

**Review of Premises Licence for**  
**Delicious Buffet & Jilabi**  
**2065 & 2067 Coventry Road**  
**Birmingham**

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**Documents Lodged on behalf of the premises licence holders**

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

First Statement of Abdul Rouf

Age: Over 18

Occupation:

This statement (consisting of 5 Pages 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.

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

I, Abdul Rouf of

**WILL SAY AS FOLLOWS:**

1. I am the premises licence holder for Delicious Buffet at 2067 Coventry Road, Sheldon, Birmingham.
2. I have held the licence since July 2014.
3. Originally these premises were a Chinese Restaurant. I purchased the premises with the intention to convert it into an Indian Restaurant that would provide Indian buffet food.
4. The adjoining premises was operated by Mr Rahim Miah, who would have been a competitor.
5. Rather than operate in competition, Mr Miah and I came to an agreement which has resulted in us being partners in our business, and running the Jilabi Restaurant from 2065 and 2067 Coventry Road. Originally, Mr Miah did buffet twice a week at his restaurant. I wanted to extend this to 7 days a week, and this is what we did when we became equal partners in our businesses.
6. When I applied for my premises licence for 2067 Coventry Road in 2014, I engaged the services of Wallace Robinson and Morgan Solicitors, who assisted me with the application. An original plan was lodged with that application but I was not advised that I needed to vary the licence to reflect the premises as built. Had I been aware of that requirement to modify the plans, I would have done so in 2014.
7. Mr Miah and I opened our restaurant as one at the end of 2014. We have traded it for the last 3½ - 4 years.

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

8. In that time, we have had numerous visits from the Council. On 15<sup>th</sup> June 2017, Miss Sharon Watts from Birmingham City Council visited the premises. She inspected the premises and left a Trader's Notice, No 25473, to say that the premises licence could not be produced and that all staff training records were not available. She also queried the Challenge 25 Training records which were not available.
9. I met with Sharon Watts when she came to the premises on 15<sup>th</sup> June 2017. The premises licence summary was not displayed and she wanted to see them displayed and see the other parts of the premises. She was fully aware on that date of the construction of the premises and the fact that 2065 and 2067 Coventry Road had a shared access in the building. Miss Watts asked to see Part A of the premises licence, which I was unable to locate on the evening of the visit. It was within the office upstairs and I took the original to show her in her office a few days later. I also showed her the staff training record and she was satisfied with that.
10. Miss Watts walked between the two premises, and showed me where to display the premises licence summaries.
11. Miss Watts re-attended our premises with a female colleague, whose name I forget. I met her again on that occasion and during this visit she expressed to me that there were two different licences in place for 2065 and 2067 Coventry Road. She queried the fact that we were trading as one business. I explained to Miss Watts that we had joined the businesses together and I explained to her the history of how it happened, that we decided rather than competing, to do a joint venture and keep our costs lower, hence our partnership. I also explained that if we were ever to go our separate ways, it was simpler to keep the two licences as they were. Having listened to this explanation, both officers agreed that, in those circumstances, it was sensible to keep the two licenses. I was not aware that we could keep the two licences and have one overarching licence in place for the two premises together. The Officer never explained that to me. Had I been aware that permission was required, I would have asked my solicitor to help me with the necessary application. That was the end of that conversation regarding the two licences and we have continued to trade ever since.
12. Miss Watts checked whether the licences were on display as well as the Challenge 25 notice and notice reminding customers to respect neighbours when leaving. She was satisfied, on that final visit that all measures were in place. I have had no other dealings with licensing enforcement until 23<sup>rd</sup> November 2018.
13. On the date of the Police visit on 23<sup>rd</sup> November, I was in the kitchen 'on the pass'. I was informed that the Police were here and I came out of the kitchen. The first person I saw was the council licensing officer standing at the bar. However, the Fire Officer

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

grabbed my attention immediately and I was required to retrieve my records for the fire risk assessment and got my colleague to go through these with the Fire Officer. The fire officer had a couple of issues that related to the replacement of bulbs in the emergency lighting. This was rectified immediately by a fire surveyor who came in to look at everything in the premises.

14. After leaving my colleague with the fire officer, I went to the bar and spoke to the licensing officer who spoke to me about staff training. I retrieved the records from behind the bar in 2065 Coventry Road (Jilabi). This contained the record of staff training relating to the licensing objectives. The records kept behind the bar were in respect of all staff that would handle alcohol and deliver it to customers at the table. In terms of the conditions attached to my premises licence, my belief was that only members of staff who would be engaged in the sale or delivery of alcohol required training under the Licensing Act and consequently kitchen staff would not require that training. All relevant staff have been trained in the licensing objectives. I told the licensing officer that there were 20 staff and I produced training records of 14. The other 6 were not waiters for the purposes of alcohol and would never handle drinks. I have since extended my training to cover all relevant staff.
15. During the visit, I was asked about CCTV in the premises. The CCTV hard drive, which was kept inside the bar in 2065 Coventry Road, had been ripped from its wires during a theft at the restaurant. This happened approximately 2 weeks before the enforcement visit. An individual broke in through the customer toilet window when the premises were closed, and stole items of alcohol and loose change from a charity box. The CCTV hard drive was ripped from its wires and removed from the premises. That had not been reported to West Midlands Police. Some 6 or 7 months ago, CCTV was stolen from the premises and the police were called and we were told not to touch anything. By the time they came, which was at approximately 7.00 – 8.00 in the evening, this had a detrimental impact upon our ability to trade the restaurant and ultimately the police were unable to assist or discover the offender. On this occasion therefore I felt it was quite pointless to report the theft to the police. Minimal damage had been caused and my concern was that, in reporting this to the police, it would interrupt our business too much. In hindsight, I realise that this should have reported immediately and should any offences occur in my premises in the future, I will of course make the necessary report.
16. In terms of the allegations regarding modern day slavery, I deny any allegation of modern day slavery at my premises. All staff are paid appropriately and no-one is forced to work in my premises. I do not provide accommodation for staff.

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

17. During the visit to my premises on 23<sup>rd</sup> November, I understand that 3 individuals not permitted to work in the UK were found. As far as these were concerned I can say as follows: \_\_\_\_\_ and \_\_\_\_\_ are individuals who had commenced a trial period at the premises on Thursday 22<sup>nd</sup> November. I had agreed for these individuals to begin a trial at the premises, usually we allow them to work a couple of shifts to see how well they work in the premises and how they engage with other members of staff before confirming a permanent offer of employment. It is my usual process to request copies of identification to establish an individual's ability to work in the UK. On this occasion, I had agreed for the individual to attend for a shift but had then taken a day's leave at short notice, therefore failing to get the paperwork and check it. I notified the manager on duty, \_\_\_\_\_, on the 22<sup>nd</sup> November that these individuals would be attending for a trial and that he was to take their documentation and ensure P46 forms were completed. I spoke to \_\_\_\_\_ following the visit on the 23<sup>rd</sup> November. It transpired that he had failed to complete the paperwork check.
18. \_\_\_\_\_ role included assisting with recruitment at the restaurant. He has contacts in the wider Bengali community. Once we had sourced possible staff, it was his role to sign the P46's and manage the trial periods. Since the 23<sup>rd</sup> November, \_\_\_\_\_ has remained at the restaurant, but has been relieved of responsibility for this administrative role. Instead, we have recruited \_\_\_\_\_.
19. Generally, I check all workers ability to work legally, and all members of staff are paid monthly via a pay slip, deducting amounts for tax and national insurance. My accountant helps me with the pay roll. These individual have not been paid.
20. Turning to the third individual, \_\_\_\_\_, he had been recruited by \_\_\_\_\_ on a trial period 2 weeks earlier. He was known to us as \_\_\_\_\_ not \_\_\_\_\_. I was informed by \_\_\_\_\_ that we had his driving licence, but that his passport was with the passport office and we were waiting for that to be produced.
21. In terms of recruitment, we do recruit extra staff for the festive season. These 3 individuals were all recruited as cook's assistants working under the supervision of the 2 full time chefs.
22. We recruit generally through local sources in the community, for example through referrals and introductions. For example, members of staff may have worked elsewhere and they will know other individuals who might be looking for jobs. We live in a densely populated Asian area and this is the benefit of living in that social circle. People will often ask about job opportunities within the restaurant, whether I am in the restaurant itself, in the street, at the supermarket or local cafes. It is normally informal recruitment but records are kept of all staff that we employ.

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

23. My normal recruitment for front of house is to meet the staff and see whether or not I think they would fit into the restaurant and work well with existing members of staff. I then explain the standard levels of expectation in terms of customer service which is key for repeat business in our restaurant. For front of house staff, generally I would know them and would look at their work history and consider the reputation of the restaurant that they have worked at before. I would also ask whether they are employed at the moment, as I don't expect them to leave their existing place of employment in a dire position simply to come to work for me. I will take their contact details and record these.
24. It is customary for staff to start on a trial period and for me to canvass the opinions of the other members of staff at the end of a trial period to see if that individual fits into the restaurant.
25. Since the incidents on 23<sup>rd</sup> November, I have recruited \_\_\_\_\_, an Administrator to help me with employment duties. She has been recruited to work two days per week to deal with office admin and to ensure that all members of staff have relevant permissions to work at the restaurant. \_\_\_\_\_ has been engaged in her husband's business where she has been responsible for all of his paperwork, accounts, PAYE and VAT returns. She is an experienced administrator. Through my solicitors, Harrison Clark Rickerbys, \_\_\_\_\_ has been trained in the Home Office requirements for rights to work and will ensure that all members of staff have the appropriate permissions in place and that original ID documents have been seen and copies are kept within the personnel files.
26. In addition to the recruitment of \_\_\_\_\_, we have conducted a full audit of all existing staff, with the assistance of Harrison Clark Rickerbys solicitors', HR consultant.
27. Moving forward, no member of staff will be permitted to be engaged at the premises, whether permanently or for a trial period, without first providing original documentation for identification and proof of eligibility to work in the UK. Harrison Clark Rickerbys will assist with this and will carry out audits as and when required.

Signed \_\_\_\_\_ Abdul Rouf

Dated 02/01/2019

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

First Statement of Rahim Miah

Age: Over 18

Occupation:

This statement (consisting of Pages 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.

Signed \_\_\_\_\_ Rahim Miah

Dated 27/12/2018

I, Rahim Miah

**WILL SAY AS FOLLOWS:**

1. I am a premises licence holder for Jilabi, 2065 Coventry Road, Sheldon, Birmingham.
2. I have been at Jilabi since the premises opened in 2002. I owned the premises and operated it as Jilabi when it was only one single shop front.
3. Originally, No 2067 Coventry Road traded as a Chinese Takeaway. Following Mr Rouf's purchase of No 2067, it converted to an Indian Restaurant. That was in approximately 2014.
4. Mr Rouf approached me and proposed that we work together rather than in competition, and that is when we became partners and opened our combined restaurant together at the end of 2014.
5. The operation of the restaurant is generally left to Mr Rouf and he is responsible for ensuring compliance with the Licensing Act 2003 at the premises and is also responsible for the hiring and firing of all staff.
6. I have read and considered the application for the review of the premises licence of Jilabi.
7. With regard to the allegation of modern day slavery, this is denied. Our business has an accountant, who assists us with pay roll for all our staff. All staff are paid appropriately, with normal tax and national insurance provisions. Mr Rouf can provide an explanation regarding those individuals found on the premises who did not have the requisite permission to work in the UK.
8. Turning to other matters, namely the staff training and CCTV, again Mr Rouf can provide a full explanation for this.

Signed \_\_\_\_\_ Rahim Miah

Dated 27/12/2018



9. Since the review proceedings I have taken a more active part in the operation of our business. We have instructed Harrison Clark Rickerbys solicitors to assist us with this. We have recruited an administrator, \_\_\_\_\_, to assist us with right to work compliance. We have also ensured that \_\_\_\_\_ has been properly trained to know what information is required to ensure compliance. A full audit of all staff employed at the premises has been conducted and all records updated to ensure that all employees can legally work in the UK. We will maintain these records and engage the services of Harrison Clark Rickerbys as and when required.
10. We have also arranged for Harrison Clark Rickerbys to conduct staff training at the premises regarding the responsibilities under the Licensing Act 2003 and the four licensing objectives.
11. I am confident that our premises will remain compliant in the future.

Signed \_\_\_\_\_ Rahim Miah

Dated 27/12/2018

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

First Statement of Stephanie Hallet

Age: Over 18

Occupation: HR and Training Advisor

This statement (consisting of 2 Pages) 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.

I, Stephanie Hallet

**WILL SAY AS FOLLOWS:**

1. I have worked at Harrison Clark Rickerbys in the Employment and Immigration Team as a HR and Training Advisor for 2.5 years. During this period, I have gained experience in advising and conducting right to work checks as I have conducted these checks for many of our clients during the recruitment and onboarding process.
2. I was instructed to provide Right to Work training to [REDACTED], Office Administrator who has recently been employed by Jilabi Indian Restaurant to carry out the recruitment process task.
3. Firstly, I met with the client to understand the background behind what previously has been done when an employee joins the business and what current management are aware of. Whilst there was existing knowledge of the right to work checks, I identified that further training was required.
4. During the training we covered the statutory legal requirements and their duty, as an employer, to prevent illegal working. We confirmed when the document checks should be carried out, what the check involves, how an employer obtains a statutory excuse against liability for a civil penalty and when you are required to conduct a follow-up check on people who have time-limited permission to work in the UK when this permission expires.
5. Following the training, I supervised [REDACTED] when carrying out a selection of the current employees' right to work checks and took the time to answer any questions she had.
6. I am therefore confident that [REDACTED] and Jilabi Indian Restaurant have been fully briefed on how to carry out right to work checks and the importance behind them to ensure ongoing future compliance.

I believe that the facts stated in this statement are true

Signed ..

**Stephanie Hallett**

Date...28.12.2018.....

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

First Statement of Nicola Stansbie

Age: Over 18

Occupation:

This statement (consisting of 1 Pages 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.

Signed \_\_\_\_\_ Nicola Stansbie

Dated 31/12/2018

I, Nicola Stansbie of Harrison Clark Rickerbys

**WILL SAY AS FOLLOWS:**

1. I am employed by Harrison Clark Rickerbys Solicitors as a Licensing Executive advising clients on licensing matters having previously been employed by Birmingham City Council Licensing Department for 12 years.
2. On 28<sup>th</sup> December 2018, I attended Premises known as Jilabi/Delicious Buffet at 2065 – 2067 Coventry Road, Birmingham. I attended the Premises at 3.45pm and conducted training on the Licensing Act 2003 to all of the front of house staff employed at the Premises. The training included the licensing objectives, the Premises Licence, the role of the DPS, offences under the Licensing Act 2003 and training on the conditions of licence including the mandatory conditions. As part of the training we also had a brief question and answer session where I answered any queries regarding licensing that the staff had.
3. All of the staff attended the training and Abdul Rouf and Rahim Miah were also in attendance. \_\_\_\_\_, who has taken over responsibility of the administration side of the Premises was also in attendance and has retained a log of the training and all staff signed to confirm their attendance.
4. The staff were well briefed on the Licensing Act 2003 and I am satisfied that they are aware of their responsibilities under the Licensing Act 2003.



**Chartered Accountants**  
Registered Auditors & Tax Advisors

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rus@rusand.co.uk  
www.rusand.co

Date: 02<sup>nd</sup> January 2019

Jilabi Restaurant  
2065 Coventry Road  
Sheldon  
Birmingham  
B26 3DY

Dear Sirs,

As acting accountants for Jilabi Restaurant, we can confirm that all payroll processed as per our client's instruction has completed in accordance with our records according to our client's list of active staff.

All staff are paid an hourly rate on or above the national minimum/national living wage.

Staff are subject to deductions of National Insurance and PAYE.

Yours sincerely,

RUS Chartered Accountants  
Payroll Dept Enc.



<b>JILABI INDIAN RESTAURANT</b>					
2065 COVENTRY ROAD, BIRMINGHAM B26 3DY					
PERMANENT STAFF	DATE			NATIONAL	DOCUMENTS
FULL NAME	OF BIRTH		ADDRESS	INSURANCE	CHECKED
				NUMBER	
			BENTON ROAD, BIRMINGHAM B11 1TZ		19.12.2018
			HEATHER ROAD, BIRMINGHAM B10 9TE		19.12.2018
			SHELDON HEATH ROAD, BIRMINGHAM B26 2RZ		19.12.2018
			TENBY ROAD, MOSELEY, BIRMINGHAM B13 9LY		19.12.2018
			WOBURN GROVE, BIRMINGHAM B27 7EP		19.12.2018
			SPRINGFIELD CRESCENT, SOLIHULL B92 9AE		19.12.2018
			ALBERT ROAD, ASTON, BIRMINGHAM B6 5NN		19.12.2018
			HENSHAW ROAD, BIRMINGHAM B10 0TB		19.12.2018
			HEATHER ROAD, BIRMINGHAM B10 9TD		19.12.2018
			MALMESBURY ROAD, BIRMINGHAM B10 0JH		19.12.2018
			BRAMBLE DRIVE, BIRMINGHAM B26 2QQ		19.12.2018
			STOCKFIELD ROAD, BIRMINGHAM B27 6AU		21.12.2018
			ALFRED STREET, BIRMINGHAM B12 8JL		20.12.2018
			MONICA ROAD, BIRMINGHAM B10 9TJ		19.12.2018
			HORRELL ROAD, BIRMINGHAM B26 2PA		19.12.2018
			HOBMOOR ROAD, BIRMINGHAM B10 9AZ		19.12.2018
			NEW COVENTRY ROAD, BIRMINGHAM B26 3BA		19.12.2018
			LORENSHAW ROAD, BIRMINGHAM B26 3NE		19.12.2018
			BILLINGSLEY ROAD, BIRMINGHAM B26 2EB		21.12.2018



Care and support  
through terminal illness

**Marie  
Curie**

2<sup>nd</sup> January 2019

Marie Curie Hospice West Midlands  
Marsh Lane  
SOLIHULL  
B91 2PQ  
0121 703 3712

Dear all at Jilabi,

This letter is to confirm that the staff at Jilabi Indian Restaurant in Sheldon raised **£3,250** for the Marie Curie Hospice, Solihull.

Jilabi raised the money towards the cost of building our new Hospice on Marsh Lane in Solihull. The hospice was built in 2012 and opened in 2013.

At the Hospice, our staff care for people with terminal illnesses on our Inpatient unit and they care for our Day patients who visit us for respite three times a week.

We have 24 double bedrooms within the Hospice and it costs £11,313 to pay for a day's care at the Hospice so you can see how your donations are extremely valuable to us.

If you ever wish to discuss anything with me please don't hesitate to contact me. I want to say a huge thank you to you for supporting Marie Curie in such a generous way.

All the best,

Community Fundraiser

Charity Number- 207994

Thank you to everyone who supports us and makes our work possible.  
To find out how we can help or to make a donation, visit [mariecurie.org.uk](http://mariecurie.org.uk)

Marie Curie is a registered charity in England and Wales (207994) and Scotland (SC038731).  
Registered as a company limited by guarantee in England & Wales (507597). Registered Office: 89 Albert Embankment, London SE1 7TP.

CD05\_08-17



**MINUTES OF THE MEETING OF THE PREMISES/PERSONAL LICENCES  
SUB-COMMITTEE 'C', HELD ON MONDAY 15 MAY 2017 AT 10.00 AM  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

<b>Present:</b>	Councillors Cossens (Chairman), J Henderson and M J Skeels
<b>Also Present:</b>	Councillor Watson (Stand-by Member)
<b>In Attendance:</b>	Linda Trembath (Senior Solicitor - Litigation and Governance), Simon Harvey (Licensing Manager), Steve Mahoney (Licensing Assistant) and Katie Sullivan (Committee Services Officer)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**2. MINUTES OF THE LAST MEETING**

The minutes of the last meeting of the Sub-Committee, held on 20 June 2016, were approved as a correct record and signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

Councillor M J Skeels declared that he had eaten at the Saffron Restaurant some years ago, however he did not know anyone who worked there.

**4. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 -  
APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - SAFFRON  
RESTAURANT, 51 RAVENSDALE, CLACTON-ON-SEA, ESSEX, CO15 4QH**

The Chairman (Councillor Cossens) welcomed everyone to the meeting and gave an overview of the procedure that would be followed for the hearing. It was confirmed that Members and Interested Parties had received the 'Procedures for Hearings – Premises/Personal Licences Sub-Committee procedure' document.

The Council's Licensing Manager (Simon Harvey) then gave a verbal summary of his report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational Services), an application for the Review of the Premises Licence held by Mr Ismail Ali for the Saffron Restaurant, 51 Ravensdale, Clacton-on-Sea, Essex, CO15 4QH. A location plan for the Saffron Restaurant was handed out to those present.

Members were informed by the Licensing Manager as part of his summary that an application for the review of the Premises Licence for the Saffron Restaurant had been submitted by Essex Police following investigations by Officers of the Immigration Service and that this had been received by the Licensing Authority on 31 March 2017. The application for the Review had been submitted on the grounds that the lack of management control at the premises in regards to the employment of persons not entitled to work in the UK had breached the Licensing Objective in respect of the Prevention of Crime and Disorder. As a result of the breach, Essex Police were requesting the Licensing Sub-Committee to revoke the premises licence in question.

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It was reported that the review application and its accompanying supporting documents had advised and contained the following:

- An unsigned Section 9 witness statement from an Immigration Officer (Mr Edward O'Dowd-James) which had detailed an investigation made by the Immigration Authority on 16 February 2017 into allegations that the Saffron Restaurant was employing a person who had no right to stay or work in the United Kingdom and also the outcome of that investigation;
- A transcript of a stated and certified case in the Queen's Bench Division (Administrative Court) High Court of Justice which was heard on 14 April 2016 and detailed a successful appeal made by East Lindsey District Council against a District Judges decision of 23 June 2015 not to uphold a revocation of a premises licence determined by a Licensing Sub-Committee of East Lindsey District Council on the grounds of Crime and Disorder because the licence holder had knowingly employed a person who did not have the right to work in the United Kingdom and as a result, this had breached the Prevention of the Crime and Disorder licensing objective required under the Licensing Act 2003;
- A schedule of Income Tax (Pay As You Earn) Regulations 2003;
- A copy of a newspaper article in the Clacton Gazette published on 4 March 2017 which had detailed an investigation by the Immigration Authority which had found that on 16 February 2016 the Saffron Restaurant had four persons working on the premises who did not have the right to work in the United Kingdom and as a result the business had been served with a 'civil penalty referral notice' by the East of England Immigration Enforcement team;
- A schedule of desired outcomes that Essex Police were seeking from the hearing as a result of having applied to the Licensing Authority for a Review of the Premises Licence held by Mr Ismail Ali for the Saffron Restaurant, 51 Ravensdale, Clacton-on-Sea, CO15 4QH and which were the revocation of the Premises Licence or the Suspension of the Premises Licence for a period determined by the Licensing Sub-Committee. Essex Police did not consider that it was suitable to impose conditions onto the Premises Licence in a case where workers had been employed illegally; and
- A copy of the Premises Licence held for the Saffron Restaurant.

It was also reported that notice of the review application had been made and advertised in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompanied it. In particular, a notice detailing the review application had been clearly displayed on the premises concerned and on Tendring District Council's Website for the prescribed 28 day period. Periodic checks had been undertaken by the Licensing Authority to ensure that this was the case. The end of the notice period had been 30 April 2017.

The Licensing Authority had accepted the review application and had been satisfied that it had been properly served. The Licensing Manager informed Members that he was satisfied that the application and the representations that it made were relevant to the licensing objectives and were not vexatious, repetitious or frivolous in nature.

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It was confirmed that no representations had been received from any other Responsible Authorities or other persons who could also make statutory representations in regards to review applications.

Members were informed that such representations should be relevant and not be considered by the Licensing Authority as vexatious, repetitious or frivolous and could be made in opposition to, or support of, an application and could be made by any individual, body or business that had grounds to do so. The Statutory Guidance was silent on whether representations could be made against an application for a review, or in support of the respondent to the review (which in this case was the Premises Licence holder Mr Ismail Ali). However, given that the Guidance was silent on this question, but clearly indicated that other persons could make representations in regards to a review and that representations could be made in support of applications, it was therefore reasonable to assume that representations could also be made in support of the Premises Licence Holder Mr Ali in this matter for due consideration by the Licensing Sub-Committee and as part of the Review application hearing process.

The Solicitors acting on behalf of the respondent and Premises Licence holder Mr Ali had submitted ten individual letters of support for him, his character and the Saffron Restaurant as a business as a whole and had also submitted a petition containing 70 individually named persons who were strongly against the revocation of the Premises Licence of the Saffron Restaurant. Those letters and petition were attached as a bundle to the report as Appendix 3.

The Sub-Committee was made aware by the Licensing Manager that the petition did not carry or include the reason for the petition and why persons had been asked to sign it anywhere other than on its first page. Advice had previously been sought on this question of including the reason for the petition to be shown on all pages of the petition. The Sub-Committee were informed that they should only take into consideration and give any weight to the first page which included the statement and the reason as to why persons had been asked to sign the petition and why they had signed it.

The Licensing Manager confirmed that Mr Ali's Solicitors had also submitted a four page response and mitigation to the review application which in summary included advice that Mr Ali was in the process of re-organising the restaurant's administrative procedures to be more in line with Home Office expectations; that he had already begun screening all staff members to ensure that they had the right to work in the UK; that the incident of the 16 February 2017 was a one-off and they believed that as their client was objecting to the civil penalty served by the Immigration Authority and many factors were in dispute about the incident, that Essex Police had acted prematurely by calling for a review of his Premises Licence.

The Sub-Committee was informed that Appendix 4 showed the full detail of the Section 182 Guidance issued to accompany the Licensing Act 2003 in regards to a Review of a Premises Licence that was applied for through a process other than a Closure Order.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Manager following his summary. There were no questions asked.

Stephen Sparrow the County Licensing Officer for Essex Police (who had submitted the application on behalf of Essex Police for the Review of the Premises Licence held by Mr Ismail Ali) then addressed the Sub-Committee and gave an overview of the events and facts of the case and the reasons behind why Essex Police had made such an application. Mr Sparrow referred the Sub-Committee to the stated case of East Lindsey District Council v Abu Hanif in April 2016 which established a legal precedent that could be referred to in other cases, which held that it was not necessary for a prosecution to be brought in order for the crime prevention objective to be engaged and advised that a transcript of this case was in the review application bundle provided by the Police. Mr Sparrow confirmed that a civil penalty, in the sum of £30,000 had been imposed on Mr Ali by the Immigration Service in connection with the illegal workers that had been found to be working at the premises at the time it was raided by the Immigration Services on 16 February 2017 and while three persons had been found who had no right to work in the UK, and therefore it was contended that they had been employed illegally by Mr Ali, it was the Police and Immigration Services view that anything up to four persons may have been illegally employed as the person sought under the Immigration Services warrant was not found on that day although intelligence suggested that he did work there.

Mr Ismail Ali's Solicitor (Mr Sabbir Ahmed of Taj Solicitors) was asked by the Chairman of the Sub-Committee, Councillor Cossens, if he had any questions for the applicant to which he responded by asking Mr Sparrow if he had any further updates in regards to the suspected breach of Mr Ali not undertaking the relevant employment checks. Mr Sparrow replied by confirming that it was not his position to answer the question as it was not within his remit or knowledge to do so and that his role was to bring the review not deal with the immigration offences or any appeal lodged against the civil penalty served on Mr Ali.

Mr Ali's Solicitor addressed the Sub-Committee and gave an overview of his client's position and the events leading up to the 16 February 2017 when he was found by the East of England Immigration Enforcement team to be employing persons who had no right to work or stay in the United Kingdom. Mr Ali's Solicitor confirmed that Mr Ali had checked the employees' documents but had not been aware that they were fraudulent and that Mr Ali had provided all of these original documents to the Home Office following on from the events on 16 February 2017 and therefore did not have any copies to be able to show the Sub-Committee as an example of what he had been supplied by the persons in question, but that his client had no reason to doubt at the time that the documents were genuine.

Stephen Sparrow of Essex Police was then asked by the Chairman of the Sub-Committee, Councillor Cossens, if he had any questions for Mr Ali's Solicitor to which he responded by asking a question in relation to Mr Ali's screening procedures and what checks had been carried out to date. Mr Ali's Solicitor replied by confirming that Mr Ali had his own internal system which was checking original documents from the employee and then making a copy and filing them away.

The Sub-Committee then asked Mr Ali's Solicitor a question in relation to whether Mr Ali had a PAYE register and whether book keeping of the payroll was managed. Mr Ali's Solicitor confirmed that Mr Ali handed everything over to his Accountant. Mr Ali did not have or use a computer and that he still did everything by pen and paper. It was confirmed that Mr Ali was currently looking at the management of the business and

administrative procedures and was looking to make improvements. It was also confirmed that the workers had only just started working for Mr Ali and that one of them had given Mr Ali his National Insurance number.

The Chairman asked if any Members had any further questions or whether the applicant or the representative of the licence holder Mr Ali had any questions that they wished to ask of each other or any other party relevant to the review hearing. As there were no further questions, both the applicant and the representative for the licence holder were invited by the Chairman to make their closing statements.

Mr Ali's Solicitor confirmed that:

- 1) The civil penalty was being appealed, and that it was currently with the Home Office;
- 2) All employees had the 'correct' documents;
- 3) Mr Ali was a victim of fraud; and
- 4) Mr Ali had not breached the Licensing Objectives.

Stephen Sparrow confirmed that:

- 1) One of the illegal workers had been removed from the UK;
- 2) Mr Ali had said that he had checked the papers given to him by the employees but it did not 'ring true';
- 3) Letters of support for Mr Ali had been received but that these should be disregarded as they only confirmed that the food was good at the restaurant and Mr Ali was hard working; and
- 4) It was his view that no checks had ever been carried out.

The Sub-Committee, the Council's Solicitor and the Committee Services Officer withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision.

The Sub-Committee, Council's Solicitor and Committee Services Officer then returned to the meeting and the Council's Solicitor confirmed that she had not provided any legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

"The Sub-Committee has given careful consideration to this application for a review and to the actual representations received from Essex Police on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder had been breached for the reasons set out in their application and to the representations made on behalf of Mr Ismail Ali, the Premises Licence Holder and business owner both in writing and today.

In making its decision the Sub-Committee have taken into account:

- 1) Relevant matters set out in the Licensing Authority's own Statement of Licensing policy;
- 2) The relevant parts of the Guidance issued by the Secretary of State;

- 3) The range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a review; and
- 4) Any legal advice given by the Council's Solicitor.

The Sub-Committee are also aware that it must act to promote the Licensing Objectives as set out in the Licensing Act 2003 and that any decision it takes in determining a review must be necessary for the promotion of these objectives.

The decision of the Sub-Committee is to suspend the Premises Licence for a period of three months.

The Sub-Committee's reasons are as follows:

- 1) Reviews ordinarily follow where premises have been warned about some aspect of the business that affects the premises licence, or where their behaviour affects that licence, and/or advice has been given about improvement but they have failed to improve. However, where the activity causing concern is so serious, involving criminal activity such as the sale and distribution of drugs, or as here, the employment of a person or persons who are disqualified from that work because of their immigration status, then a review can be sought without previous involvement by the applicant, here Essex Police;
- 2) This Sub-Committee's role is to promote the Licensing Objectives - in this case it is the prevention of crime and disorder - and not to punish - that is the role of others including, where appropriate, the criminal courts. However, the Guidance issued under Section 182 of the Licensing Act 2003 does suggest that in certain categories, where the premises have been used to further crime, then revocation should be seriously considered, even for the first incident;
- 3) In this case we are told that, having obtained a warrant on 13 February 2017, Immigration Officers attended at the Saffron Restaurant on the evening of 16 February 2017. The Saffron Restaurant is owned and run by Mr Ismail Ali, the Premises Licence Holder and the Designated Premises Supervisor;
- 4) The Immigration Officers did not, it seems, find the individual they were looking for but found three other individuals, two of whom had, apparently, no right to work in the UK, and one of whom had overstayed his Visa;
- 5) We have been told that a civil penalty, in the sum of £30,000 has been imposed on Mr Ali by the Immigration Service in connection with the illegal workers - three of whom were found, at the premises, but the fourth who was named on the warrant, we are told, was not found;
- 6) We have also been told that the civil penalty is being appealed, and that it is currently with the Home Office;
- 7) We have been referred to the case of East Lindsey District Council and accept that there does not need to be a prosecution, or a conviction for the Licensing Objection of Preventing Crime and Disorder to be engaged;
- 8) We view the matter seriously and wish to address our role in the prevention of crime and disorder, and allow Mr Ali to address serious deficiencies in the management of the business which we have been told he is already addressing and which a three month's suspension should enable him to achieve working with all relevant authorities, and his advisors."

The Chairman confirmed that all relevant persons would receive the decision in writing and that they had the right to appeal the decision to the Magistrates' Court.

The meeting was declared closed at 12.07 pm

**Chairman**





**NEW FOREST DISTRICT COUNCIL  
LICENSING ACT 2003**

**REVIEW OF PREMISES LICENCE FOLLOWING AN ILLEGAL WORKING  
COMPLIANCE ORDER – INDIAN TREE, MARKET PLACE, RINGWOOD**

Decision of the Licensing Sub-Committee hearing held at Appletree Court,  
Lyndhurst on Thursday, 18 May at 10.00am

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**1. Members of the Licensing Sub-Committee**

Councillor S Clarke - Chairman  
Councillor R Frampton  
Councillor L Harris

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**2. Parties and their Representatives attending the Hearing**

Mr A Bachhu – Premises Licence Holder/Designated Premises Supervisor  
Mrs J Rowley – Barrister Representing the Premises Licence Holder

Mr M Wilkinson – Home Office, Applicant for Review  
Mr T Pleydell – Home Office, Applicant for Review  
Mr A Beacuarbis – Hampshire Constabulary supporters of the Review

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**3. Other Persons attending the Hearing**

Mr S Stone – Licensing Manager  
Ms S Wilson – Licensing Officer

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**4. Parties not attending the Hearing**

None.

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**5. Officers attending to assist the Sub-Committee**

Kate Green – Legal Advisor  
Melanie Stephens - Clerk

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**6. Decision of the Sub-Committee**

1. The premises licence will be suspended for a period of 3 months. This will commence from the relevant time in accordance with S. 168 (2) Licensing Act 2003.
2. Mr Adib Ahmed Bachhu will be removed as Designated Premises Supervisor and the Sub-Committee recommend that the personal licence held by Mr Bachhu be considered separately by the Licensing Authority.
3. That the following conditions, as suggested by the Premises Licence Holder's legal representative at the hearing be attached to the licence, namely:-
  - a. That the Designated Premises Supervisor undertakes full responsibility for the recruitment of all workers employed at the premises on a full time or temporary basis.
  - b. The Designated Premises Supervisor undertake right to work checks on all staff employed at the licensed premises;
  - c. That copies of any document checked as part of a right to work are retained at the premises at all times the premises are open; and
  - d. That copies of the right to work documentation are made available to the Licensing Authority, the Home Office and the Police for inspection on the premises, without notice at any time. .

**7. Reasons for the Decision**

The Sub-Committee carefully considered the evidence, both written and oral, supplied in advance of and at the hearing by the Designated Premises Supervisor, Home Office and Police.

At the outset of the hearing, the Licensing Officer introduced the report to the Sub-Committee and outlined that an Illegal Working Compliance Order had been issued by Portsmouth Magistrates' Court on 28 April 2017 for a period of twelve months. This was received by the Licensing Authority on 5 May 2017. In accordance with S. 167 (1A) Licensing Act 2003 this triggered the requirement for a review hearing to be held. The Licensing Officer explained the options available to the Sub-Committee for consideration in accordance with the licensing objectives, namely;

- Modify the conditions of the premises licence
- Exclude a licensable activity from the scope of the licence
- Remove the Designated Premises Supervisor from the licence
- Suspend the licence for a period not exceeding three months
- Revoke the licence

The Home Office representatives outlined the background that had caused them to apply for the Illegal Working Compliance Order. It was confirmed that having received intelligence of illegal working at the Indian Tree restaurant, immigration enforcement officers visited the premises on 27 April 2017 where two individuals were found to be working illegally on the premises. One individual was served immigration paperwork and arrested for overstaying his visa, the second individual was served immigration

paperwork and arrested for illegal entry. The Premises Licence Holder was not present on the premises at the time the immigration enforcement officers arrived at the premises but following a telephone call from the officers, he attended the restaurant within 20 minutes. Immigration enforcement officers interviewed the Premises Licence Holder during which he denied all involvement, knowledge or employment of the two individuals found to be illegally working on the premises. Both individuals initially claimed that they had only arrived the day before but following searches of the living accommodation officers identified that one of the individuals had been in the area since December 2016. Once this information was put to that individual he confirmed that he had been working at the premises for three months washing up in the kitchen.

The Home office representative confirmed that they had not been provided with any evidence to show that any checks had been made in relation to the two individuals' rights to work in the UK. The representative for the Home Office confirmed that this visit was not the first of its kind to these premises and in the past, four similar visits had taken place, all of which resulted in arrests being made for immigration offences. A visit on 27 October 2016 had identified one individual who had overstayed his visa. This resulted in Mr Bachhu being served with a civil penalty notice for £10,000 for a breach of S. 15 Immigration Asylum and Nationalities Act 2006.

The Sub-Committee then heard from a representative from Hampshire Constabulary who supported the review, on the basis that the actions of the Premises Licence Holder undermined the prevention of crime and disorder licensing objective. The representative confirmed that Hampshire Constabulary had concerns about the poor management of the premises undermining the licensing objectives. The representative wished to press on the Sub-Committee that this order had not come about following one isolated incident, but was as a result of persistent breaches in relation to the employment of illegal workers at the premises. He stated that thirteen arrests had taken place at the premises in relation to Immigration Act offences since 2012. The police representative referred specifically to the Revised Guidance under S. 182 Licensing Act 2003 issued in April 2017, in particular paragraph 11.27 which outlined that certain criminal activity that may arise in connection with a licensed premises should be treated particularly seriously, one such crime being *"for employing a person who is disqualified from that work by reason of their immigration status in the UK"*.

The police representative pointed out that 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.

As the Premises Licence Holder had been involved in the premises since 2010 and the premises had been continually failing to undertake immigration checks, he asked the Sub-Committee to consider whether Mr Bachhu was a suitable person who was capable of upholding the licensing objectives. The police therefore were seeking revocation of the licence, or in the event that the Sub-Committee were not satisfied that revocation was appropriate, then he requested that consideration be given to attaching relevant Mr Bachhu was legally represented and he read from a prepared statement which was accepted by all parties as additional evidence for consideration by the Sub-Committee. In his statement Mr Bachhu confirmed that he was truly sorry for the events that had led to this review hearing. He explained

that although he had been the Designated Premises Supervisor and Premises Licence Holder since 2010 he had not in fact been in control of the management of the business until last year. He did accept that he had been linked to the premises during the whole time that the issues of illegal working and Home Office visits had occurred. He also confirmed he was aware of all the previous arrests. He had previously been working as a waiter following a disagreement with his partner whom he had initially planned on starting the business with. He confirmed that he was now paying back a £10,000 civil penalty at a rate of £277 per month and was expecting a further penalty notice in the near future further to the recent visit by Home Office Immigration enforcement officers on 27 April 2017. Mr Bachhu was insistent that the two individuals arrested on the 27 April 2017 were not employees who he had appointed and he had previously instructed his chef to invite the individuals to submit their paperwork and attend an interview before commencing employment. He confirmed that no disciplinary action had been taken against the chef for bringing these individuals into the kitchen either as employees or guests. He confirmed that he was responsible for training front of house staff on the licensing requirements. He also stated that he legitimately employed 8 individuals and he supported his family on the basis of the business generated from operating The Indian Tree. He confirmed that the revocation of his premises licence would be likely to harm the employees of the restaurant and his family, as it would likely lead to him having to close the business.

Mr Bachhu provided evidence of right to work checks having been carried out on all the remaining and recently appointed employees that demonstrated compliance with the Illegal Working Compliance Order. This evidence was welcomed by the Home Office and the Police. Mr Bachhu now realised the severity of his actions and wished to reassure the parties and the Sub-Committee of his commitment to comply with the order and the legislation. Mr Bachhu's legal representative confirmed to the Sub-Committee that Mr Bachhu would be willing to accept conditions on the licence that could further address the issues and she also pointed out that this premises did not have any issues from either a food safety or a statutory nuisance ground. The premises had a 5 star hygiene rating and no other crime or disorder issues had been reported at the premises. The representative acknowledged the severity of the situation but asked the Sub-Committee to exercise their powers in a proportionate manner taking into account all the licensing objectives.

The Sub-Committee recognised the assistance provided to them from all parties on the relevant issues. The Sub-Committee felt that the explanations provided by the Premises Licence Holder for the events that gave rise to the Illegal Working Compliance Order were not consistent with the evidence submitted by the Home Office which are an intelligence-led organisation. However, the Sub-Committee acknowledged that the Premises Licence Holder had now undertaken the duties required of him in a serious manner.

The Sub-Committee had concerns that the Premises Licence Holder could not adequately account for the training and induction processes given to new staff in relation to the licensing requirements and duties. The Sub-Committee were also disappointed to note that there was an unwillingness to accept the full responsibility for the presence of illegal workers within the Indian Tree and a long delay in accepting the need to take this issue seriously. The Sub-Committee wanted their decision to reflect the seriousness of the situation balanced against the compliance with all the licensing objectives and the subsequent steps taken following the issue of

the Illegal Working Compliance Order. It was felt therefore that the three month suspension imposed was a proportionate and appropriate measure. The Sub-Committee felt that Mr Bachhu did not reassure them of his ability to appropriately manage the licensed activities on the premises and he appeared too casual as to the requirements of him as Designated Premises Supervisor. For this reason the Sub-Committee felt that they could not endorse Mr Bachhu's continued involvement in this position and therefore have removed him as Designated Premises Supervisor. The Sub-Committee also recommend that the personal licence of Mr Bachhu is reviewed in light of the history of the premises and his involvement in it, to consider whether Mr Bachhu continues to meet the threshold of a suitable personal licensee.

To further safeguard the licensing objectives under a new Designated Premises Supervisor, and to add a further measure to address the historic failures to comply with immigration laws the Sub-Committee felt that the conditions suggested by the representative of Mr Bachhu should be applied to the licence. These are set out in section 6 above.

The Sub-Committee wish to confirm to all parties that should any further issues arise in relation to the facts heard today, then those issues should be considered at a licence review hearing.

**Date: 18 May 2017**

**Licensing Sub-Committee Chairman: Cllr S Clarke**

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**FOR OFFICE USE ONLY**

Decision notified to interested parties on 25 May 2017



**LICENSING-SUB COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

<b>PREMISES</b>	Jalsagar Restaurant, 60 St Owens Street, Hereford. HR1 2PU
<b>PREMISES LICENCE HOLDER</b>	Mrs Wahida Khatun
<b>APPLICANT'S NAME</b>	Chief Constable – West Mercia Police
<b>APPLICATION TYPE</b>	Expedited/summary licence review
<b>PANEL MEMBERS</b>	Councillor DW Greenow (Chairman) Councillor PGH Cutter Councillor FM Norman
<b>DATE OF MEETING</b>	16 June 2017

Members of the licensing sub-committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, Licensing Authority, Sergeant Duncan Reynolds and Jim Mooney, West Mercia Police. Members also heard from the applicant's solicitor, Heath Thomas, Harrison, Clark, Rickerbys.

The committee have carefully considered all the representations, including a public representation, reports and evidence before them today and have also had regard to their duties under S4 of the Licensing Act and have considered S182 guidance and Herefordshire's statement of licensing policy. They also had regard to the relevant sections of the Licensing Act.

#### **DECISION**

This is the decision of the regulatory sub-committee in respect of a review of premises licence pursuant to Section 53C following the summary licence review of a premises licence concerning Jalsagar Restaurant, 60 St Owens Street, Hereford. HR1 2PU.

The decision of the committee is that the licence shall be suspended for a period of three (3) months and the following condition shall be placed on the premises licence.

*"The premises licence holder shall permanently engage the services of an immigration advisor, as agreed in writing with the licensing authority, who shall undertake a review of all existing employees at the premises and to check entitlement to live and work in the UK and thereafter independently verify prospective employees' right to live and work in the UK prior to the employee being engaged to work at the premises".*

**LICENSING-SUB COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)****Reasons**

The committee heard from West Mercia Police as regards the events of 19 May 2017 and made reference to the review in 2011 as set out in the witness statement of Sergeant Duncan Reynolds and that they were seeking revocation of the premises licence on the basis that the premises licence holder had admitted to employing a person in contravention of immigration law and this was a serious crime. The police made reference to paragraph 11.28 of the S182 guidance. In addition, they went through statements provided by the Immigration Officer. In addition they made reference to East Lindsay case and said crime and disorder objective was engaged. Sergeant Duncan Reynolds clarified that he had been present during the visit but had not been present at the time the various individuals detained had been interviewed by the immigration officers and therefore could not comment on whether they had asked for an interpreter or give a view of the apparent understanding of English given by the individuals concerned.

The premises licence holder representative fully outlined his client's case and that they acknowledged the premises licence holder had made a mistake in allowing a new member of staff (M X) to start on the basis of photocopy documents. This was a mistake. The premises licence holder had a generally good record of compliance and made reference to the statements in the information provided to the committee. The 2011 incident was some six (6) years ago and it could not be said this indicated continual non-compliance. The representative made reference to the comparable position of individuals under the Rehabilitation of Offenders Act.

Reference was made to discussions that had taken place between the two (2) individuals held in the detention centre and a Bengali speaking solicitor acting on behalf of the Premises Licence Holder and to the statement provided. It stated that both individuals claimed to have asked for an interpreter as they had not understood questions. Their respective requests to immigration officers for an interpreter had been declined. The Premise Licence Holders solicitor further outlined likely impacts on the financial circumstances of the applicant and made reference to the S182 guidance paragraph 11.23. Mr Thomas also referred to para 11.28 of the statutory guidance and stated that the reference to "revocation" meant that while it should be considered it would not necessarily be the only outcome the licensing sub-committee could arrive at, having regard to "appropriate and proportionate" actions.

In coming to their decision the committee recognised the seriousness with which the premises licence holder had taken this matter and steps taken and proposed to ensure this state of affairs would not occur again. The committee were aware of the previous history of the premises but accepted there was no evidence of persistent failure to comply with licensing law and the premises general compliance with regulatory requirements seemed acceptable based on the evidence before them.

The committee carefully considered whether, in addition to the member of staff who had been allowed to initially work on the basis of false copy documents (M X), one other of the individuals in question was in fact working at the premises (M A) and considered the immigration statement and the statement of Bengali speaking solicitor who had spoken to him. On balance, in view of the evidence before them, namely that given that the police officer, who was in attendance at the time, could not offer any clarification as to whether an interpreter had been requested by (M A) and the request declined or in a position provide a view on their observation of the individuals ability to speak or understand English, they could not conclude that (M A) was employed at the



**LICENSING-SUB COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

premises. This was because they could not certain that (M A) had clearly understood the questions he had been asked. They noted, there was no other evidence available that (M A) was working at the premises). They were satisfied that (A M) had been visiting his friend and found no evidence he was working at the premises.

Therefore while the committee considers the breach of immigration law serious, they considered it did not warrant revocation on this occasion and a suspension of three (3) months, which would give the premises licence holder the opportunity to get systems in place to ensure that an employee had the right to work in the UK, together with an additional condition (as outlined above) was an appropriate and proportionate to ensure the promotion of the licensing objectives and prevent the undermining of the crime and disorder objective

The Committee had regard to the likely financial impact as per paragraph 11.23 of the statutory guidance..

The committee also have to consider the issue of the interim steps which currently suspended the licence and having given this careful consideration and decided they should remain in place to promote the prevention of crime and disorder objectives, for the reasons outlined above.

**APPEAL INFORMATION**

Under Schedule 5 Paragraph 8A of the Licensing Act 2003, the premises licence holder, an individual who made relevant representations or the chief officer of police, may appeal against the decision in relation to the review following review notice. In addition, under Schedule 5 Paragraph 8B of the Licensing Act 2003 the premises licence holder or the chief officer of police decision under Section 53D may appeal in relation to the interim steps. Schedule 5 Paragraph 9 states that such an appeal must be made to the Magistrates Court within a period of 21 days from the date that the appellant is notified in writing of the decision.

Should you wish to appeal this decision then it is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford.





## **LICENSING SUB-COMMITTEE**

**Tuesday 20 June 2017 at 7.00 pm**

### **MINUTES**

**PRESENT:** Councillor Amélie Treppass, Councillor Fred Cowell and Councillor Max Deckers Dowber

**APOLOGIES:** Councillor Marsha de Cordova

**ALSO PRESENT:**

#### **1 ELECTION OF CHAIR**

Councillor Fred Cowell replaced Councillor Marsha de Cordova on the Sub-Committee.

**MOVED** by Councillor Fred Cowell, **SECONDED** by Councillor Max Decker Dowber and

**RESOLVED**: That Councillor Amélie Treppass be elected as Chair of the meeting.

#### **2 DECLARATION OF PECUNIARY INTERESTS**

There were none.

#### **3 MINUTES**

**RESOLVED**: That the minutes of the previous meeting held on 25 May 2017 be approved and signed by the Chair as a correct record of the proceedings.

#### **4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE**

##### **4a FIVE GUYS, 182-184 CLAPHAM HIGH STREET, LONDON, SW4 7UG (CLAPHAM TOWN)**

Following an agreement of conditions, the application had been withdrawn.

#### **4c COSTCUTTERS / PRICE CUTTER, 42 CLAPHAM ROAD, LONDON SW9 0JQ (OVAL)**

The Chair explained that a request had been received to hear Cost/Cutters/Price Cutter (item 4c) first and the Sub-Committee agreed for that application to be considered first.

##### **Presentation by Licensing Officer**

The Sub-Committee was informed that this was an application for a review of the current premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance (April 2017) and to Sections 1, 5, 6, 7, 8, 10, 11 and 19 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.10 of the report on page 11 of the agenda papers.

The Licensing Officer confirmed that:

- This was an application made under Section 51 of the Licensing Act 2003 for review of the premises licence for Costcutters/Price Cutter at 42 Clapham Road;
- The review was brought by the Licensing Authority following allegations that the premises had employed a person that did not have the right to work in the United Kingdom and therefore the premises was in breach of the licence conditions.
- The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) was Mr Mukhtar Ahmed.
- The licensing objective engaged by the application was the prevention of crime and disorder.
- A representation from Trading Standards in support of the review had been received as they believed that the licensing objective of prevention of crime and disorder had been undermined. They recommended that premises licence should be revoked by the Sub-Committee.
- Details of the application together with supporting documents could be found on pages 185 to 193 of the agenda papers.

A map, plan and photographs of the premises were circulated to the Sub-Committee.

##### **Presentation by the Applicant**

Mr Robert Gardner, Principal Licensing Officer, informed the Sub-Committee that:

- The review had been brought by the Licensing Authority following regular enforcement activity carried out to various premises within Lambeth called 'Spring Nights'.
- On visiting the premises at 22:16 on 5 March 2017 accompanied by Mr Faulkner, Community Safety Officer, two men who appeared to be staff members were found at the premises. One was behind the counter and the other appeared to be stacking shelves to the right of the counter.
- Following identification checks made by the police and issues found in relation to one of the men's identity (Mr ), the police contacted the immigration service.
- Mr was found to be an illegal immigrant and had been served with removal papers on 21 September 2015. He was later arrested and removed by Immigration Officers.
- When the PLH and DPS, Mr Ahmed eventually arrived at the premises and the

CCTV was viewed, Mr [redacted] could clearly be seen stacking shelves close to the counter from 9pm that evening. Mr [redacted] had already been at the premises for approximately 1½ hours and would be there for the rest of the evening.

- He believed that Mr [redacted] was at the premises to work was not a visitor as suggested by Mr Ahmed.
- As a result of the serious nature of the case, especially as it undermined other businesses in the area that, he felt that licence should be revoked by the Sub-Committee. However, if the licence was not revoked, then the hours of business from 24 hour trading should be reduced to 08:00 to 23:00 hours to accord with the licensing policy. A reduction in hours would also ensure that the premises only employed regular workers and also prevent illegal working which was considered as cheap labour.

In response to questions from Members, Mr Gardner confirmed that:

- The conditions on page 211 of the agenda papers were the proposed conditions suggested by the Licensing Authority.
- He proposed that the operating hours outlined on page 189 of the agenda papers (08:00-23:00 hours) should be considered to accord with hours outlined Lambeth's Licensing policy.
- The recorded data on the CCTV system was only available for a few days instead of 31 days as outlined on the conditions which was also considered as a breach on the licence.

#### **Presentation by Interested Parties**

Mr Bernard Conmy, Lambeth Trading Standards confirmed that:

- He supported the review brought by the Licensing Authority.
- Trading Standards history check pertaining to the premises found that in 2014 an underage sale of tobacco was made to a 15 year old boy.
- Also in 2014 a seizure of 38 bottles of duty diverted spirits occurred at the premises. Duty diverted fraud occurred when genuine products were sold for export as duty free. The rear duty free labels were removed and replaced by fake rear labels, complete with fake HMRC duty stamp. Those goods were later distributed for cash sales by "white van men" to smaller outlets and the appropriate revenue was not paid to the Government.
- In addition three bottles of 'White Goose' vodka (a brand imitating 'Grey Goose' vodka) was also seized.
- On 5 March 2017, a person was found working in the shop who did not have the right to work in the UK. In the case of *East Lindsey Council v Abdu Hanif [2016]*, (set out on page 196 of the agenda papers) it was not necessary for a crime to have been reported, prosecuted or established in a court of law in order for the crime prevention objective to be engaged.
- Although the premises might argue that the person was a visitor to admit to it would leave them liable to a £20,000 fine.
- The Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 dated 2017, considered illegal working as being serious and in such cases, revocation should be considered.
- As a result of the issues raised, the licence should be revoked. However, if the

Sub-Committee were minded not to revoke the alcohol licence, the licensable hours should be reduced to be in line with the current policy hours. This would deter the employment of illegal workers on over-night shifts at the premises. Also, the Trading Standards conditions outlined on pages 211-213 of the agenda papers should be considered.

In response to questions from the Sub-Committee, Mr Conmy confirmed that:

- He had since visited the premises but found no other issues.
- Since 2014 further issues that had arisen at the premises was not relevant to licensing issues.

#### **Presentation by the Premises Licence Holder**

Mr David Dadds, Solicitor, on behalf of Mr Mukhtar Ahmed, PLH and DPS informed the Sub-Committee that:

- The issues that occurred in 2014 at the premises were historic. The premises had been tested and inspected and no issues had arisen.
- He believed that the case of *East Lindsey Council v Abdu Hanif [2016]*, had been misrepresented by Mr Conmy. In that case the PLH had 'knowingly' employed an illegal worker who did not have the right to work in the United Kingdom.

At this point, the Legal Adviser to the Sub-Committee advised that the Immigration and Asylum and Nationality Act 2006 had been amended in 2016. An offence could now be committed if an employer was either aware that a person was unlawfully working in the UK or had reasonable cause to believe this to be so.

Mr Dadds then further clarified that:

- In this case, no criminal liability had been imposed. Instead, the Home Office offered a civil penalty of £7,000 which was paid by the PLH.
- Three members of staff were employed at the premises.
- On that weekend, one staff member (addressed as Mr R) had recently acquired a new premises and moved home. He asked Mr , whom he personally knew, to cover his two shifts in the shop. The premises had no knowledge that Mr was unable to work.
- Although Mr Ahmed admitted that Mr R had worked in the shop, he was not considered to be an employee. If that was the case, a criminal sanction would have been imposed to show that the licensing objectives of crime and disorder had been undermined.
- The PLH did not wilfully or negligently engage Mr R to work at the shop
- He felt that the additional conditions (circulated to the Sub-Committee) would address issues.
- Section 11.20 of the Licensing Guidance states that licensing authorities should so far as possible seek to establish the cause or causes of the concerns, the concern in this case would be the alleged illegal worker.
- No trading standards issues had raised by Mr Conmy in his representation.
- The Licensing Authority had only raised this matter as a cause of concern.
- He felt that the suggestion made by Trading Standards on page 189 of the agenda

papers to reduce the time to 08:00 to 23:00 hours was not appropriate in this case as each application should be judged on its own merits.

In response to questions, Mr Dadds confirmed that:

- Mr. [redacted] was at the premises from 21:00 stacking shelves.
- The two shifts worked by Mr R totalled 10 hours.
- Mr R had not been paid for his work at the premises, instead a private arrangement between Mr R and Mr. [redacted] had been agreed.
- The General Manager was in attendance at the premises on 5 March 2017 and no other conditions apart from an issue pertaining to the CCTV had arisen.
- Staff had now been advised that no shift cover at the premises should be made. Also staff had recently been trained to ensure that all staff members would comply with all conditions.
- Section 11.24 of the Licensing Guidance states that the Sub-Committee were not permitted to establish the guilt or innocence of a party. No criminal offence had been established but instead, a civil penalty had already been imposed. Therefore, the licensing objectives had not been undermined.

At this stage, following a request from the Sub-Committee, Mr Dadds produced a list of all staff that worked at the premises.

In response to further questions from the Sub-Committee, Mr Dadds confirmed that:

- On 5 March 2017, Mr [redacted] worked at the premises as a supervisor in absence of the owner.
- Mr [redacted] had been trained by Dadds LLP licensing in 2013 and had obtained a HABC Level 2 Award for Personal Licence Holders but did not hold a personal licence.
- A premises licence holder was not required to remain at the shop at all times when alcohol was being sold. This was also confirmed by the Legal Adviser to the Sub-Committee.
- Although one of the conditions stated that a minimum of two members of staff should be present at all times. Mr [redacted] believed that only one staff member would suffice as during the evening period, the premises was not usually busy.
- Mr R was still employed at the premises and held a certificate as a personal licence holder despite not being the premises licence holder.
- Mr Ahmed as DPS was considered to be a responsible retailer and no longer stocked high strength beers. No suggestion had been made that any inappropriate sales had taken place at the premises.
- Revocation of the licence was not an appropriate course of action as the incident was considered as a civil matter and not a crime. The proposed conditions acted as a warning to the premises to ensure that licensing objectives would be followed.
- No beers over 7% abv were sold but non-high strength single cans were sold by the premises. Also Guinness and Stouts at 7.5 abv were sold. As the DPS voluntarily no longer sold high strength beers in since December 2016, a condition on this should not be imposed. However, if the Sub-Committee were minded to impose a condition, the premises should be allowed to continue selling single cans of alcohol.
- A new digital recorder had now been installed at the premises that allowed

recordings to be kept for up to 31 days to accord with the conditions.

- On being referred to the proposed Licensing Authority and Trading Standards conditions outlined on pages 211-213, of the agenda papers, Mr Dadds confirmed his non-agreement on behalf of the PLH to conditions 1, 7, 8, 9, 11. However, conditions, 2, 3, 4, 5, 6, 10, 12, 13, 14, 15, 17 (duplication) were agreed.

In response to questions from the Sub-Committee, Mr Ahmed confirmed that:

- Mr. [redacted] frequently attended the shop and his working at the store was considered as a one-off incident.
- All staff had received up-to-date training and refresher training was held every two weeks.
- His son assisted him at the premises and had been trained.
- Identity checks such as a passport, NI Number or a student card must be produced in order to work at the premises.
- Tobacco products were now stored on shelves and no longer kept under the counter.
- He had established a good working relationship with the Council

#### **Adjournment and Decision**

At 8.18 pm, the Sub-Committee withdrew from the meeting together with the legal advisory and clerk to deliberate in private.

The Sub Committee had heard and considered representations from Mr Gardner, Mr Conmy, Mr Dadds and Mr

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review application and impose amendments and further conditions for the following reasons:

- The Sub-Committee had considered a review for the premises licence of Costcutters/Price Cutters, 42 Clapham Road, London SW9 00JQ based on the evidence heard of a person without the right to work in the UK found working in the store. Also that the premises had been reviewed by the Sub-Committee previously three years ago.
- It was suggested to the Sub-Committee that the premises does suffer from poor management control and the Sub-Committee lacked faith in the premises licence holder being able to sustainably uphold the licensing objectives, particularly, overnight.
- The Sub-Committee decided not to revoke the licence but to amend the hours for the sale of alcohol to be in line with Lambeth's Licensing Policy, namely 08.00-23:00 hours and to impose the conditions set out on pages 211-213 with amendments.
- From the business model heard, the Sub-Committee did not have faith that the factors that prompted the review would not reoccur without the reduction in hours to the licensing operating schedule.
- The Sub-Committee was satisfied that the amendments would appropriately and proportionately address the issues arising from this review. Further full written reasons would be provided in due course.



**RESOLVED:** To grant the application review and impose amendments and further conditions as follows:

#### **Amendments**

Operational hours for the supply of alcohol be amended from 00:00-00:00 hours Monday to Sunday to 08:00-23:00 hours.

#### **Conditions by Licensing Authority and Trading Standards**

1. The premises shall not sell ales, beer, lager or cider or similar above 7.5% abv (alcohol by volume).

#### **Protection of Children from Harm**

2. The premises shall operate a proof of age scheme (minimum Challenge 25). Under such scheme the only forms of acceptable identification will be photographic identification cards, such as driving licences, passports or proof of age cards bearing the "PASS" mark hologram.

This list of approved identification may be amended or revised from time to time in accordance with guidance issued by the Secretary of State or with the Police and Lambeth Council.

3. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises with a particular emphasis on the alcohol display area and checkout locations.
4. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.

Induction training must be completed prior to any sales being made by an individual and company refresher training shall be provided at least every six months.

All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or an authorised Officers of Lambeth Council.

5. An incident log or logs shall be maintained and kept at the premises; the logs shall record the following:
  - Crimes reported
  - Complaints received
  - Incidents of disorder
  - Seizures of weapons or drugs
  - Faults with the CCTV system
  - Alcohol refusals
  - Visits from relevant authorities or emergency services

Such log/s shall be available to a Police Officer or Officer of Lambeth Council upon request.

#### **Prevention of Crime and Disorder**

6. The Premises Licence Holder shall install and maintain a comprehensive CCTV system. The system shall cover all entry and exit points from the premises and be capable of allowing the Police to be able to performing frontal recognition of customers who enter the premises. Images recorded shall be retained for a minimum of 31 days and shall be both date and time stamped.

Recordings shall be made available upon request to the Police or an Officer of Lambeth Council.

The Premises Licence Holder shall ensure that at all times when the premises are open there is a staff member working in store who is conversant with the CCTV system.

7. No paper or plastic cups will be kept behind the counter, and they are not to be sold or given away with alcohol.
8. The Premises Licence Holder will work with People Force International, or similar agency and carry out checks on staff on the Home Office website to verify identification, visas and right to work documentation. Records will be kept and copies of any such documentation will be kept at the premises and will be made available to Police, Immigration, or Council Officers on request.
9. No new member of staff will be able to work at the premises (including any trial period) unless they have provided satisfactory proof of identification and right to work documentation.
10. All documents for members of staff will be retained for a period of 12 months post termination of employment, at the premises and will be made available to Police, Immigration or Council Officers on request.

#### **Prevention of Public Nuisance**

11. The premises shall display signage which informs customers of the presence of the CCTV system and that recording is in operation.
12. No open vessels containing alcohol shall be allowed off the premises.

#### **4b KWIK STOP, 72 BRIXTON HILL, LONDON, SW2 1QW (BRIXTON HILL)**

##### **Presentation by Licensing Officer**

The Sub-Committee was informed that this was an application for a review of the current premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance (April 2017) and to Sections 1, 5, 6, 7, 8, 10, 11 and 19 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.10 of the report on page 11 of the agenda papers.

**Decision Notice – Review of Premises Licences**

<b>MEMBERS PRESENT:</b>	Councillor J Baugh - Chairman of the Licensing Sub-Committee Councillor H Johnson Councillor Mrs S Wilson Councillor Mrs J Allen (Reserve)
<b>PREMISES:</b>	Cost Cutter 9-11 High Street Halstead Essex CO9 2AA  Cross Road Stores 39 Cross Road Witham Essex CM8 2NA
<b>APPLICANT:</b>	Essex Police
<b>PREMISES LICENCE HOLDER</b>	Goldline Fuel Ltd T/A Homeneed Express, 797 Harrow Road, Wembley, HA0 2LP (Cost Cutter, Halstead)  Sivakumaran Kumarasamy,
<b>DATE OF HEARING:</b>	Tuesday 28th November 2017
<b>DATE OF NOTICE:</b>	Friday 1st December 2017

**Decision:** It is the decision of the Licensing Sub-Committee Hearing held on 28th November 2017 to **modify the conditions** of the **Premises Licences** for the premises **Cost Cutter, 9-11 High Street, Halstead, Essex CO9 2AA** and **Cross Road Stores, 39 Cross Road, Witham, Essex CM8 2NA** for the promotion of the licensing objective of the prevention of crime and disorder.

Further to Section 52(11)(a) and (b) of the Licensing Act 2003, the decision of the Licensing Sub-Committee does not have effect until the end of the period given for appealing against the decision or if the decision is appealed against, until the appeal is disposed of.

**Rights of Appeal are set out at the end of this Decision Notice.**

### Reasons for Decision:

The Sub-Committee has read the submissions made prior to the Hearing and has listened to the submissions made during the Hearing by Counsel for the Premises Licence Holder and the Applicant, Essex Police.

In reaching this decision, the Sub-Committee has had regard to the Council's own Statement of Licensing Policy together with the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (April 2017), in particular paragraphs 2.6, 11.20 and 11.24 to 11.28, and to the cases of *East Lindsey District Council v Hanif (t/a Zara's Restaurant and Takeaway)* and *R (on the application of Bassetlaw District Council) v Worksop Magistrates' Court*.

The Sub-Committee is mindful that this matter has been considered previously by a Licensing Sub-Committee at a Hearing in March 2017 and that the decisions of that Sub-Committee to revoke the Premises Licences were appealed to the Magistrates' Court. Following discussions between the Appellant (the Premises Licence Holder) and the Respondent (the Council), it was agreed that the matter would be remitted back to the Council for re-determination in accordance with the provisions of the Licensing Act 2003 and a Magistrates Court Order was made to this effect<sup>1</sup>.

This Hearing is a fresh Hearing taking into account the original evidence submitted to the review Hearing held in March 2017 and all information submitted up to and including the submissions at the Hearing held today, 28th November 2017. The Sub-Committee considers that the focus of this matter is the Premises Licence Holder's conduct and his management of the premises to ensure that the licensing objective of the prevention of crime and disorder is promoted. The Hearing arises following a visit to the premises on 9th November 2016 by the Home Office Immigration Service, who identified employees who did not have a right to work in accordance with immigration legislation. No representations have been made to the Sub-Committee regarding the premises in respect of the licensing objectives of the protection of children from harm; the prevention of public nuisance; and public safety. Nor were there any other issues raised under the prevention of crime and disorder objective.

Essex Police, as the Responsible Authority, has submitted that they have fundamental issues with the Licence Holder's management arrangements for the premises based upon the evidence provided in November 2016. Essex Police consider that there is no trust in the Premises Licence Holder and that he is not committed to maintaining the licensing objective of the prevention of crime and disorder. The Sub-Committee understands that it is the view of the Applicant that revocation of the Licences is the only step which can be taken due to the seriousness of what occurred in November 2016 and that this would send a strong message to other Premises Licence Holders. In their submission (and in response to questions by Members of the Sub-Committee) the Applicant and their witness from the Home Office Immigration Service advised the Sub-Committee that there have been no further visits to the

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<sup>1</sup> Order of the Essex Magistrates Court – 17<sup>th</sup> August 2017 (Case Number 421700253880 and 421700253503)

premises, or other checks by the Home Office and Essex Police since November 2016. In advising the Sub-Committee, both Authorities have advised that their investigations are intelligence-led and they cannot proactively monitor the premises due to a lack of resources, placing heavy reliance on "trust", that is trusting that Premises Licence Holders do not commit offences or carry out activities which undermine the licensing objective of the prevention of crime and disorder.

Mr Kumarasamy has previously advised the Sub-Committee that he has 30 years' experience in the retail convenience store industry with the last 4 ½ years (approximately) being in premises holding premises licences under the Licensing Act 2003. Notwithstanding this experience, it is the Applicant's view and that of its witness that the licence holder did not and continues not to have proper regard to his responsibilities for ensuring that his employees have the right to work.

Whilst the Sub-Committee is mindful of the submission of the Applicant that they do not have the resources to monitor these premises and that they rely upon intelligence, it must therefore conclude that there have been no further activities at the premises since November 2016 which undermine the licensing objective for the prevention of crime and disorder.

Notwithstanding the time that has passed since the visits in November 2016, the Sub-Committee is concerned that a request for the revocation of the licence has been made, but the Responsible Authority which triggered the review has not continued to monitor the premises in such a way as to provide evidence to support their request having regard to the Licensing Authority's obligation to make a proportionate evidence-based decision.

The Sub-Committee, whilst mindful of the Statutory Guidance which states that immigration matters should be treated particularly seriously and acknowledging that matters found during the Home Office visit in November 2016 are serious, observes that no evidence has been presented since November 2016 that there has been a repeat of the issues found at that time.

In submission to the Sub-Committee, Counsel for the Premises Licence Holder has advised that, notwithstanding the original immigration matters, the premises have operated in such a way that there has been compliance with the licensing objectives, namely there have been no complaints, or breaches of licence conditions.

Via the submissions of the Licence Holder's Counsel and their witness from People Force International Limited, evidence has been provided that checks have been carried out on all employees at both premises and that they have the right to work. Also, processes have been put in place to ensure that all future employees are checked prior to engagement and thereafter the status of all employees will be subject to periodic monitoring.

Counsel for the Premises Licence Holder informed the Sub-Committee also that the former employee known as "Joseph" (Mr ' has been the subject of a successful immigration appeal and he is now working elsewhere in the area.

Furthermore, whilst acknowledging the seriousness of the immigration offences, Counsel also reminded the Sub-Committee that without a premises licence the premises could still operate as convenience stores. The Sub-Committee acknowledges that a revocation would not be an absolute deterrent to employing illegal workers as there is no power of closure of the shops attached to revocation of the premises licences.

Whilst the Sub-Committee acknowledges that the Premises Licence Holder and the former DPS did not carry out employment checks correctly, including requiring the production of necessary documentation to prove that staff had the right to work, the Sub-Committee is persuaded that sufficient checks have now been implemented with the engagement of People Force International Limited and their procedures.

Also, since the Home Office Immigration Service's visit in November 2016 there has been a change of Designated Premises Supervisor (DPS) for both premises. On 28th June 2017, the DPS for Cost Cutter changed to Pirathas Selvarajah and on 14th September 2017, the DPS for Cross Road Stores changed to Susan Jeffery. In light of these changes, the Sub-Committee does not consider that removing the DPS is an option which it can exercise as these individuals were not the DPS at the time of the Home Office Immigration Service's visit.

The Sub-Committee is mindful of the Statutory Guidance contained within paragraph 11.26, that its duty is to take steps with a view to promoting the licensing objectives in the interests of the wider community and not those of an individual licence holder. Whilst the Sub-Committee acknowledges the Applicant's contention that it is in the public interest to revoke the premises licences due to the employment of illegal workers; the associated harm to them; and its effect on legitimate businesses; people seeking employment; and the generation of income for the Inland Revenue, it is not persuaded by this argument as revocation of the premises licence would not be an absolute deterrent, as previously stated.

Having regard to paragraphs 2.6 and 11.20 of the Statutory Guidance, the Sub-Committee is satisfied that the addition of the conditions submitted by the Premises Licence Holder prior to the Hearing (as set out below Nos. (1) to (4)) and the following condition offered during the Hearing would be an appropriate and proportionate response to address the concerns that the Applicant continues to have in respect of the Premises Licence Holder and in order to promote the licensing objective:

#### Condition

That an independent contractor is appointed to carry out random unannounced periodic compliance audits of staff employment records and checks as required by conditions (1) to (4) set out below. The results of the compliance audits are to be provided to the Police, the Immigration Service and the Licensing Authority. The appointment of the contractor is to be made within two months of this Decision Notice.

- 1) The Premises Licence Holder will operate a full human resources management system where all relevant documents are stored for each individual member of staff.
- 2) All documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration, or Licensing Officers on request.
- 3) The Premises Licence Holder will work with People Force International Limited (or any other similar agency) to carry out checks on the Home Office website and verify identification documents such as visas and right to work documents to ensure that all new members of staff can be legally employed.
- 4) No new member of staff will be able to work at the premises unless they have provided satisfactory proof of identification and right to work.

End of Reasons for Decision.

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Right of Appeal

If you wish to appeal against the Council's decision you must do so in writing within 21 days of being notified of the Council's decision to the Magistrates' Court. A fee must be paid to the Magistrates' Court and your application should be sent to the

Chelmsford Magistrates' Court  
Court Administration Centre  
P.O. Box 10754  
Chelmsford  
Essex  
CM1 9PZ

Telephone: 01245 313300.

Email - enquires: [esosprey@hmcts.gsi.gov.uk](mailto:esosprey@hmcts.gsi.gov.uk)

For further guidance on Appeals to the Magistrates' Court, please contact the Magistrates Court or seek independent legal advice.

