you made them.

In brief the previous review was applied for under the licensing objectives relating to the prevention of crime and disorder and the prevention of public nuisance.

In summary, the premise had been persistently selling alcohol to street drinkers who would then go on to cause a nuisance in the immediate area. In addition it was also a condition of the licence that a refusal register be kept. This was not adhered to. The application is dated the 22<sup>nd</sup> November 2012.

Please tick

X

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	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 5 - Signatures (please read guidance note 3)

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

Signed	The state of the s	
Print Name	Glen Phoenix	
Capacity	Trading Standards Manager (Enforcement)	
Date	26 <sup>th</sup> January 2015	

Contact name an previously given				ence as	sociated with this ap	plication. (Where not	
Title:	Mr	Mrs	Miss	Ms	Other		
Forenames					Surname		
Address for Correspondence							
associated with this application					Post Code		
Telephone Number					Mobile Number		
E-Mail Address						6.0	

LS/F/005/12/1

- 1. The grounds for review must be based on one of the licensing objectives.
- 2. Please list any additional information or details for example dates of problems that 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 that we shall use to correspond with you about this application.