



Licensing Sub-Committee

Friday, 29th September, 2017 at 2.00 pm

Goodwood Room, Parkside, Chartway, Horsham

Councillors: Paul Marshall
Godfrey Newman
Jim Sanson

You are summoned to the meeting to transact the following business

Tom Crowley
Chief Executive

Agenda

Page No.

1. **Election of Chairman for the meeting**
2. **Apologies for absence**
3. **Declarations of Members' Interests**
To receive any declarations of interest from Members of the Committee
4. **Announcements**
To receive any announcements from the Chairman of the Committee or the Chief Executive
5. **Review Application for Consideration** 3 - 60
To consider an application for the review of a Premises License, under Section 51 of the Licensing Act 2003, in respect of The Indian Cottage, London Road, Ashington

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Report to Licensing Sub Committee

Date of Meeting: 29 September 2107

By the Head of Environmental Health & Licensing

DECISION REQUIRED

Not Exempt



Application for the Review of a Premises Licence under Section 51 of the Licensing Act 2003

Executive Summary

On the 03 August 2017, the Chief Immigration Officer for The South East – Immigration Compliance and Enforcement Team based at The Home Office, Timberham House, World Cargo Centre, Gatwick Airport, West Sussex, RH6 0EZ submitted a review application in respect of The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT.

Following three (3) enforcement inspections within a twelve (12) month period starting July 2016 conducted by The Immigration Compliance and Enforcement Team at The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT., and on each occasion a number of illegal employees were found to be working with the incorrect immigration status.

The purpose of the hearing is for the Licensing Sub-Committee to consider the Review Application, in relation to the Licensing Act 2003's Licensing Objectives. The relevant Licensing objectives being:

- The prevention of crime and disorder

The Chief Immigration Officer seeks to have the premises licence revoked.

Recommendations

The Sub- Committee is recommended:

- i) To determine the application for the review of the premises licence.

Reasons for Recommendations

- i) The Sub-Committee is required to make a decision under the Licensing Act 2003

Background Papers

1. Review Application (Appendix 1)
2. Immigration Officer's Supporting Statements (Appendix 2)
3. Supporting representation from Sussex Police (Appendix 3)
4. Premises Licence (Appendix 4)
5. Plans (Appendix 5)
6. Notification of review letter to the Premises Licence Holders (Appendix 6)
7. Stated Legal Case (Appendix 7)
8. Newspaper Reports (Appendix 8)
9. Public Notices (Appendix 9)

Wards affected:

Chanctonbury

Contact

Chris Boyle, Licensing Officer, extension 5578

Background Information

1 Introduction and Background

- 1.1 For the Sub-Committee to determine the application for the review of an existing premises licence
- 1.2 At present The Indian Cottage benefits from a premises licence that was granted on the 04 January 2006 and the existing premises licence holders are Mr Bodruz Raman, Mr Jashim Uddin and Mr Kaher Zaman as the applicants and premises licence holders

The granting of the above mentioned premises licence allows the following licensable activities to take place:

Premises open to the public:

Everyday 08:00hrs - 00:00hrs

Sale and supply of alcohol by retail for consumption on the premises only:

Everyday 12:00hrs - 23:30hrs

Any playing of recorded music.

Everyday 12:00hrs - 00:00hrs

The Provision of Late Night Refreshment

Everyday 23:00hrs - 00:00hrs

2 Relevant Council policy

- 2.1 Statement of Licensing Policy dated January 2014

3 Details

- 3.1 The Indian Cottage Restaurant is a centrally located Indian restaurant in the town of Ashington and has been trading for many years.
- 3.2 On the 03 August 2017, the Chief Immigration Officer for The South East – Immigration Compliance and Enforcement Team based at The Home Office, Timberham House, World Cargo Centre, Gatwick Airport, West Sussex, RH6 0EZ submitted a review application in respect of The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT.

Following three (3) enforcement inspections on the 14 July 2016, 18 November 2016 and 31 May 2017 at The Indian Cottage conducted by The Immigration Compliance and Enforcement Team and on each occasion a number of employees were found to be working with the incorrect immigration status.

The Chief Immigration Officer has made an application to the Council for the Council to revoke the premises licence.

4 Next Steps

The Licensing Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives.

- 4.2 In making its decision, the Sub-Committee is also required to have regard to Guidance issued under the Section 182 Licensing Act 2003 (as amended) and the Council's own Licensing Policy
- 4.3 The Sub-Committee must take one of the following steps as it considers necessary for the promotion of the Licensing Objectives:
 - To modify the existing conditions on the premises licence
 - To exclude a licensable activity from the scope of the premises licence
 - To remove the Designated Premises Supervisor
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
- 4.4 The Sub Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the four licensing objectives.

5 Outcome of Consultations

- 5.1 The application was advertised on The Horsham District Council's website and notices were displayed on the premises
- 5.2 A copy of the application was served on all statutory Consultees in accordance with the provisions contained within the Licensing Act 2003 and its associated regulations.
- 5.3 The following consultation responses were received:
 - 5.3.1 **Sussex Police** – Representation In Support of Review
 - 5.3.2 **Local Planning Authority** – No Supporting Representation

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Resource Consequences

- 7.1 None

8 Legal Consequences

- 8.1 The Council has a duty to determine the application under the Licensing Act 2003

9 Risk Assessment

- 9.1 This application does not relate to any of the specific risks on the Corporate Risk Register.

10 Other Considerations

- 10.1 The Sub-Committee are to determine the application under the following four licensing objectives.
- The prevention of crime and disorder.
 - The prevention of public nuisance.
 - The protection of children from harm.
 - Public Safety.
- 10.2 The operation of the Licensing Sub-Committee is a quasi-judicial function and as such particular regard is to be had to Article 6 'the right to a fair trial'.

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PUBLIC HEALTH AND LICENSING



| <i>For Office use only</i> | |
|------------------------------------|-----------------|
| <i>Caps Application No.</i> | |
| <i>Licence Number</i> | LI/05/1014/PREM |

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
 If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
 You may wish to keep a copy of the completed form for your records.

I Chief Immigration Officer Elliot Andrews

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

| | |
|---|---------------------------|
| Postal address of premises or, if none, ordnance survey map reference or description Indian Cottage London Road West Sussex | |
| Post town Ashington | Post code RH20 3JT |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Mr Bodruz Raman <div style="background-color: black; width: 100px; height: 20px; margin-top: 5px;"></div> <div style="background-color: black; width: 80px; height: 20px; margin-top: 5px;"></div> Mr Jashim Uddin <div style="background-color: black; width: 100px; height: 20px; margin-top: 5px;"></div> <div style="background-color: black; width: 80px; height: 20px; margin-top: 5px;"></div> |
|---|

Mr Kaher Zaman

Number of premises licence or club premises certificate (if known)
LI/05/1014/PREM

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

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

☒

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

☐

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

Please tick ✓ yes

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

**South East - Immigration Compliance & Enforcement (ICE) Team
Immigration Enforcement
Home Office**

**Timberham House, World Cargo Centre
Gatwick Airport, RH6 0EZ**

Telephone number (if any)

██████████

E-mail address (optional)

██

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

☒
☐
☐
☐

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

Immigration Enforcement contend that the Licensing Objective of:

- i) Prevention of crime & disorder

has been seriously undermined by the Premises Licence Holders who, between two premises, have been found to be employing illegal workers who have no right to work in the United Kingdom due to their immigration status.

The Indian Cottage, Ashington (LI/05/1014/PREM) is one of a number of premises in the West Sussex Division which have, in recent months, been subject to enforcement action by Immigration Officers from the Sussex Immigration Compliance and Enforcement Team of the Home Office.

The Cottage Tandoori restaurant in Storrington with the same premises management, premises licence LI/05/1009/PREM, has also been subject to similar enforcement action and is also subject of a review application sought by Immigration Enforcement

The enforcement visits for these premises were conducted over an 11 month period (July 2016 – June 2017) and a total of 9 instances of illegal working were identified across both premises; that is persons were found to be employed who have no right to work in the UK (on some occasions the same persons were encountered at the 2nd and 3rd visits to these premises).

A total of £120,000 penalty has been issued by the Home Office to the premises licence holders as a result of their employment of illegal workers. This penalty amount relates to penalties issued from the 1st and 2nd enforcement visits to the premises, the decision regarding the potential penalties relating to the 3rd enforcement visit currently remains outstanding. To date none of these civil penalties has been paid by the premises licence holders, neither did they appeal/object in court the decision to issue these penalties. The penalties for the Ashington premises were issued to Kaher Zaman & Sons Limited. Companies House shows that Mr Kaher Zaman is the sole director.

Appropriate checks had not been made at either premises by the Premises Licence Holders to ensure that all the staff employed had the right to work in the United Kingdom.

Sleeping areas for multiple persons were identified by immigration officers at the premises.

The premises licences holders for The Indian Cottage Restaurant, Ashington are; Mr Bodruz Raman, Mr Jashim Uddin and Mr Kaher Zaman and the grounds for the review relate to the employment of illegal workers.

The time lapse between the dates of the incidents and the ultimate submission of the Review applications has been in part due to the ongoing enforcement action by the Sussex Immigration Compliance and Enforcement Team.

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

A timeline of Immigration Enforcement's involvement with the Ashington premises is as follows:

25/08/2016 - Enforcement visit conducted to Indian Cottage, Ashington. Search Warrant under Paragraph 17 (2), Schedule 2, Immigration Act 1971 (as amended) executed. 4x illegal workers identified during the visit. 3 of these persons were arrested & detained at an Immigration Removal Centre. As a result of this enforcement visit a Civil Penalty of £60,000 was issued to the business (Kaher Zaman & Sons Limited) on 20/10/2016.

18/11/2016 Enforcement visit conducted to Indian Cottage, Ashington. Search Warrant under Paragraph 17 (2), Schedule 2, Immigration Act 1971 (as amended) executed. 4x illegal workers identified during the visit. 2 of these persons were arrested & detained at an Immigration Removal Centre. 2 illegal workers had also been encountered working illegally at the premises during the visit on the 25/08/16. As a result of this enforcement visit a Civil Penalty of £60,000 was issued to the business (Kaher Zaman & Sons Limited) on 16/02/2017.

22/06/2017 - Enforcement visit conducted to Indian Cottage, Ashington. Entry gained under S179 of the Licensing Act. 1x illegal worker identified during the visit, that is persons found to be employed by the premises who had no permission to work in the UK. This person was arrested and detained. A notice of potential liability was issued to the premises licence holder, informing them that unless they can prove they conducted the correct right to work checks they would be liable to a penalty of up to £20,000 per worker – therefore on this occasion the business faces a potential further penalty of £20,000. The result of this potential liability is still pending.

While it is noted that these cases are currently being dealt with by way of a civil penalty that does not alter the fact that the licensing objective of the prevention of crime and disorder has been undermined by the actions of the premises licence holder and/or the DPS on each occasion.

Staff who are not officially registered as employees will not be afforded protection under employment law or other safeguarding mechanisms. The males employed across the premises could not have provided the requisite paperwork, national insurance number, nor tax code. This not only defrauds Her Majesty's Revenue & Customs but can lead to the exploitation of vulnerable individuals. In this instance the failure to put appropriate checks in place has resulted in multiple individuals being unlawfully employed at both premises. The licensing objectives are in place for the avoidance of future harm and, as cited in the High Court ruling in relation to East Lindsey District Council v Abu Hanif, where there is evidence of defrauding HMRC, exploitation of vulnerable workers and a failure to pay the minimum wage, then in those circumstances, albeit being dealt with by way of civil penalty, the crime and

disorder licensing objective is clearly engaged.

The Revised Guidance under Section 182 of the Licensing Act 2003 states;

11.26 Where the licensing Authority is conducting a Review on the grounds that the premises has been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

It further states;

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the premises:

- *For knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter*

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered

Immigration Enforcement contends that despite repeated intervention from ourselves, offences have been repeatedly committed which cannot be allowed to continue. Having considered the alternatives, it is requested that the Licensing Committee seriously consider revocation of this premises licence. This will send a strong message that that the Local Authority are proactively combating the exploitation of workers, by ensuring employers take seriously their responsibilities in relation to the legislation and to the people within their employ.

Philip Kolvin QC reports on an important High Court ruling after a restaurant owner appealed the revocation of his premises licence over the employment of an illegal worker.

In *East Lindsey District Council v Abu Hanif (trading as Zara's restaurant and takeaway)* a High Court Judge has restored a licensing authority's decision to revoke a premises licence for employment of an illegal worker.

Zara's restaurant traded in East Lindsey. The owner and licensee was Mr Hanif. After a raid by the immigration authorities it was discovered that Mr Hanif was employing an illegal worker.

The Police brought review proceedings and the licensing authority revoked the premises licence. Mr Hanif appealed. At the appeal, which was heard by District Judge Veits, his counsel argued before the District Judge that, since Mr Hanif had not been prosecuted for employing an illegal worker under section 21 Immigration, Asylum and Nationality Act 2006, but had merely been given a civil penalty under section 15 of that legislation, the crime prevention objective was not engaged.

At the hearing of the magistrates' appeal, it was established that Mr Hanif had employed the illegal worker without paperwork showing a right to work in the UK, he had paid him cash in hand, he paid him less than the minimum wage, he did not keep or maintain PAYE records and that, while he had deducted tax from the worker's salary, he failed to account to the HMRC for the tax deducted.

The District Judge held that because prosecution proceedings had not been brought, and no crime had been reported, the crime prevention objective was not engaged; and that in any event the failure to pay the minimum wage had not been the main basis of the licensing authority's decision.

The council appealed by way of case stated. It argued that it is 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. The licensing objectives are prospective, and are concerned with the avoidance of harm in the future. The matter came before Mr Justice Jay. He accepted all of the council's arguments. In his view, there was clear evidence of the commission of criminal offences, both in relation to the non-payment of the minimum wage and also tax evasion. As for the offence of knowingly employing an illegal worker, he considered that, based on the fact that the employee could not provide the requisite paperwork, a national insurance number or a tax code, the clear inference was that Mr Hanif well knew that he was employing an illegal worker. A deterrent approach was justified on the facts.

Mr Justice Jay decided that remission of the case to the Magistrates' Court was not appropriate, since he considered that the council's decision to revoke was clearly correct. In reaching that decision, the Learned Judge pointed out that employing an illegal worker involves not only defrauding the Revenue, but

also the exploitation of vulnerable individuals including, here, by not paying them the minimum wage.

The Learned Judge ordered Mr Hanif to pay costs in the High Court in the sum of £15,000 and ordered costs of the Magistrates' proceedings in the sum of £4,000.

Reflecting the importance of the principle that it is not necessary for a prosecution to be brought in order for the crime prevention objective to be engaged, Mr Justice Jay certified the case as appropriate for citation in future cases under the relevant Practice Direction. This means that the judgment can be cited in future cases.

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

Please

☒ **No**

If yes please state the date of that application

Day Month Year

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

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

tick ✓ yes

Please

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....Elliot

Andrews.....

Date **14/07/2017**

Capacity **Chief Immigration Officer, South East Immigration, Compliance & Enforcement (ICE)**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

**Timberham House, World Cargo Centre
Gatwick Airport, RH6 0EZ**

Post town

Post Code

Telephone number (if any) [REDACTED]

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) [REDACTED]

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

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RESTRICTED (when complete)**WITNESS STATEMENT**

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

URN

Statement of: **Simon Lockwood - 9055**

Age if under 18: o/18 'over 18'

(if over 18 insert 'over 18')

Occupation: Immigration Officer

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature:

Date: **18/11/2016**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

On **Friday 18th November 2016** I was on duty and in full uniform when I attended '**INDIAN COTTAGE, LONDON ROAD, ASHINGTON, RH20 3JT**' with Immigration Officer (IO'S) **STOCKBRIDGE, UNDERDOWN, TUTTON, DOHERTY**, Assistant Director (AD) **LEDERLE** and Special Constable PC **JAMES SCS2786**. I was the Officer in charge (OIC) of the visit and my warrant number in **9055**.

At **19:29** hours the team and I entered the premises with a **17(2)** search warrant obtained from Sussex Magistrates to enter the premises. Myself, **IO STOCKBRIDGE, IO TUTTON, IO DOHERTY** and **AD LEDERLE** entered the premises through the front. The premises was open at the time of the visit and I executed the **17(2)** warrant on the first person encountered. Upon entry there were 2x males working behind the counter. One of the males working behind the counter was a _____, I know this to be him as he was the target of our previous visit to the '**INDIAN COTTAGE, LONDON ROAD, ASHINGTON, RH20 3JT**'. _____ was wearing a smart white shirt, black tie with black trousers. _____ was operating the card machine and carrying a bag containing food which he was giving to a customer. _____ said to me as I entered "**I'm not working, just helping out**". He along with other staff members encountered were asked to sit in a quiet part of the restaurant to be screened. I cleared 2x persons immediately as they were previously encountered at the premises and cleared as British nationals, they continued to run the business whilst screening took place.

At **20:06** I spoke to a _____ who stated he was the manager of the restaurant and one of the persons cleared a GBR national. _____

I asked _____ questions in relation to the workers at the '**INDIAN COTTAGE, LONDON ROAD, ASHINGTON, RH20 3JT**'. _____

These questions were written contemporaneously in my pocket notebook **IE010913**, a copy of which is included with this statement. _____

I asked Mr _____ the following questions: _____

Question: Mr _____ do you employ anyone at the '**INDIAN COTTAGE**'? _____

Answer: No, I am only the manager. _____

Question: Who does employ workers for the '**INDIAN COTTAGE**'? _____

Signature:

Signature witnessed by

MG 11T (CONT)

Answer: Mr _____ the owner. _____

Question: Can I have his number in case I need to call him? _____

Answer: _____ or _____

At 20:11 I finished asking questions regarding the workers at 'INDIAN COTTAGE'. _____

At 21:00 hours I served a notice referral on Mr _____ explained its contents and asked him to give it to Mr _____, the remainder of the team left the premises without issue. _____

Signature: _____

Signature witnessed by: _____

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN 46

Statement of: **Andrew Tutton**Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Immigration Officer**

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.

Signature: _____ Date: **23/11/2016**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am an Immigration Officer serving with the Kent Immigration Compliance and Enforcement (ICE) Team based at FRONTIER HOUSE, 7 SHORNCLIFFE ROAD, FOLKESTONE, KENT, CT20 2SH. On Friday, 18th November 2016 I was in uniform and full personal protective equipment; and on duty with officers from Kent and Sussex Immigration, Compliance and Enforcement Team: Immigration Officer (IO) LOCKWOOD (Officer-In-Charge - OIC), IO STOCKBRIDGE, IO DOHERTY, IO UNDERDOWN and Assistant Director (AD) LEDERLE. At approximately 18:00 hours OIC LOCKWOOD gave an operational briefing at TIMBERHAM HOUSE, TIMBERHAM FARM WAY, GATWICK AIRPORT, HORLEY, RH6 0EZ. OIC LOCKWOOD detailed that according to information received suspected immigration offenders were believed to be working at the INDIAN COTTAGE, LONDON ROAD, ASHINGTON, WEST SUSSEX, RH20 3JJ. The target address had been visited by Sussex ICE Team previously and Bangladeshi immigration offenders encountered. Information received stated that further offenders had been engaged to work at the premises by the owner. Any such persons would thus be liable to removal under Schedule 2, 16(2) of the Immigration Act 1971 and therefore arrestable under Schedule 2, 17(1) of the same Act. OIC LOCKWOOD stated that he was in possession of a Schedule 2, 17(2) warrant to enter and search the premises for immigration offenders and to question persons who might present themselves as potential immigration offenders.

On arrival at the premises at approximately 19:30 hours entry was gained by IO STOCKBRIDGE and DOHERTY who swept through to the kitchen area while OIC LOCKWOOD executed the warrant on a staff member present at the front of the establishment. AD LEDERLE and I provided cover for the OIC. Following the sweep of the premises at 19:37 hours I proceeded to the rear of the restaurant where a screening area had been set up to assist in screening the staff members assembled there. At 19:39 hours I commenced screening 1 male staff, who was wearing white chef's clothing, in English recording my questions and the subject's answers in my pocket note book as follows.

Signature: _____ Signature witnessed by: _____

Typed by:

A. TUTTON

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11 (Cont)

Continuation page 2

URN

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Continuation statement of:

A. TUTTON

Q. What is your name?

A.

Q. What is your date of birth?

A. 03/03/1983.

Q. What is your nationality?

A. Bangladeshi

Q. Do you have any ID on you and what is your immigration status?

A. I am signing at W1.

Q. Where do you sign?

A. London Bridge.

I then called IO BROOKER, who was acting as support officer at Timberham House, to check the subject's details and status. IO BROOKER informed that the subject had been encountered on the previous visit to the premises and had been arrested as an overstayer and served form RED.0001 as such on 28th June 2016. The subject had been granted Temporary Release and was currently reporting to BECKET HOUSE REPORTING CENTRE in London and his removals case was being progressed by Removals Casework. IO BROOKER confirmed that the conditions of Temporary Release stated that he had no permission to work. I then commenced an illegal working interview with the subject in English recording my questions and his answers in my pocket note book as follows.

Q. When you were arrested last time you were told that you had no right to work?

A. Yes.

Q. But you are still working?

A. Yes.

Q. What job are you doing?

A. Tandoori Chef.

Q. How many days per week do you work?

A. 6 days.

Q. What hours?

A. I start at 11:00 in the morning or 11:30 and finish at 02:00 in the morning.

Signature

Signature witnessed by

Typed by:

A. TUTTON

RESTRICTED (when complete)

RESTRICTED (when complete)**MG11 (Cont)**

Continuation page 3

URN

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Continuation statement of:

A. TUTTON

Q. How much are you paid?

A. £250.

Q. Per week?

A. Yes.

Q. Where do you live?

A. London.

Q. Not upstairs?

A. No. Sometimes I stay here but mostly in London.

Q. Do you get food here as well?

A. Yes.

Q. So after the last time you were arrested when did you come back to work?

A. 1 month later.

Q. Did you ask for the job or did the manager ask you to come back?

A. I asked.

Q. What did the manager say when you asked?

A. Nothing. I just asked.

Q. Did he ask if you have the right to work?

A. No.

Q. How do you get paid?

A. Cash.

Q. Each week?

A. Yes.

Q. Has there been any change in your circumstances since the last time you were arrested? Your family or medical conditions?

A. No. Same as last time.

The interview was terminated at approximately 19:50 hours. I then checked with the subject whether he had a coat or any other possessions in the restaurant. He stated that his coat was in the kitchen. I informed the subject that as he had no Signature ,

Signature witnessed by

Typed by:

A. TUTTON

RESTRICTED (when complete)

RESTRICTED (when complete)**MG11 (Cont)**

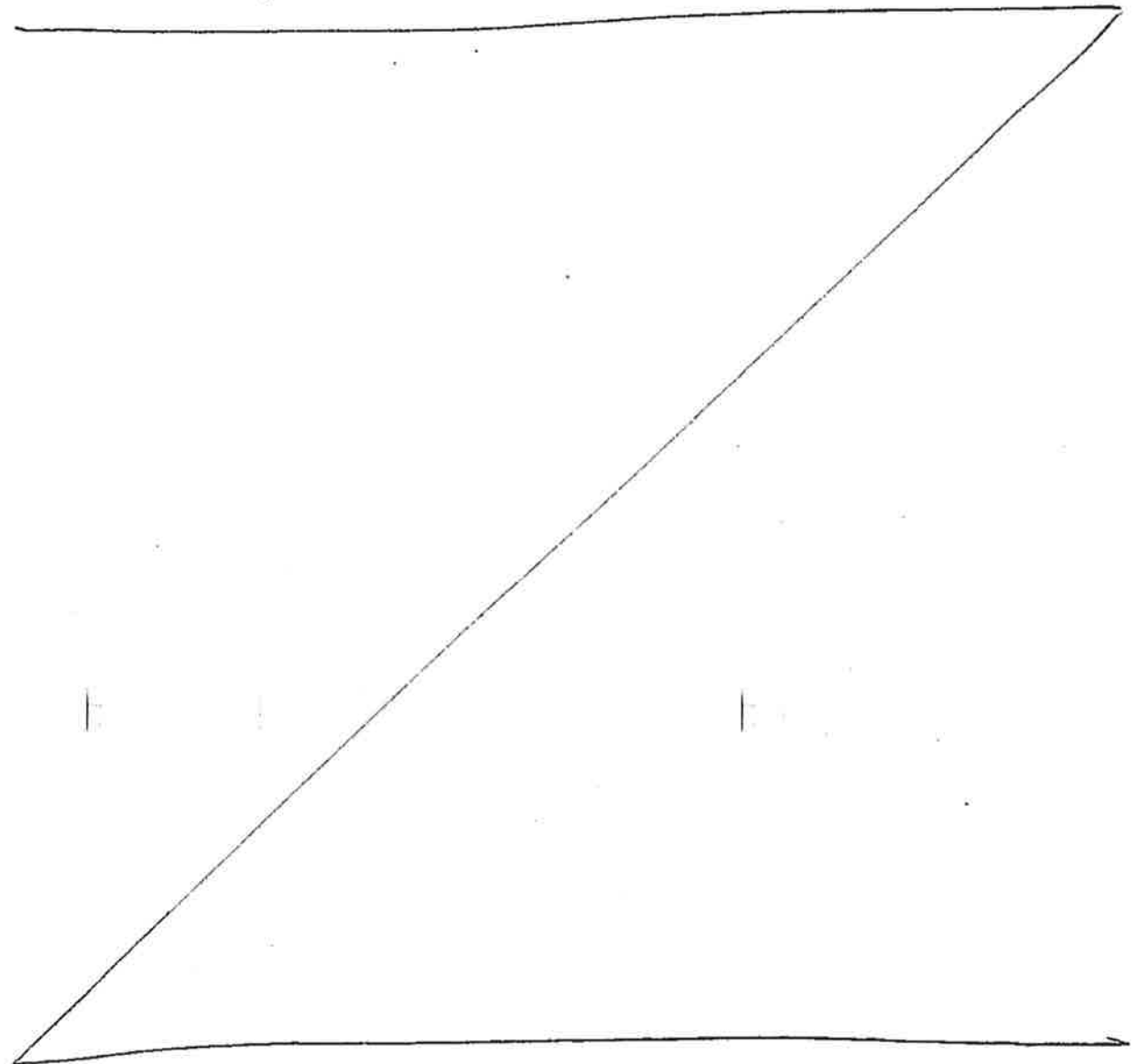
Continuation page 4

URN

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Continuation statement of:

permission to work he could leave the premises voluntarily or I could arrest him and remove him from the premises. The subject agreed to leave voluntarily. I escorted him back into the kitchen to obtain his coat and mobile telephone. The subject then stated that he wished to change his trousers, so at 19:54 hours I escorted him to the upstairs accommodation to change. At 20:00 hours I escorted the subject from the premises to catch a train back to London. I exhibit a copy of my notebook as 'Exhibit AT01'.



Signature

Signature witnessed by

Typed by: A. Tutton

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN 46

Statement of: **Maxine Lee Underdown**Age if under 18: **Over 18**

(If over 18 insert 'over 18') Occupation:

**Immigration Officer
6345**

This statement (consisting of Four 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.

Signature:

Date: **20 November 2016**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am an Immigration Officer attached to the Kent Arrest Team, Frontier House, 7 Shorncliffe Road, Folkestone, Kent, CT20 2SH. On Friday 18 November 2016, I was on duty as part of Kent and Sussex Immigration Enforcement arrest team wearing Immigration Enforcement brand clothing as part of joint working with Sussex at Timberham House. At approximately 17:45 hours, I attended a briefing given by Officer in Charge (OIC) LOCKWOOD at Timberham House, Gatwick, RH6 0EY, also in attendance were IO DOHERTY, IO STOCKBRIDGE, IO TUTTON, AD LEDERLE and SC JAMES. The intention was to conduct a visit executing a 17(2) WARRANT of the 1971 Immigration Act (as amended) on information received relating to a suspected person(s) being illegally employed with no permission to work, and believed to be working at INDIAN COTTAGE, London Road, Ashington, West Sussex, RH20 3JT. In my role of Arrest 3, I maintained rear cover with SC JAMES until called in by OIC Lockwood, entering the premise at 19:35hour with Warrant of Authority and Powers having already having been executed. I swept the premises, declaring upstairs as cleared and at 19:40 hours, I was then directed and commenced to screen male 1 seated in downstairs sterile area, using a Home Office Bengali interpreter, whereby male 1 identified himself as _____ date of birth 05 May 1963, Bangladesh, Male. _____ declared he had no status, having entered United Kingdom 10 years ago on a 6 month family holiday visa and had not left UK. _____ stated he had no permission to work.

Signature:

Signature witnessed by: *N/A*Typed by: *SELF*

RESTRICTED (when complete)

RESTRICTED (when complete)**MG11 (Cont)**

Continuation page 2

URN

46

Continuation statement of:

Home Office systems checks revealed [redacted] has having overstayed his Family Visit Visa valid 22/10/2007 - 22/04/2008. [redacted] subsequently made a claim for Asylum, however this was refused on 31/12/2015. [redacted] failed to regularise his stay in the UK or contact the Home Office and is therefore liable to removal. [redacted] was dressed in employee white with striped kitchen overall as worn by other kitchen staff, and duly photographed in situ. At 19:52 hours I arrested [redacted] 17(1) of the 1971 Immigration Act (as amended) as an Overstayer having remained in UK beyond the period of leave granted to him, having breached Section 10(1)(a) of the Immigration & Asylum Act 1999 (as amended) and had therefore committed an offence under Section 24(1)(b)(i) of the Immigration Act 1971 Act (as amended). I commenced Illegal working questions in format of Question and Answer as follows:

Q Right to Work?

A No, I started this work

Q Job title?

A Kitchen Porter washing dishes

Q How many hours do you work?

A 3 days per week, Friday, Saturday, Sunday 17:00 – 22:30hours

Q Payment?

A £80 cash in hand

Q How many payments so far?

A 3 payments to date

Q Who pays you?

A Boss (no name known or given)

Q Who employed you?

A He is in the building (name not known)

Signature 

Signature witnessed by N/A

Typed by: **RESTRICTED (when complete)**

RESTRICTED (when complete)**MG11 (Cont)**

Continuation page 3

URN

46

Continuation statement of:

Q Accommodation linked?

A yes, first right room

Q Do you have to pay for room or food?

A No

Q Key?

A No, door is holding open

Q Were you asked for any document for work?

A No one asked for anything.

Q How get the job?

A Friend got for me

Q Did someone speak to you for the job? Is he here tonight?

A My friend spoke to me for boss

Q Did you tell anyone your status in UK?

A Everybody knows I am Illegal here, and going back to Bangladesh

Q Flight payment/docs?

A In 1 month £460 for ticket borrowed from friends and family

Q Passport for travel?

A No passport as lost as getting out pass via agency by own Embassy via a Travel Document, have already gone a few weeks ago. I just got birth certificate with friend and will go to the Embassy.

Q Understand liable to detention as no trace or evidence of document or return travel

A Yes, OK.

17:45 Hours Interview concluded whereby,

was escorted upstairs for officers to conduct person

and premises search.

Signature¹

Signature witnessed by N/A

Typed by: *SELF***RESTRICTED (when complete)**

RESTRICTED (when complete)**MG11 (Cont)**

Continuation page 4

URN

46

Continuation statement of:

At 20:44 hours, case referred to AD LEDERLE who further authorised for _____ to be detained, as a claimed voluntary departure with no evidence of claimed birth Certificate or intention, having failed to regularise his stay and failed to comply with Immigration Reporting conditions therein, Notice to a Person Liable to Detention and Removal from the UK under Paragraph 16 of Schedule 2 of the 1971 Immigration Act (as amended). At 20:45hours, I escorted _____ to cell van for. I exhibit copy of PNB 003928 attached MU/01.

Signature

Signature witnessed by N/A

Typed by: SELF

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN 46

Statement of: **Michael William STOCKBRIDGE**Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Immigration Officer**

This statement (consisting of two 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.

Signature: _____

Date: **18/11/2016**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am an IMMIGRATION OFFICER attached to KENT ARREST TEAM, FRONTIER HOUSE, 7 SHORNCLIFFE ROAD, FOLKESTONE, KENT, CT20 2SH. On Friday 18th November 2016 at 15:00 hrs, I was on duty as part of an immigration enforcement arrest team wearing 'Immigration Enforcement' marked clothing. At approximately 18:15 hrs, I attended a briefing carried out by OIC IO LOCKWOOD, concerning a visit to **INDIAN COTTAGE, LONDON ROAD, ASHINGTON, WEST SUSSEX, RH20 3JT** and was allocated the role of Arrest Officer One (A1). Other persons present at the briefing were IO LOCKWOOD (Officer In Charge of the planned visit), IO DOHERTY, IO TUTTON, AD LEDERLE, IO UNDERDOWN and SC JAMES (all allocated arrest and cover roles).

At approximately 19:34 hrs, I entered the above named premises while displaying my warrant ID card, and witnessed two male subjects working behind the bar. I stated "Immigration officers with a warrant" and directed these two subjects onto my colleague (OIC IO LOCKWOOD) to explain our warrant. I then moved quickly through to the kitchen area of the premise where I witnessed four male subjects working at the stoves. I escorted these four male subjects out of the kitchen area of the premise and into a quiet area of the restaurant itself where I then began screening one of these four, a male subject who I now know to be

NOYON, 06/07/1983, Bangladeshi national. Having obtained these details from the subject, he provided me with his UK provisional Driving Licence and informed me that he lost his passport some six to seven months ago after he was the victim of a pickpocket on a train. The subject also informed me that his most recent visa had expired in 2015 and that he had overstayed his leave in the UK. In light of this information, I therefore arrested **, 06/07/1983, Bangladeshi (male)** as a person who I reasonably suspected was liable for detention pending removal from the United Kingdom, further explaining that this was due to the fact that he had informed me his visa had expired and is therefore considered to be an overstay in the UK. The subject confirmed he understood this. I then escorted the subject upstairs while waiting for officers to become available in the office for checks via telephone. At 20:00 hrs, I spoke to my colleagues at Timberham House, Gatwick Airport via telephone who confirmed that the subject's most recent grant of leave in the UK expired upon 18/04/2015. At 20:05 hrs, I contacted the BigWord interpreting service and obtained a Bengali interpreter who advised me her reference number was "AFR". I then began asking the subject questions relating to his illegal work at the premises, using the BigWord Bengali interpreter named above. The interview went as follows:-----

Q - WHO EMPLOYED YOU AT THIS PREMISES?-----

A - I GOT THE JOB THROUGH AN AGENCY, I DO NOT KNOW THE NAME OF THE AGENCY. THE BOSS OF THE RESTAURANT GIVES ME MONEY. HIS NAME IS .. [Later OIC IO Lockwood informed me that the on-site manager's name was a Mr.]

Q - WHAT WORK DO YOU DO HERE AT THIS PREMISES?-----

A - I AM A COOK HERE-----

Q - WHAT PAYMENT DO YOU RECEIVE FOR COOKING?-----

Signature: _____

Signature witnessed by: _____

Typed by: _____

SELF

RESTRICTED (when complete)

RESTRICTED (when complete)**MG11 (Cont)**

Continuation page 2

URN

46

Continuation statement of:

SELF

A - I GET VERY LITTLE MONEY. FOURTY POUNDS OR FIFTY POUNDS BUT I ALSO GET GIVEN FOOD. I GET THE MONEY WEEKLY. I CAN ALSO LIVE HERE FOR THE WORK.-----

Q - WHAT HOURS AND DAYS OF THE WEEK DO YOU WORK HERE?-----

A - I WORK FRIDAY AND SATURDAY. TWO HOURS IN THE MORNING. IN THE EVENING FROM FIVE PM TO TEN THIRY PM.-----

Q - WHEN DID YOU START WORKING HERE AT THIS PREMISES?-----

A - FIVE OR SIX WEEKS AGO, I HAVE NO DOCUMENTS TO CONFIRM THIS-----

Q - WHAT DOCUMENTS DID YOU SHOW TO THE EMPLOYER TO GET THIS JOB?-----

A - I DID NOT SHOW ANY-----

I went onto ask further questions relating to the subject's medical conditions and family in the UK but concluding my questioning at 20:45 hrs and **06/07/1983, Bangladeshi (male)** signed my Pocket Note Book (PNB) to confirm the above questions and answers as correct. I now exhibit a copy of my PNB as **MS01** and attach it to this statement. I then took a photograph of

his chef whites and I now exhibit this as **MS02** and attach it to this statement. At 20:48 hrs, I conducted a Paragraph 25B of Schedule 2 search of : person in order to look for a document to assist with his removal from the UK but did not locate any documents. At 20:58 hrs, I out of the premise to our cellular vehicle and left the business premise listed with no further relevant incident to report at the premise. **5/07/1983, Bangladeshi**

(male) was named on an Illegal Working Referral Notice (RN) which was served at the premises by OIC IO LOCKWOOD at the time of the visit.

All timings written in this statement are by my watch and may not correlate exactly with other officer's statements.

Signature

Signature witnessed by

Typed by:

*SELF***RESTRICTED (when complete)**

RESTRICTED (when complete)**WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B: Criminal Procedure Rules 2005, Rule 27.1)

URN

Statement of: **Warren HATTON**

Age if under 18: Over 18 (If over 18 insert 'over 18')

Occupation: **Immigration Officer (15422)**

This statement (consisting of **3** page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false or do not believe to be true.

Signature:

Date: **25/08/2016**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am an arrest trained warranted, Immigration Officer (IO) currently serving with the Sussex Immigration Enforcement and Compliance Team (ICE) of the Home Office.

On THURSDAY 25 AUGUST 2016, I was on duty dressed in uniform as the Officer in Charge (OIC) of an Immigration Enforcement visit to a restaurant at the INDIAN COTTAGE, LONDON ROAD, ASHINGTON, PULBOROUGH, WEST SUSSEX, RH20 3JT. The other members of my team present during that visit were Immigration Officers (IO) AKEHURST, CROSSLAND, DOHERTY, LOCKWOOD and WESTON.

On entry to the premises about 18:10 hrs, I executed a magistrates' court warrant under paragraph 17(2) of Schedule 2 of the Immigration Act 1971 (as amended), which I served together with a Notice to Occupier on a male, whom I now know to be , born 8 NOVEMBER 1969, a naturalised British (GBR) male national. I identified myself to with my Home Office Warrant card who informed me that he was the manager and a director of the business. I informed him of the nature and reason for the enforcement visit that there had been an allegation of illegal workers being employed at the restaurant and that a Bangladeshi (BGD) male named , born 9 MARCH 1990, was the named individual sought on the search warrant. He initially denied any knowledge of the person sought stating that he had only worked at the restaurant for a few days after Immigration Officers had last visited the premises on a compliance visit on 8 AUGUST 2016. He confirmed that he was responsible for employing staff and admitted that he had not checked all the staff's documents that they had a right to work before they started work. Upon entry, the restaurant was open for business and members of staff were present in the dining area and kitchen. All members of staff encountered were escorted by members of the team to a sterile area to be screened in the dining area at the rear of the restaurant.

IO AKEHURST informed me that he had arrested a BGD male whom I now know to be , born 9 MARCH 1990, as a person liable to be detained under paragraph 17(1) of Schedule 2 of the Immigration Act 1971 (as amended) who had no right to reside or work in the United Kingdom as he had overstayed his period of leave in the United Kingdom. I was informed that he had been encountered working in the restaurant as a front of house waiter.

Signature

Continuation of statement of: Warren HATTON

IO DOHERTY informed me that she had arrested a BGD male whom I now know to be born 1 JANUARY 1989, as a person liable to be detained under paragraph 17(1) of Schedule 2 of the Immigration Act 1971 (as amended) who had no right to reside or work in the United Kingdom as he had overstayed his period of leave in the United Kingdom. I was informed that he had been encountered working in the restaurant as a member of the kitchen staff.

IO CROSSLAND informed me that he had arrested a BGD male whom I now know to be born 3 MARCH 1983, as a person liable to be detained under paragraph 17(1) of Schedule 2 of the Immigration Act 1971 (as amended) who had no right to reside or work in the United Kingdom as he had overstayed his period of leave in the United Kingdom. I was informed that he had been encountered working in the restaurant as a member of the kitchen staff.

IO WESTON informed me that he had arrested a BGD male whom I now know to be , born 8 JANUARY 1980, as a person liable to be detained under paragraph 17(1) of Schedule 2 of the Immigration Act 1971 (as amended) who had no right to reside or work in the United Kingdom as he had entered the United Kingdom as an illegal entrant. I was informed that he had been encountered working in the restaurant as a member of the kitchen staff.

I questioned regarding the illegal workers found on the premises. He again confirmed that he was the manager of the restaurant and was a company director of the Limited Company, which was owned by . I said to him, "Four workers have been arrested. Why did you not check that they had a right to work in the UK?"

He replied, "THEY HAVE ONLY BEEN WORKING HERE FOR A FEW DAYS AND THEY SAID THEY WOULD SHOW THEIR DOCUMENTS NEXT WEEK."

I asked, "Why did you not check their right to work before they started?"

He said, "WE WERE GOING TO IMPLEMENT THAT AFTER TAKING FURTHER ADVICE AFTER YOUR OFFICERS VISITED."

I said, "That was over two weeks ago. Why have you not checked their documents?"

He replied, "THEY HAVE ONLY BEEN HERE A COUPLE OF DAYS."

I said, "The person named on the warrant has been arrested and was seen working here over two weeks ago. Why have you not checked his documents?"

He said, "I WAS WAITING FOR FURTHER ADVICE AFTER YOUR OFFICERS VISITED."

Signature

Continuation of statement of: Warren HATTON

I said, "You must check that a worker has a right to work before you employ them and allow them to work."

He replied, "I REALISE THAT NOW."

I maintained a contemporaneous record of those questions and answers in my Home Office pocket notebook (serial no: BF012508 pages 34-37), which I read back to at the conclusion of that interview that he agreed and signed as a true and accurate record of that interview. About 19:25 hrs that evening, I served with a Referral Notice warning him that he may be liable for a civil penalty for employing four named suspected illegal workers.

All officers left the premises about 19:42 hrs where three of the BGD male offenders, namely and were detained and escorted from the premises. They were placed in an approved Immigration Enforcement prisoner escort vehicle by members of the team and transported to Immigration Removal Centres at Gatwick Airport to be detained.

There were no incidents of note and no damage caused.

W. HATTON

10 15442

W.H.

Signature

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**Sussex Police**
Serving Sussexwww.sussex.police.uk

Licensing Department,
Horsham District Council,
Parkside,
Chart Way,
Horsham,
RH12 1RL

Neighbourhood Licensing Team West Sussex Division

9th August 2017

Dear Mr Boyle,

With regards to the Home Office Immigration Compliance & Enforcement Team's Application for a Review of the Premises Licence for Indian Cottage, London Road Ashington, West Sussex RH20 3JT; Sussex Police wish to make a representation to support the application.

Sussex Police concur that the Licensing Objective of the prevention of crime and disorder is not being promoted at this premises. Licensing objectives are in place in order that future harm is avoided and, in this case, crime is prevented. The premises licence holders have been found to repeatedly employ persons who have no right to work in the United Kingdom, both at this premises and at a second premises; also subject to a review application sought by the Home Office Immigration Compliance & Enforcement Team. This consistent failure to employ persons lawfully indicates the Designated Premises Supervisor and premises licence holder's inability to recognise and to assume the responsibilities conferred upon them. While this is a civil offence, the employment of these staff members defrauds Her Majesty's Revenue and Customs, where there is a failure to comply with tax and national insurance requirements. Furthermore people employed in this way are not afforded any of the usual protection they might expect under employment law. It is of great concern to Sussex Police that this can lead to vulnerable persons being the victims of exploitation on a daily basis and potentially on a larger scale.

The Home Office guidance at 11.26 at 11.27 and 11.28 as cited in the Review document, submitted by the Home Office Immigration Compliance & Enforcement Team, is quite specific and Sussex Police fully support the request that the Licensing Committee seriously consider revocation of this premises licence.

Yours sincerely

Chief Inspector Ockwell

Part A
Licensing Act 2003 Premises Licence

| | |
|--|---|
| <p>Horsham District Council <i>working in partnership to secure a better quality of life for all</i></p> <p>Public Health and Licensing, Park House, North Street, Horsham, West Sussex. RH12 1RL 01403 215402</p> | <h1>Horsham District Council</h1> |
|--|---|

Premises Licence Number

LI/05/1014/PREM

Part 1 – Premises Details

| | |
|---|------------------------------|
| <p>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</p> <p style="text-align: center;">Indian Cottage London Road Ashington West Sussex RH20 3JT</p> | |
| <p>Telephone number</p> | <p>01903 - 743605</p> |

| |
|--|
| <p>Where the licence is time limited the dates</p> <p>N/A</p> |
|--|

| |
|---|
| <p>Licensable activities authorised by the licence</p> <p>Late Night Refreshment Any playing of recorded music Sale by Retail of Alcohol</p> |
|---|

| |
|--|
| <p>Times the licence authorises the carrying out of licensable activities</p> <p>Late Night Refreshment: Everyday ~ 23:00 - 00:00</p> <p>Any playing of recorded music: Everyday ~ 12:00 - 00:00</p> <p>Sale by Retail of Alcohol: Everyday ~ 12:00 - 23:30</p> |
|--|

The opening hours of the premises

**1_MON ~ 08:00 - 00:00
2_TUE ~ 08:00 - 00:00
3_WED ~ 08:00 - 00:00
4_THU ~ 08:00 - 00:00
5_FRI ~ 08:00 - 00:00
6_SAT ~ 08:00 - 00:00
7_SUN ~ 08:00 - 00:00**

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

ON

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

**Mr Bodruz Raman
25 West Street
Storrington
West Sussex
RH20 4DZ**

**Mr Jashim Uddin
Indian Cottage
London Road
Ashington
West Sussex
RH20 3JT**

**Mr Kaher Zaman
90 Hormar Crescent
Storrington
Pulborough
West Sussex
RH20 4QP**

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

**Mr Jashim Uddin
Indian Cottage
London Road
Ashington
West Sussex
RH20 3JT**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence Number: 10412

Licensing Authority: LONDON BOROUGH OF TOWER HAMLETS

Note

This licence is issued pursuant to the legislation/regulations specified in it only and does not constitute a licence/approval/consent for any other purpose whatsoever, including other legislation, etc., administered by Horsham District Council.

The recipient of this licence is responsible for ensuring that all necessary licences/ approvals/consents/planning permissions, etc., are obtained and the grant of this licence does not constitute a representation that any necessary licences/approvals/consents/planning permissions, etc., will be granted, because each application must be considered separately.

Annex 1 – Mandatory conditions (As specified in Section 19 of the Act)

- (1) If this premises licence authorises the supply/sale of alcohol, the following two conditions apply:**
- i. No supply of alcohol may be made under the premises licence at time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated supervisor does not hold a personal licence or his personal licence is suspended.**
 - ii. Every supply/sale of alcohol under the premises licence must be made or authorised by a person who holds a personal licence**

Annex 2 – Conditions consistent with the Operating Schedule

GENERAL LICENSING OBJECTIVES

The premises will be conducted at all times in accordance with the checklist filed with this application so as to ensure promotion of all four licensing objectives. Non intoxicating drink including water is available to all patrons at all times.

PREVENTION OF CRIME AND DISORDER OBJECTIVES

Customers to the restaurant are not permitted to remove bottles or glasses from the premises. All staff are trained to inform the management if there is any suspicion of drug or drug trafficking on the premises.

PUBLIC SAFETY OBJECTIVES

Regular fire drills are held and staff training is given so that the staff are aware of the location of all fire protection equipment and the action to be followed in the event of fire or evacuation of the premises. Emergency exits are fully maintained and repaired. Staff are trained to recognise signs of any possible spiking of drinks

PREVENTION OF PUBLIC NUISANCE OBJECTIVES

We ensure that all customers do not make unnecessary noise when leaving our premises. We routinely inform our neighbours of any particular event that are to be held in the premises. This happens very infrequently. We do not permit any customer to consume alcohol except within the premises and as an ancillary to their meal.

PROTECTION OF CHILDREN FROM HARM

Children do not ordinarily attend the premises except when they are accompanied by their parents or guardians having a meal. In the almost unique circumstance that persons under the age of 18 attended the premises they would not be served alcohol. The staff are warned upon joining us that they must be alert to any attempt by under age persons to purchase alcohol.

Annex 3 – Conditions attached after Agreement with the Environmental Health Department

- 1. Noise from music, singing and speech, whether amplified or non-amplified should be barely audible outside the nearest noise sensitive premises, such that it is inaudible inside the nearest noise sensitive premises between the hours of 2300 and 0700.**
- 2. Noise from material handling activities e.g. bottle bin emptying, the moving of kegs, barrels, cylinders and waste disposal must not occur between 2300 and 0700 hours.**
- 3. Prominent clear and legible notices will be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly. Management to assist in the control of patrons leaving the premises and advice given to respect the locality and leave the area quietly.**
- 4. Noise from associated plant and machinery should be barely audible outside noise sensitive premises such that it is inaudible inside noise sensitive premises between the 2300 and 0700 hours**

| <i>Signed by Head of Public Health and Licensing</i> | <i>Date</i> |
|--|-------------|
| | |

Annex 4 – Plans

ATTACHED

FILE NOTE – OFFICE USE ONLY

LICENCE NUMBER - LI/05/1014/PREM

DATE THIS LICENCE MUST BE ISSUED –

LICENCE PRODUCED BY - _____

LICENCE CHECKED BY - _____

LICENCE AUTHORISED BY - _____

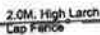
Uniform Checked - YES / NO

DATE THIS LICENCE PLACED IN THE POST _____

SIGNED _____

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PROPOSED FIRST FLOOR PLAN 1:100



— 1:100

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**Mr Jashim Uddin
Indian Cottage
London Road
Ashington
West Sussex
RH20 3JT**

Our ref: LI/05/1014/PERS
E-mail: licensing@horsham.gov.uk
Direct line: 01403 215578
Contact: Chris Boyle
Date: 03 August 2017

**The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT
Application for a review of a premises licence**

Dear Mr Uddin

Applicant: Immigration, Compliance and Enforcement Team.

Horsham District Council has today, Thursday 03 August 2017 received the above application for the review of the existing premises licences.

The closing date for representation from the public and any other statutory consultee or interested party is the 31 August 2017.

You will be notified in due course when a date for the hearing has been set.

If you wish to discuss any of the issues or concerns that have been raised in this letter then you should contact me on the above phone number.

Yours sincerely

Chris Boyle
Licensing Officer
Horsham District Council

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Philip Kolvin QC reports on an important High Court ruling after a restaurant owner appealed the revocation of his premises licence over the employment of an illegal worker.

In *East Lindsey District Council v Abu Hanif (trading as Zara's restaurant and takeaway)* a High Court Judge has restored a licensing authority's decision to revoke a premises licence for employment of an illegal worker.

Zara's restaurant traded in East Lindsey. The owner and licensee was Mr Hanif. After a raid by the immigration authorities it was discovered that Mr Hanif was employing an illegal worker.

The Police brought review proceedings and the licensing authority revoked the premises licence. Mr Hanif appealed. At the appeal, which was heard by District Judge Veits, his counsel argued before the District Judge that, since Mr Hanif had not been prosecuted for employing an illegal worker under section 21 Immigration, Asylum and Nationality Act 2006, but had merely been given a civil penalty under section 15 of that legislation, the crime prevention objective was not engaged.

At the hearing of the magistrates' appeal, it was established that Mr Hanif had employed the illegal worker without paperwork showing a right to work in the UK, he had paid him cash in hand, he paid him less than the minimum wage, he did not keep or maintain PAYE records and that, while he had deducted tax from the worker's salary, he failed to account to the HMRC for the tax deducted.

The District Judge held that because prosecution proceedings had not been brought, and no crime had been reported, the crime prevention objective was not engaged; and that in any event the failure to pay the minimum wage had not been the main basis of the licensing authority's decision.

The council appealed by way of case stated. It argued that it is 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. The licensing objectives are prospective, and are concerned with the avoidance of harm in the future.

The matter came before Mr Justice Jay. He accepted all of the council's arguments. In his view, there was clear evidence of the commission of criminal offences, both in relation to the non-payment of the minimum wage and also tax evasion. As for the offence of knowingly employing an illegal worker, he considered that, based on the fact that the employee could not provide the requisite paperwork, a national insurance number or a tax code, the clear inference was that Mr Hanif well knew that he was employing an illegal worker. A deterrent approach was justified on the facts.

Mr Justice Jay decided that remission of the case to the Magistrates' Court was not appropriate, since he considered that the council's decision to revoke was clearly correct. In reaching that decision, the Learned Judge pointed out that employing an illegal worker involves not only defrauding the Revenue, but also the exploitation of vulnerable individuals including, here, by not paying them the minimum wage.

The Learned Judge ordered Mr Hanif to pay costs in the High Court in the sum of £15,000 and ordered costs of the Magistrates' proceedings in the sum of £4,000.

Reflecting the importance of the principle that it is not necessary for a prosecution to be brought in order for the crime prevention objective to be engaged, Mr Justice Jay certified the case as appropriate for citation in future cases under the relevant Practice Direction. This means that the judgment can be cited in future cases.

[Philip Kolvin QC](#) is head of chambers at [Cornerstone Barristers](#). Together with David Dadds, he appeared for East Lindsey District Council, instructed by Dadds LLP. Philip can be contacted on 020 7242 4986 or [by email](#)

ARTICLE IN THE MIRROR ON LINE

By Andrew Penman

20 July 2017

Laughing in the face of the justice system seems to be routine for one category of - company bosses – the ones who employ illegal immigrants. They avoid paying penalties issued by the Home Office by the simple tactic of shutting down their firms.

Take Kaher Zaman, 48, who lives in a detached mansion in the pretty West Sussex village of Storrington. In 2013 the Home Office issued a £25,000 civil penalty after five illegal workers were discovered at one of his Indian restaurants. He resigned as a director of Zaman & Co (UK) Limited, which was taken over by Sofik Miah, 46.

The following year another four illegal workers were discovered at the restaurant, resulting in an £80,000 penalty. And, by the by, Miah got done for fiddling housing benefit and was given 120 hours' unpaid work by Worthing magistrates.

Then, in 2015, the company was put into liquidation, with both Home Office penalties unpaid. Two weeks ago, Zaman was banned from being a company director for five years, but has continued in the business regardless. The chain of three restaurants now operates under a new company name, IndoBangla Cuisine Limited, with a relative who lives with him as director – Momotaz Zaman.

But it is certificates bearing Zaman's name that I saw plastered over the walls at the Storrington restaurant where he arrived for work in a Range Rover. When asked why the penalties had not been paid he replied: "I don't have to say anything, do I?"

It's worth mentioning that among the losers in this are the immigrants themselves. Zaman housed them in an overcrowded flat with no drinking water and no proper fire escape. The council issued him with a prohibition order which he ignored and in 2015 he was fined £3,334 by Worthing magistrates court after admitting breaching it.

Sadly, there are plenty more cases like this. In Exeter, Mohammed Hossain ran Argee Bhajee Limited, which was caught employing five illegal workers. He was given a penalty of £32,500, none of which was paid and the company went into liquidation. In Aberdeen, one illegal worker was found at Elite Restaurants North-East Limited, run by Anis Tomirun. The £15,000 penalty was still outstanding when the company was liquidated. In Blackpool, Pauline Lai's company Flyde Restaurants was given a £50,000 penalty after immigration officers found five illegal workers at her Chinese eatery. A fraction of the penalty was paid and £49,201 was outstanding when the company was liquidated. This restaurant has a grubby past. In 2010, Ms Lai and her company were fined £2,200 each for food hygiene offences including having mouldy equipment.

In London, Badamgul Khan ran food outlet Garv Limited, which hadn't paid any of its £60,000 penalty for employing six illegal workers when it folded. The Insolvency Service report noted: "Garv ceased trading as it could not continue its business due to the removal of cheap labour." That statement highlights another loser from this racket – legitimate businesses that play by the rules and have to compete with rivals that use illegal tactics to keep their costs down. Another London case is Mandarin Kitchen Limited, where UK Border Agency officers found illegal workers. None of its £10,000 penalty was paid and now the company is no more. These cases amount to penalties of £272,500, of which just £798 has been paid. The bosses have not quite got off scot free, though. In the past few weeks they have all been banned from being company directors for between five and eight years.

In 2015-16, the latest year for which figures are available, 2,594 penalties were issued for employing illegal workers. The total came to £46.2million, of which just £12.5million was paid.

A spokesman for the Home Office insisted: "We robustly pursue debts owed by employers of illegal immigrants." He added: "Illegal working cheats the taxpayer, undercuts honest employers and denies legitimate job seekers employment opportunities." On that, at least, I think we can all agree.



PUBLIC NOTICE
**APPLICATION FOR A REVIEW OF A PREMISES
LICENCE**
LICENSING ACT 2003

An application has been made by The South East - Immigration Compliance & Enforcement (ICE) Team to the Licensing Authority for the Horsham District for a Review of a Premises Licence for the premises known as The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT Premises Licence Number LI/05/1014/PREM

The grounds for the Review application are:

“The South East - Immigration Compliance & Enforcement (ICE) Team believe that one of the four licensing objectives has been compromised, namely: Prevention of Crime and Disorder has been seriously undermined by the Premises Licence Holder who has been found to be employing illegal workers who have no right to work in the United Kingdom due to their immigration status.”

The application can be viewed at the offices of Horsham District Council at Parkside, Chart Way, Horsham, West Sussex. RH12 1RL, during office hours by appointment.

The application can also be viewed on the Council’s web site at www.horsham.gov.uk in the LA2003 section public access.

Any “interested party” or “Responsible Authority” may make representations in writing to Horsham District Council, Parkside, Chart Way, Horsham, West Sussex, RH12 1RL, regarding the Application for Review, to be received midnight on the 31 August 2017.

It is an offence, under section 15b of the Licensing act 2003, to knowingly or recklessly make a false statement in or in connection with an application and the maximum fine on summary conviction of such an offence is £5000.

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