

**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 Gemma Hunt on behalf of the Licensing & Out of Hours Team

(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 Beilul Lounge First Floor and Second Floor 100 Wilmslow Road	
Post town Manchester	Post code (if known) M14 5AJ

Name of premises licence holder or club holding club premises certificate (if known) Futsum Tsegay
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Number of premises licence or club premises certificate (if known) 214491

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 Gemma Hunt Licensing & Out of Hours Team Manchester City Council Hammerstone Road Gorton M18 8EQ
Telephone number (if any) [REDACTED]
E-mail address (optional) gemma.hunt@manchester.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 2)

The LOOH team have witnessed recurring offences under S136 of the Licensing Act 2003 and S8 of the Health Act 2006 (smoke free legislation)

- The Licence Holder & DPS has sold the business and is not in day-to-day control of the premises
- Unauthorised licensable activities
- Breaches of conditions
- Selling shisha & allowing it to be smoked on the premises, including by staff whilst behind the bar

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

On Sat 4th December 2021 an LOOH officer was alerted to the premises when excessive loud music was witnessed emanating from the premises outside of permitted hours at 3am. Since this date (approx. 3 months ago) the LOOH team have been unable to obtain a download of CCTV footage in line with conditions of the licence.

Furthermore, following visits and inspections at the premises, evidence has been found that the premises are continuously operating well outside of permitted hours. Evidence has been found that the premises operated until 8:30am on one occasion, 7 hours after permitted timings. Inspections have found multiple and continuous breaches of conditions of the licence.

In addition, the premises have been found to be selling shisha for customers to smoke on the premises in an area 100% enclosed and allowing bar staff to smoke shisha behind the bar.

The person named on the licence 'Futsum Tsegay' as the PLH and DPS has not been seen on the premises by officers since September 2019, despite assurances that he still works at the premises by the new owner Mr Merhawi Berhe.

After reaching Mr Tsegay by telephone, he has advised that he has not been connected to the premises for around 3 years after selling the business to Mr Merhwi Berhe. Mr Tsegay has confirmed that he is not employed at the premises or in day-to-day control of the premises, and that he was not aware the licence was still in his name.

The current named PLH is no longer in a position to carry on, a business which involves the use of the premises for licensable activities as per S16 of the Licensing Act. Despite being made aware that he is still legally responsible for the premises, Mr Tsegay has failed to ensure the licence has been transferred or surrendered the licence back to the council.

Following intervention at the premises by the LOOH team, offences under S136 of the Licensing Act 2003 and under S8 of the Health Act 2006 have continued at the premises. Following an interview under caution at a licensing inspection, a receipt has been found for the following night identifying out of hours sales of alcohol and sales of shisha. A formal investigation is now taking place for the offences.

The owner of the premises Mr Berhe has continuously misled officers and although he is a Personal Licence Holder, has demonstrated a very poor understanding of the licensing objectives and his responsibilities under the Licensing Act.

Below is a chronological order of events.

July 2018 - Premises Licence granted to Mr Futsum Tsegay.

Prior to the grant LOOH officers had witnessed on multiple occasions the premises being used as a Shisha café whilst under the control of Mr Tsegay. The grant of the licence followed assurances from Mr Tsegay that shisha would no longer be sold or smoked on the premises.

30th Sept 2019 – Complaint & Out of Hours Witnessed

LOOH officers attended at 0345am following a complaint being made, officers witnessed excessive loud music and the premises still open to the public. Officers spoke with Mr Tsegay and a verbal warning was issued.

16th Feb 2021 – Complaint received

Complaint received that the premises was allowing customers to use the premises in lockdown via the backdoor, selling alcohol and shisha on the premises.

4th Dec 2021 at 3am (Fri night/ Sat morning) – Premises operating Out of Hours

An LOOH officer witnessed excessive loud music at street level emanating from the premises, disco lights were also visible.

5th Dec 2021 at 11pm – Visit to Premises

Mr Merhawi Berhe presents himself to officers as the owner of the premises.

A request for CCTV was made in line with conditions 1 & 2 of annex 2. Officers were advised by Mr Berhe that CCTV could not be operated, and he would speak to his CCTV engineer.

The following licence conditions were checked whilst at the premises & found to be in breach:

Annex 2 condition 3 - No incident log on site

Annex 2 condition 6 - No notices were displayed requesting customers to be quiet when leaving the premises.

Annex 2 condition 11 - There was no challenge 25 scheme information on display.

Annex 2 condition 12 - Mr Berhe stated that there are 4 members of staff who work at the premises however he was unable to provide any documented training regarding the sale of alcohol.

28th Dec 2021 at 11:24pm – Visit to Premises

Officers returned to obtain CCTV footage for the 4th Dec 2021. Mr Berhe advised again for a second time that he will speak to his 'cameraman' but that he believes it stores 7 days of footage. Officers asked what time he was closing tonight, Mr Berhe confirmed 1am. Officers explained permitted opening hours are 0030 on a Tuesday, Mr Berhe was unaware of this. Officers then showed & explained the operating schedule to Mr Berhe and advised on the penalties for out of hours sales and breach of conditions. Officers advised they would return to collect the CCTV and explained a full inspection would now take place.

29th Dec 2021 – Visit to Premises

Officers returned the following night and were advised CCTV could not be produced and there was a delay in the CCTV engineer attending. However, when he does attend, Mr Berhe confirmed he would ensure it records for the correct amount of time.

9th Jan 2022 at 01:45am – Officer passing Premises

Officers passing the premises noted the premises still appeared open to the public with a door person on the entrance door, 2nd floor blue lights were on.

15th Jan 2022 at 02:50am - Visit to Premises

Officers witnessed loud music audible outside at street level, lights were on and 2 people seen sat at a table by the window. The front door was locked.

16th Feb 2022 at 2pm - Full Licensing inspection

Mr Merhawi Berhe present, who confirmed he fully owns the premises and advised officers the named PLH/DPS did have a share in the business, but no longer does and is currently in London, adding however that he still works at the premises as staff. Advice was given to transfer the licence and vary the DPS.

The CCTV was checked showing the time as 14:54 (real time was 14:11) with only 8 days recordings. Annex 2 Condition 1 stipulates that 31 days must be recording.

Conditions 3, 4 and 12 – no evidence present, Mr Berhe advised the documents were at home.

Although the address is given as 1st & 2nd floor, no floor plan has ever been submitted for the second floor and is therefore an unlicensed area. Mr Berhe confirmed he allows drinks upstairs, officer explained as there is no permission for off sales, this must cease, and drinks can only be consumed within the licensed area.

Officer visited the second floor and found a full shisha set up behind a serving area. Several card packs were on tables & on the till and cigarette ends were found on the stairs. As officers left the second-floor waste was noted blocking the bottom fire exit with a foul smell. Mr Berhe advised the waste would remain there until 6pm. Advice was given to immediately remove the waste and unblock the fire exit. Multiple health and safety concerns were noted including broken and damaged plug sockets. Please see exhibits GH1 & GH2.

Mr Berhe admitted that he struggles getting people to leave and that it can sometimes be 2am before the premises are closed. He advised that he serves customers full bottles of spirits, and they refuse to leave until it is finished. He further confirmed that he uses door staff on a Saturday night until 2am but could provide no register or SIA badge details.

LOOH therefor requested to see the CCTV for the previous Saturday night, at 2am on the 13th February (Sunday morning). CCTV was presented on Mr Berhe's mobile phone which showed the premises still open and trading until 6am, not 2am as stated. Multiple customers were smoking shisha in the main area of the premises, an area which is 100% enclosed. A sale of alcohol was witnessed at 0505 hours. Mr Berhe responded advising this was a party for his wife.

LOOH therefore asked to see footage from the night previous, Friday 11th leading into Saturday 12th February. CCTV identified the premises closing at 0830am and Mr Berhe was visible on the CCTV, at one point drinking what appeared to be a shot along with bar staff. At 0251am a shisha pipe was visible behind the bar being used by a staff member, who then passed the mouthpiece part of the pipe over the bar for a customer to use. Mr Berhe was advised that a download of CCTV would be required and that this would be followed up in writing.

Mr Berhe was cautioned Under S136 of the Licensing Act 2003 and S8 of the Health Act 2006. Mr Berhe responded to questions by advising the following:

- He stays at the premises through the night until 8am the following morning preparing food and his friends come over.
- He pays for some drinks, sometimes his friends pay.
- Music stays on via the tv.
- The second floor is used for events. Customers buy drinks from the first floor and take them upstairs. There is no CCTV for the second floor.
- The premises used to be a shisha bar; the stock is inherited. Mr Berhe confirmed he had been involved in the premises since Dec 2019.
- Sometimes people ask for shisha, he advised 'I sell it to survive, I have a family'.
- When he first opened, he stopped 'everything' now he sells 2 or 3 a weekend.
- When asked again about closing the premises on time he replied, 'my people don't listen'.

An email was sent to Mr Berhe that evening with a link to apply for a transfer and vary DPS application and the result of the inspection. Please see exhibit GH 3.

A second email was also sent formally requesting a download of CCTV which was responded to advising that he would be in London. Please see email trail as exhibit GH 4.

18th Feb 2022

Officers contacted the PLH/DPS Futsum Tsegay by telephone. He advised that he had not worked at the premises for around 3 years and was not aware that he was still named on the licence. Officers gave direction on how to transfer or surrender the licence and duly informed Mr Berhe who agreed to take alcohol off sale.

Mr Berhe advised his CCTV system has had a fault, the whole of the previous data has been lost and a new system has now been installed. Shisha pipes and equipment were still on the second floor, a small amount had been removed. A Wedding type backdrop was still set up from an event.

A receipt was found on the premises identifying shisha sales and alcohol sales out of hours, for the early hours of that morning at 0141 hours. I exhibit the receipt as GH5.

21st Feb 2022 at 01:14am - Visit to premises

Officers noted the front shutter down over the premises. From the side of the premises, several people could be seen sat at tables near the windows.

S11.18 of the S182 guidance states: 'However, where responsible authorities such as the Police or environmental Health officers have already issued warnings requiring improvement - either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.'

The management of the premises have demonstrated a wilful disregard for their responsibilities by committing continuous offences under the Licensing Act 2003 and the Health Act 2006. The LOOH team do not have any faith that the Licensing Objectives can be upheld by the Premises and invite the committee to revoke the Premises Licence.

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

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

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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 25th February 2022

Capacity **Responsible Authority**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Gemma Hunt Licensing & Out of Hours Team Manchester City Council Hammerstone Road Gorton	
Post town Manchester	Post Code M18 8EQ
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) gemma.hunt@manchester.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.