



Email: committeeservices@horsham.gov.uk
Direct line: 01403 215465

Licensing Sub-Committee

Monday, 11th June, 2018 at 10.00 am
Cowdray Room, Parkside, Chart Way, Horsham

Councillors:

John Blackall
Adrian Lee

Mike Morgan
Jim Sanson

You are summoned to the meeting to transact the following business

Glen Chipp
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 Sub-Committee	
4. Announcements To receive any announcements from the Chairman of the Sub-Committee or the Chief Executive	
5. Review Application for Consideration To consider an application for the review of a Premises License, under Section 51 of the Licensing Act 2003, in respect of The Rajkumar, 27-31 Springfield Road, Horsham	3 - 44

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Report to Licensing Sub Committee

Date of Meeting: 11 June 2018

By the Head of Environmental Health & Licensing

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Application for the review of a premises licence under Section 51 of the Licensing Act 2003

Executive Summary

On the 23 April 2018, 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 Rajkumar, 27 – 31 Springfield Road, Horsham, West Sussex, RH12 2PG.

Between May 2013 and February 2018 there have been four enforcement and compliance visits to The Rajkumar and a total of eleven illegal workers and immigration offenders have been found to be working who have no right to work in the UK.

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 revoke the premises licence.

Recommendations

That the Committee is recommended:

- i) To determine the review application

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 Evidence (Appendix 2)
3. Sussex Police Representation (Appendix 3)
4. Premises Licence (Appendix 4)
5. Notification of review letter to the Premises Licence Holders (Appendix 5)
6. Newspaper Article, dated the 08 February 2018 (Appendix 6)
7. Stated Legal Case (Appendix 7)

9. Wards affected:

Trafalgar (Horsham Town)

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 Rajkumar benefits from a premises licence (LI/05/1148/PREM) that was granted on the 14 February 2006 and since the date of grant, the premises licence holder has been Mr Abdul Shahid.

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

Premises open to the public:

Monday to Thursday ~ 07:30 to 23:00
Friday & Saturday ~ 07:30 to 00:00
Sunday & Bank Holidays ~ 10:00 to 22:30

Sale by Retail of Alcohol

Week Days Only: 07:30 till 23:00
Friday & Saturday: 07:30 - 00:00
Sunday & Bank Holidays: 10:00 - 22:30

Late Night Refreshment:

Monday to Sunday: 23:00 till 00:00hrs

2 Relevant Council policy

- 2.1 Statement of Licensing Policy dated January 2014.

3 Details

- 3.1 The Rajkumar is a centrally located in Horsham and has been trading for many years.
- 3.2 On the 23 April 2018, 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 Rajkumar, 27 – 31 Springfield Road, Horsham, West Sussex, RH12 2PG.
- 3.3 09.05.2013, Immigration inspection conducted at the premises and 6 (six) illegal workers were found. A civil penalty of £30,000 issued on the 12.03.2013 to Sadiq-Nishat UK Limited who did not object or appeal against the civil penalty and no payment was made though the company was later dissolved.

03.04.2014, Immigration inspection conducted at the premises and 2 (two) illegal workers were found with a civil penalty of £10,000 issued on the 23.05.2014 to ALM Horsham who did not object or appeal against the civil penalty and the company was later dissolved.

10.06.2018, Immigration inspection conducted at the premises and 2 (two) illegal workers were found at the premises with a civil penalty of £10,000 issued on the 09.08.2017 to Apex Horsham Limited who did not object or appeal against the civil penalties and at the time of this report being written the Home Office has appointed a debt recovery agent to recover the outstanding amount.

11.02.2018, Immigration visit conducted an arrest and detain an immigration offender at the premises. No civil action was commenced but it is worth noting Immigration Officer will be able to testify that they saw the offender in a waiter's uniform, standing in the entrance to the premises.

19.02.2018, Immigration inspection completed at the premises as they had reason to believe that an E.U. National had submitted representation to the Home Office claiming to be in a relationship with an individual detained during an earlier visit on the 11.02.2018. The relationship was proved to aid the individual arrested on the 11.02.2018 with his immigration status and the E.U. national was served papers as an immigration offender; please note an appeal has been lodge against this.

4 Next Steps

- 4.1 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 Councils website and notices were displayed on the premises to inform the general public as required by the Licensing Act 2003.
- 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 response was received:
 - 5.3.1 Sussex Police – Representation in support of the review submitted by Sussex Police and dated the 14 May 2018 was accepted as valid representation (Appendix 3)

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>	

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 [REDACTED]

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Rajkumar 27 Springfield Road Horsham	
Post town Horsham	Post code (if known) RH12 2PG

Name of premises licence holder or club holding club premises certificate (if known) Mr Abdul Shahid
--

Number of premises licence or club premises certificate (if known) LI/05/1148/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

Please tick ✓ yes

I am 18 years old or over

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 [REDACTED] South East - Immigration Compliance & Enforcement (ICE) Team Immigration Enforcement Home Office Timberham House, World Cargo Centre Gatwick Airport, RH6 0EZ
Telephone number (if any) [REDACTED]
E-mail address (optional) [REDACTED]

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

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

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 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 Rajkumar, 27-31 Springfield Road, Horsham, RH12 2PG 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.

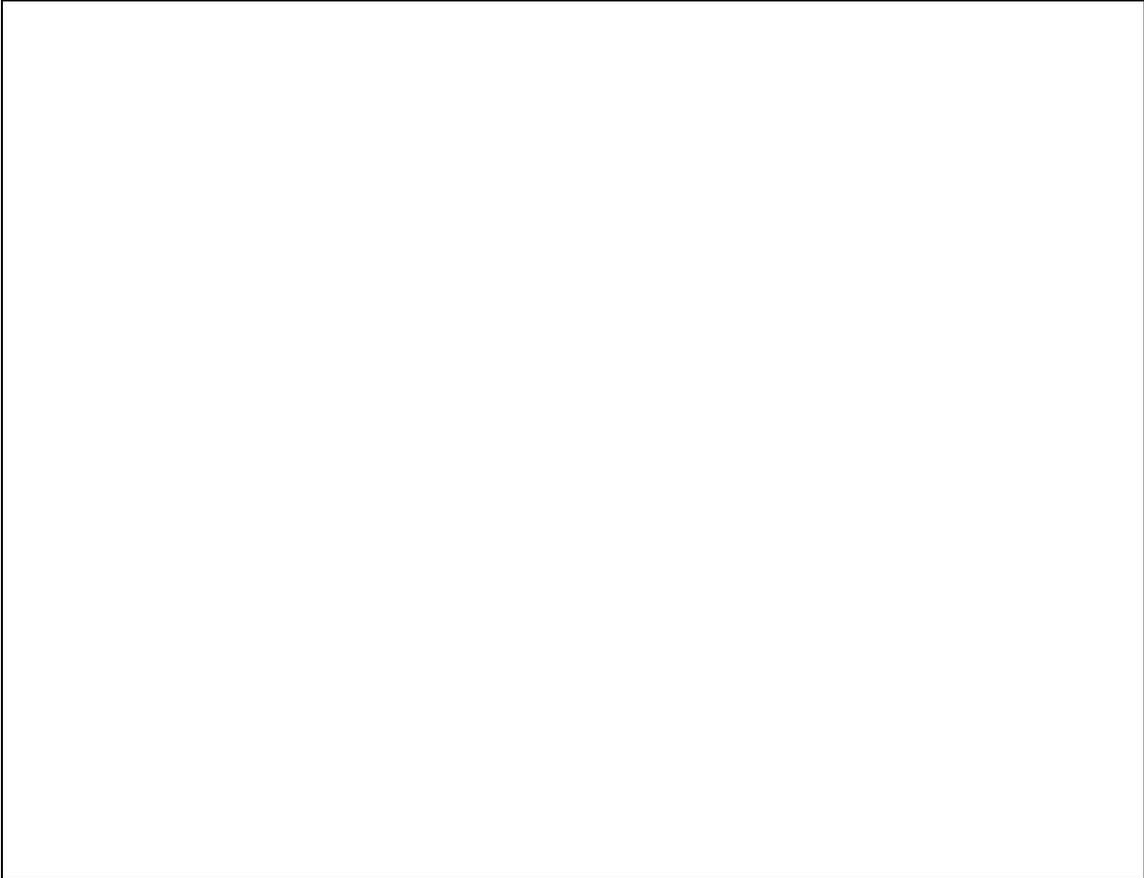
The 4 enforcement visits & 2 compliance visits for these premises were conducted between May 2013 and February 2018 and a total of 11 immigration offenders or illegal workers, that is persons were found to be employed who have no right to work in the UK. On the most recent enforcement visit the Home Office civil penalties team decided not to take action as they deemed the evidence of working provided by the ICE team not sufficient (despite the worker being behind the bar & in uniform).

A total of £55,000 penalty has been issued by the Home Office to the premises licence holders as a result of their employment of illegal workers. To date none of these civil penalties has been paid in full by the premises licence holders, neither did they appeal/object in court the decision to issue these penalties. The holding company for the Rajkumar restaurant has twice been dissolved with penalties outstanding – the company have only paid £1,975 toward the penalty total.

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.

From the time of issuing the first civil penalty through to the last enforcement visit, despite several of the holding companies going in to liquidation, the premises license holder has always remained the same. Further to this the premises license holder has been in place since the change over from the Licensing Act 1964 to the Licensing Act 2003.

Sleeping areas for multiple persons were identified by immigration officers at the premises. The time lapse between the dates of the incidents and the ultimate submission of the Review application can be in part attributed towards a better working relationship between Immigration Enforcement and the local authority, with the first license review sought by Immigration Enforcement for two premises found to be regularly employing illegal workers in the authorities area heard in 2017.



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 premises is as follows:

09/05/2013- Enforcement visit conducted to premises, 6x illegal workers encountered. A penalty of £30,000 was issued on 12/03/2013 to Sadiq-Nishat U.K Limited. The employer did not object/appeal the penalty, no payment was made, the company was dissolved.

03/04/2014 Enforcement visit conducted to premises, 2x illegal workers encountered. £10,000 penalty issued on 23/05/2014 to ALM Horsham Ltd. The employer did not object/appeal the penalty, the company was dissolved with £8,025 outstanding to the Home Office.

10/06/2017 - Enforcement visit conducted to premises, 2x illegal workers encountered. £10,000 penalty issued on 09/08/2017 to Apex Horsham Ltd. No payments made and penalty has been passed on to debt recovery agent.

11/02/2018 – Compliance visit (a lower key visit with fewer officers) conducted to arrest & detain an immigration offender known to be linked to the business. Although no civil action was commenced, it is worth noting that both officers on this visit can testify to the fact that they saw the immigration offender in waiters uniform and in the front of the restaurant upon entry (at the end of the lunchtime service).

19/02/2018 – Compliance visit conducted to speak with an EU national employed at the premises who following the visit on the 11/02/2018, had submitted representations to the Home Office claiming to be in a relationship with the individual arrested during the visit on the 11/02/18. The suspicion was that this was a sham relationship, designed solely to assist the individual arrested on the 11/02 with his immigration status, this suspicion was proven correct and the EU national was served papers as an immigration offender (appeal ongoing).

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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


Date **23/04/2018**

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

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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Immigration
Enforcement

Referral Notice

Illegal Working Civil Penalty

Employer name:

This is an important notice. Please do not ignore it. Your case will be referred for consideration of your liability for a civil penalty.

Employer registered address:

*Raj Kumar Restaurant
27 Springfield Rd
Horsesham RH12 2PL*

This Referral Notice is issued in respect of (a) suspected breach(es) under section 15 of the Immigration, Asylum and Nationality Act 2006.

Business type: Sole Trader/Limited Company

Tasking Reference: *TS12CLF1125*

Franchise/Other.....

Notice given date: *25/01/2018*

VAT No: *238643978*

Issued to:

Company number:

Position:

Director(s)/Owner(s):

We have encountered suspected illegal working

We encountered (a) suspected breach(es) of section 15 on *25/01/18* at the following business address:

Raj Kumar Restaurant, 27 Springfield Rd, Horsesham, RH12 2PL

Who we suspect of working illegally

	Names of suspected illegal workers	Nationality	DOB	Reason
1	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
2	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
3	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
4	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
5	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
6	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
7	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach
8	[Redacted]	[Redacted]	[Redacted]	No right to work/Working in breach

Reason for referral

Your case will be referred to the Home Office's Civil Penalty Compliance Team which will consider your liability for a civil penalty for employing the identified suspected illegal worker(s). It is **illegal** to employ an adult subject to immigration control if he has not been granted leave to enter or remain in the UK or his leave to enter or remain is invalid or has ceased to have effect, or he is subject to a condition preventing him from accepting the employment in question.

What this means

The Civil Penalty Compliance Team will consider whether you are liable for a civil penalty, and if so your penalty level.

- A **Civil Penalty Notice** will be issued if you are found liable. This Notice will require you to pay a penalty for a specified amount by a specified due date.
- A **Warning Notice** may be issued if you meet the mitigating criteria set out in our **Code of practice** on preventing illegal working which is on www.GOV.UK.
- A **No Action Notice** will be issued if you are not liable for a civil penalty. This Notice will inform you that no civil penalty action will be taken against you on this occasion, and that your case has been closed.



Immigration
Enforcement

Referral Notice

Illegal Working Civil Penalty

Employer name: **RAJKUMAR RESTAURANT**

This is an important notice. Please do not ignore it. Your case will be referred for consideration of your liability for a civil penalty.

Employer registered address:

**27 SPRINGFIELD ROAD
HURSHAM
RH12 2PG**

This Referral Notice is issued in respect of (a) suspected breach(es) under section 15 of the Immigration, Asylum and Nationality Act 2006.

Business type: Sole Trader/Limited Company
Franchise/Other.....

Tasking Reference: **TJ12FWT1061**

Notice given date: **10/06/2017**

VAT No:

Issued to:

Company number:

Position: **OWNER**

Director(s)/Owner(s): **AKHIL UDDIN**

We have encountered suspected illegal working

We encountered (a) suspected breach(es) of section 15 on **10/06/2017** at the following business address:

RAJKUMAR RESTAURANT, 27 SPRINGFIELD ROAD, HURSHAM, RH12 2PG.

Who we suspect of working illegally

	Names of suspected illegal workers	Nationality	DOB	Reason
1	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
2	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
3	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
4	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
5	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
6	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
7	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach
8	[REDACTED]	[REDACTED]	[REDACTED]	No right to work/Working in breach

Reason for referral

Your case will be referred to the Home Office's Civil Penalty Compliance Team which will consider your liability for a civil penalty for employing the identified suspected illegal worker(s). It is **illegal** to employ an adult subject to immigration control if he has not been granted leave to enter or remain in the UK or his leave to enter or remain is invalid or has ceased to have effect, or he is subject to a condition preventing him from accepting the employment in question.

What this means

The Civil Penalty Compliance Team will consider whether you are liable for a civil penalty, and if so your penalty level.

- A **Civil Penalty Notice** will be issued if you are found liable. This Notice will require you to pay a penalty for a specified amount by a specified due date.
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- A **No Action Notice** will be issued if you are not liable for a civil penalty. This Notice will inform you that no civil penalty action will be taken against you on this occasion, and that your case has been closed.



Home Office

Visiting Officer copy

If you have carried out the full specified checks in line with the Home Office Regulations you will not be liable for a civil penalty

Notification of Potential Liability - IWCP-1

Date Issued: 03/04/14	Reference: NOPL/ 25514
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SECTION A - Recipient details

(i) Name of recipient: AMIR (2014)

(ii) Position within company: TEMP MANAGER

SECTION B - Employer details

(i) Name of company: ALM RESTAURANT LTD

(ii) Address visited: RASKUMAR RESTAURANT
27 SPRINGFIELD ROAD
WORSHAM, 10, SUSSEX
BN12 2PG

(iii) Telephone number: 01453-210134

(iv) Address of head office: (if different from (ii))

(v) Head office telephone number: 01453-210134

(vi) Companies House Number:

(v) Type of Company: Limited Sole trader Partnership Other

(vii) VAT Number (where applicable): 971 0649 13

(viii) Type of business: Indian Restaurant

SECTION C - Employee(s) details

To the owner/manager/director of the business detailed above,
On the date shown above, the premises detailed above was visited. During the course of the visit officers encountered potential breaches of Section 15 of the Immigration, Asylum and Nationality Act 2006 and/or breaches of Regulation 11 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013
Below is a list of employees who were potentially working without appropriate permission:

Name	D.O.B.	Nationality	Reason for service of notification
[REDACTED]	[REDACTED]	[REDACTED]	NO PERMISSION TO WORK IN CROATIA

(use continuation sheet if necessary)

SECTION D - Acknowledgement of service

Visiting Officer		Recipient	
Name	[REDACTED]	Name	[REDACTED]
Rank	[REDACTED]	Signature	[REDACTED]
Date & time	[REDACTED]	Date	[REDACTED]



Home Office
UK Border Agency

Visiting Officer copy

If you have carried out the full specified checks in line with the Home Office Regulations you will not be liable for a civil penalty

Notification of Potential Liability - IWCP-1

Date issued: Enforcement Visit Reference: EV- Reference: UKBA/NOPL/ 15240

SECTION A - Recipient details

(i) Name of recipient:

(ii) Position within company:

SECTION B - Employer details

(i) Name of company:

(ii) Address visited:

(iii) Telephone number:

(iv) Address of head office:
(if different from (ii))

(v) Head office telephone number:

(vi) Companies House Number:

(vii) Type of Company: Limited Sole trader Partnership Other

(viii) VAT Number (where applicable):

(ix) Type of business:

SECTION C - Employee(s) details

To the owner/manager/director of the business detailed above,
On the date shown above, officers from the UK Border Agency visited the premises detailed above. During the course of the visit officers encountered potential breaches of section 15 of the Immigration, Asylum and Nationality Act 2006.
Below is a list of employees who were potentially working without appropriate leave:

Name	D.O.B.	Nationality	Reason for service of notification
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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SECTION D - Acknowledgement of service

UK Border Agency Officer		Recipient	
Name	<input type="text"/>	Name	<input type="text"/>
Rank	<input type="text"/>	Signature	<input type="text"/>
Date & time	<input type="text"/>	Date	<input type="text"/>



Sussex Police
Serving Sussex

www.sussex.police.uk

West Sussex Division
Neighbourhood Licensing Team

West Sussex Licensing Team
Centenary House
Durrington Lane
Worthing
West Sussex
BN13 2PQ

Tel: 01273 404 030

Email:
WS_Licensing_WOR@sussex.pnn.police.uk

14th May 2018

Mr Chris Boyle
Public Health & Licensing Department
Horsham District Council
Parkside, Chart Way
Horsham,
RH12 1RL

Dear Mr Boyle,

RE: REVIEW APPLICATION BY THE CHIEF IMMIGRATION OFFICER FOR THE RAJKUMAR, 27 – 31 SPRINGFIELD ROAD, HORSHAM, WEST SUSSEX, RH12 2PG. LI/05/1148/PREM

I write on behalf of the Chief Officer of Police for Sussex to raise a representation in respect of this review application.

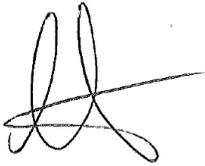
Sussex Police concur that the Licensing Objective of the prevention of crime and disorder is not being promoted at this premises. Licensing objectives are in place in order that future harm is avoided and, in this case, crime is prevented. The premises licence holder has been found to repeatedly employ persons who have no right to work in the United Kingdom. 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.

APPENDIX 3 - Sussex Police representation

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,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Chief Inspector Ockwell
District Commander

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>Environmental Health and Licensing, Parkside, Chart Way, Horsham, West Sussex. RH12 1RL 01403 215578 / 215525</p>	 <p>Horsham District Council</p>
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Premises Licence Number

LI/05/1148/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>Raj Kumar 27 - 31 Springfield Road Horsham West Sussex RH12 2PG Tel: 01403 210104</p>

<p>Where the licence is time limited the dates</p> <p>Not Applicable</p>

<p>Licensable activities authorised by the licence</p> <p>Late Night Refreshment Sale by Retail of Alcohol</p>

<p>Times the licence authorises the carrying out of licensable activities</p> <p>Late Night Refreshment: Friday & Saturday ~ 23:00 - 00:00</p> <p>Sale by Retail of Alcohol: Week Days Only ~ 07:30 - 23:00 Friday & Saturday ~ 07:30 - 00:00 Sunday & Bank Holidays ~ 10:00 - 22:30</p>
--

<p>The opening hours of the premises</p> <p>Monday to Thursday ~ 07:30 to 23:00 Friday & Saturday ~ 07:30 to 00:00 Sunday & Bank Holidays ~ 10:00 to 22:30</p>

APPENDIX 4 – Premises Licence

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 Aahil Mohammed
27 Springfield Road
Horsham
West Sussex
RH12 2PG**

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 Aahil Mohammed
27 Springfield Road
Horsham
West Sussex
RH12 2PG**

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: 09/00443/LAPER

Licensing Authority: London Borough of Newham

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.

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

1. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

APPENDIX 4 – Premises Licence

5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark or
 - (b) an ultraviolet feature.
6. The responsible person shall ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “permitted price” is the price found by applying the formula –
$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
- (i) The holder of the premises licence
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3. Where

- (a) The film classification body is not specified in the licence, or
- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

If the Premises Licence has conditions in respect of Door Supervision except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
- (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

- (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

GENERAL LICENSING OBJECTIVES

Employ Licensed Supervisor.

Only customers eating at the restaurant or collecting Take-Away meals will be permitted to attend the premises.

PREVENTION OF CRIME AND DISORDER OBJECTIVES

Doors will be kept closed at all times.

Full supervision of the premises at all times.

PUBLIC SAFETY OBJECTIVES

All staff are trained in Health & Safety procedures.

PREVENTION OF PUBLIC NUISANCE OBJECTIVES

All activities are controlled and take place only in designated areas within the premises.

PROTECTION OF CHILDREN FROM HARM

Children will only be permitted at the premises in the company of their parent(s), guardians(s) or other responsible adult(s).

Annex 4 – Plans

ATTACHED

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**Mr Abdul Shahid
Foundary Villa
Hall Street
Long Melford
Sudbury
Suffolk
CO10 9JR**

Our ref: LI/05/1148/PREM
E-mail: licensing@horsham.gov.uk
Direct line: 01403 215578
Contact: Chris Boyle
Date: 23 April 2018

**The Rajkumar, 27-31 Springfield Road, Horsham, West Sussex, RH12 2PG
Application for a review of a premises licence**

Dear Sirs

Applicant: Immigration, Compliance and Enforcement Team.

Horsham District Council has today, Monday 23 April 2018 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 22 May 2018.

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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News



DEREK MARTIN DM1820824A

Patricia Simpson (right) in her Broadbridge Heath garden with neighbour Laura Crosbie and the multi-storey block of flats being built nearby overlooking their gardens.

'Shock' at scale of flats building

Patricia Simpson says she has been 'shocked' at the proximity of a massive block of flats currently being built nearby overlooking their gardens.

Patricia Simpson (right) in her Broadbridge Heath garden with neighbour Laura Crosbie and the multi-storey block of flats being built nearby overlooking their gardens.

"It's a massive block of flats with massive windows staring straight into our gardens."

She also hit out at the way planning consent was granted for the flats and said:

"I have a home of their own."

A spokesman for Saxon Weald said: "The redevelopment of the former garages sites on Sleets Road and Swann Way is being undertaken."

Illegal restaurant workers found following swoop

Illegal workers have been found at restaurants in Horsham and Crawley following a swoop by immigration officers.

Officers visited Rajkumar restaurant in Springfield Road, Horsham; Maemes takeaway in Queen Street, Horsham; and Raj Tandoori in Broadfield, Crawley, during the swoop, which, say Home Office officials, followed intelligence reports.

Each business was served a referral notice in relation to illegal workers which warn that a financial penalty of up to £20,000 per illegal worker found will be imposed unless the employers can show that appropriate right-to-work document checks were carried out.

If proof is not provided, says the Home Office, each business could be fined up to £20,000.

At Rajkumar, a 41-year-old Indian man was found working illegally. He was not arrested,

says the Home Office, as he has an outstanding Home Office application. He was escorted from the premises and ordered to report to Immigration Enforcement while his case is progressed.

At Maemes officers arrested a 35-year-old Pakistani man found working illegally. And at Raj a 40-year-old man, also from Pakistan, was found working illegally, says the Home Office. Both Pakistani men were transferred to immigration detention pending their removal from the UK.

Richard Lederle, head of the South East immigration enforcement team, said: "Illegal working is not victimless, it undercuts honest employers, cheats legitimate job seekers out of employment opportunities and defrauds the public purse."

"I urge anyone with specific and detailed information about suspected immigration abuse to get in touch."

Increase in number of potholes

Recent wet weather and frequent variations between mild and cold or freezing temperatures have led to an increased number of potholes on West Sussex roads, says the county council.

The council says it and contractor Balfour Beatty are working hard to repair the worst of these as soon as possible.

Bob Lanzer, Cabinet Member for Highways and Infrastructure, said: "Unfortunately, roads are not permanent structures and deteriorate over time from constant use and the weight of vehicles using them."

"Please bear with our staff and contractors, who are working hard to get the worst of these repaired as soon as possible."

Concerns about potholes can be reported online using the Love West Sussex app - www.westsussex.gov.uk/roads-and-travel/report-a-problem-with-a-road-or-pavement/

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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](#)