



Premise Licence Review

BENGAL DINER PREMISES LICENCE # 14/00184/PREMTR

Fox St, Ardleigh, Colchester, Essex, CO7 7PP

Supplementary documentary information in support of the application.



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1.0 Outline of the Circumstances leading to the Review Application

1.1 On 8th March Immigration Officer 15114 Clouting was issued a Court Warrant to enter and search The Bengal Diner, Fox St, Colchester CO7 7PP, under Para 17(2) of Schedule 2 of the Immigration Act 1971, seeking three named male nationals from Bangladesh who had no leave to remain in the UK.

See Document 1

1.2 On 8th March at 18:20hrs Immigration Officers Clouting, Newell, Davis, Clarke, Donaldson and Denham entered the premises and exercised the warrant.

1.3 Upon entry Immigration Officer Davis entered the kitchen and encountered a male who was apparently dressed as a waiter as he was attired in black. Officer Davis questioned the male who gave his name as Sibtain ZAFAR and freely gave information to Officer Davis that he was from Pakistan and that he was an overstayer in the UK. Officer Davis then arrested Sibtain ZAFAR.

1.4 When further questioned Sibtain ZAFAR eventually admitted to working in the premises for a period two years, admitted he was paid £260 per week which was paid cash in hand and that he was the head waiter and that he had not shown any identity documents to get work.

1.5 Sibtain ZAFAR identified his boss as Sayful ALAM (the Premises Licence Holder and DPS of Bengal Diner) as responsible for paying him.

1.6 Sibtain ZAFAR then surrendered his passport to Officer Davis. Officer Davis took the decision to bail Sibtain ZAFAR whilst investigations were undertaken to ascertain his relationship with a British woman.

See Document 2

1.7 During this Immigration Enforcement visit IO John Donaldson encountered a Bangladesh national named Nazrul ISLAM who disclosed he had been in the UK for 12 years and that he worked as a cook at the Bengal Diner

1.8 Upon searching upstairs Immigration Officer Donaldson found a visa in the name of Nazrul ISLAM which had expired on 11/09/2008. Nazrul ISLAM was then arrested as an overstayer.

1.9 On further questioning Nazrul ISLAM freely admitted that he was paid £250 per week, that he works 6 days per week and gets food for free and that he did not show his passport before starting work at the premises.

1.10 Nazrul ISLAM was arrested and conveyed to Basildon Police Station custody.

See Document 3

1.11 A Notice of Potential Liability served on the licence holder and DPS Sayful Alam and all officers left the premises at 19.53

1.12 The Home Office Evidence and Enquiry Unit have confirmed to Essex Police that Sibtain ZAFAR has no valid leave to remain in the UK and that he has no right to work. They also confirm that on the 8th March 2018 Sibtain ZAFAR was served a RED notice form, Notice of Immigration Decision Notice of Removal from the UK under section 10 of the Immigration and Asylum Act 1999.

See Document 4

1.13 The Home Office Evidence and Enquiry Unit have confirmed to Essex Police that Nazrul ISLAM has no valid leave to remain in the UK and that he has no right to work.

See Document 5

1.14 On Wednesday 4th April 2018 Alan BECKETT, the Essex Police Colchester District Licensing Officer, was in the company of Special Sergeant DORRINGTON and entered the premises to carry out right to work checks of employees of the Bengal Diner. They both encountered Mr Syful ALAM and asked him for the documentation.

1.15 After some discussion it was established that Mr Syful ALAM could not produce any right to work records and he said that the premises was not a secure place to keep copies of passports and the records are with his accountant which seemed hard to believe.

1.16 Essex Police Licensing Officer Alan BECKETT asked Mr Syful ALAM what was required and he appeared unsure. So much so Alan BECKETT offered to send him the information. This was duly done by sending him the Home Office Right to Work Checklist on Thursday 5th April via e mail.

See Document 6

See Document 7

2.0 Reasons for Review

- 2.1 Essex Police has brought this review because the statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises (*Paragraph 11.26 Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales* [6 April 2017])(Home Office).
- 2.2 Paragraphs 7.1 – 7.4 of this application detail why a warning or other activity falling short of a review are inappropriate when considering premises who have been found to engage illegal workers and thus why Essex Police has proceeded straight to review.
- 2.3 2 male illegal workers were discovered at the premises. No right to work checks were carried out by the management of the Bengal Diner. It is an offence to work when a person is disqualified to do so and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ an illegal worker where there is reason to believe this is the case. The case of *East Lindsey District Council v Hanif* (see 8.12) determined that in such circumstances, even without a prosecution, the crime prevention objective is engaged.
- 2.4 Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person is allowed to work (please see section 5 and Appendix A of this application).
- 2.5 Essex Police submits that for commercial reasons those engaged in the management of the premises ought to have known illegal workers had been engaged or otherwise deliberately ignored the question.

3.0 Outcome Sought

- 3.1 Essex Police asks that the premises licence is revoked. The premises licence holder himself or through its agents have engaged in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally.
- 3.2 Sections 4 – 7 (of this submission), Appendix A an appended documents provide the licensing sub-committee background arguments and information pertinent to this review. These:
- Support Essex Police's contention that revocation is an appropriate step;

- Provide the sub-committee with a sound rationale as to why, despite the respondent's argument, it should revoke the licence; and
 - Satisfy the Authority that its decision is defensible if challenged on appeal.
- 3.3 It is in such circumstances as this review application that a respondent may suggest that conditions are imposed which would prevent a reoccurrence of the employment of illegal workers in the future; an argument that the sub-committee should take remedial and not punitive action.
- 3.4 Paragraph 1.16 of the Guidance states "that "Licence conditions should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation".
- 3.5 Since 2006 (with the introduction of the Immigration, Asylum and Nationality Act 2006) employers have had a duty to conduct checks to ensure employees and potential employees are not disqualified from working. Only by completing the required checks and maintaining records of such checks can an employer demonstrate a 'statutory excuse' and evade liability for a civil penalty issued by Immigration Enforcement.
- 3.6 Essex Police contends that a licence holder who has himself or through his agents has negligently or deliberately failed to conduct right to work checks which have been a requirement since 2006 should not be afforded an opportunity to do so until caught and then merely be asked to do what they should have been doing already.
- 3.7 Essex Police would refer the committee to section 5 and Appendix A of its submission and rely on paragraph 1.16 of the Guidance, together with paragraph 11.27 and 11.28 of the Guidance (set out in this submission at 7.9 and 7.10) as to why conditions are inappropriate.
- 3.8 The cases of *Bassetlaw* (set out at 8.2 onwards) considered punitive (suspension/revocation) v remedial responses where a review is brought and in particular set out that deterrence was a legitimate outcome of a review.
- 3.9 The imposition of conditions would be (even if it were not replicating 'other duties or responsibilities placed on the employer') merely an action to remedy the harm occasioned by the employment of illegal workers. This is a serious matter (as defined by paragraph 11.27 of the Guidance) and Mrs Justice Slade (case of *Bassetlaw*) examining was clear that "*the action on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate*".
- 3.10 The case of *Bassetlaw* is clear in its examination of the legitimacy of deterrence and the imposition of conditions in 'serious matters' and finds

support within the Guidance itself at paragraph 11.26 (detailed in this submission at 7.5) – **deterrence is a legitimate response** and the committee does not need to consider only remedial action when a review is brought.

- 3.11 If it were not for criminally minded or complicit employers; illegal workers would not be able to obtain a settled lifestyle and deprive legitimate workers of employment. The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are often paid below the minimum wage (itself an offence) and National Insurance payments are not paid. The main draw for illegal immigration is work and low-skilled migrants are increasingly vulnerable to exploitation by criminal enterprises; finding themselves in appalling accommodation and toiling in poor working conditions for long hours for little remuneration.
- 3.12 Respondents who fail to convince a sub-committee that the imposition of conditions to undertake proper right to work checks is a suitable alternative to a punitive (deterrent) outcome often point to the option of suspension of a licence; pointing out that this may be a suitable punitive response instead which will deter others.
- 3.13 Often this will include claims that the business has 'learnt its lesson' and that since its criminal activity has been discovered it has reconsidered its position, brought in new procedures, 'parachuted in' consultants and new managers etc. On occasion it is hinted that the respondent will 'accept' a suspension as an alternative to revocation, assuaging an authority's concern that an appeal may otherwise be launched.
- 3.14 Essex Police would counter such claims and point to the continuing changes made to both immigration law and the Guidance which point to a requirement to send a clear message to potential illegal immigrants that UK authorities will do all they can to prevent them finding illegal employment and a similar message to employers that those employing illegal workers will face severe disruption and penalties.
- 3.15 Paragraph 11.26 of the Guidance provides that, "*The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder*".
- 3.16 That illegal working is considered extremely serious is set out within paragraph 11.27 of the Guidance:

"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 licensed premises...for employing a person

who is disqualified from that work by reason of their immigration status in the UK".

3.17 Essex Police would point out that the above paragraph requires no 'knowledge' that an individual is an illegal worker – instead it again draws the sub-committees attention to the simplicity (set out at section 5 and Appendix A of the police submission) in avoiding the occurrence in the first place.

3.18 Finally; Essex Police would invite the sub-committee to consider paragraph 11.28 of the Guidance which states:

"It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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."

3.19 Essex Police concedes that this does not say a sub-committee MUST revoke a licence but what it would say is that where an employer has employed an illegal worker or otherwise permitted an illegal worker (whether paid or unpaid) to undertake work; it has done so when it ought to have known it should not have done.

3.20 A punitive response is required to ensure that licence holder and/or its agents are not allowed to repeat the exercise and in particular, in the interests of the wider community to support responsible businesses and the jobs of both UK citizens and lawful migrants. It is also required to act as a deterrent to others who would otherwise seek to seek an unfair competitive advantage, exploit workers and deny work to the local community, evade the payment of income tax and (unlawfully) inflate their profits to the expense of others.

3.21 Essex Police believes revocation is an appropriate outcome to this review application.

4.0 Immigration Offences

4.1 The prevention of crime and disorder licensing objective has been engaged because it is, in part, concerned with the prevention of immigration crime in connection with licensed premises.

4.2 The basis of the police submission seeking revocation of the premises licence is that the employment of illegal workers is a criminal matter as is working illegally. Illegal workers are those subject to immigration control and either do not have leave to enter or remain in the UK, or who are in breach of a condition preventing them taking up the work in question.

- 4.3 It is an employer's responsibility to be aware of their obligations and ensure they understand the immigration landscape to avoid the risk of prosecution, the imposition of a civil penalty or the revocation/suspension of their premises licence.
- 4.4 Since 2006, with the introduction of the Immigration, Asylum and Nationality Act, it has been unlawful to employ a person who is disqualified from employment because of their immigration status. Employers risk a civil penalty (of up to £20,000 per employed person) if they are found to have negligently employed someone who is disqualified. A statutory excuse against payment exists where the employer can demonstrate they correctly carried out document checks, i.e. that they were duped by fake or forged documents. Employers therefore have to conduct checks to ensure that their employees have the right to work.
- 4.5 The Immigration Act 2016 came into force in July 2016 and its explanatory notes state that "these offences were broadened to capture, in particular, employers who deliberately did not undertake right to work checks in order that they could not have the specific intent (previously) required to 'knowingly' employ an illegal worker. It amended other immigration legislation and specifically reduced the burden of proof for offences.
- 4.6 Since 2016 an employer may be prosecuted not only if they knew their employee was disqualified from working **but also** if they had reasonable cause to believe that an employee did not have the right to work: what might be described as **wilful ignorance**', where either no documents are requested or none are presented despite a request. This means an offence is committed when an employer 'ought to have known' the person did not have the right to work.
- 4.7 Since 2016 it has also been an offence to work when disqualified from doing so. It is obvious that without a negligent or wilfully ignorant employer, an illegal worker cannot work. Such an employer facilitates a criminal offence and Essex Police highlights this as relevant irrespective of whether a civil penalty is imposed or a prosecution launched for employing an illegal worker.
- 4.8 In this context, under section 3(1)(C)(i) Immigration Act 1971 (as amended by the 2016 Act) working restrictions are not limited simply to employed work but includes paid or **unpaid** work, paid and unpaid work placements undertaken as part of a course or period of study, self-employment and engaging in business or professional activity. Undertaking, for instance, an unpaid work trial or working in exchange for a non-monetary reward (such as board and lodging) is illegally working and is a criminal offence committed by the worker and facilitated by the 'employer'.

5.0 Steps to Avoid the Employment of an Illegal Worker

- 5.1 It is a straightforward process for any employer, no matter how small, to prevent themselves employing an illegal worker. If an employer has failed to take even the most basic steps then they have chosen to remain ignorant of the immigration status of their workforce and no amount of potential imposed conditions is sufficient, in our opinion, to avoid the legitimacy of revocation in proving a deterrent to others to the employment of illegal workers.
- 5.2 The Home Office has made checklists widely available which set out what a responsible employer should ask for ahead of employing any person in order to demonstrate 'due diligence' and avoid liability for inadvertently employing an illegal worker.
- 5.3 Since April 2017 these checklists have been embedded in the statutory applications for personal licences and premises licences, the transfer of premises licences and designated premises supervisor variations.
- 5.4 The first 4 'hits' on a Google search for "right to work" are links to employer checklists and information on the GOV.UK website.
- 5.5 The first link (<https://www.gov.uk/check-job-applicant-right-to-work>) details general advice, checking the documents, taking a copy of the documents, what if the job applicant can't show their documents and provides details of an employers' telephone helpline. This page has a direct link to what documents are acceptable proofs of a right to work in the UK and also allows an employer to fill out an online enquiry about a named individual they are considering offering employment to.
- 5.6 Appendix A sets the above out in some detail.

6.0 Relevance/Irrelevance of a Civil Penalty or Prosecution

- 6.1 An employer found to have 'employed' an illegal worker may, dependent on culpability and the evidence available, be issued with a civil penalty or prosecuted or indeed neither. In common with other agencies with law enforcement responsibilities there exist a number of reasons why Immigration Enforcement may prefer a non-judicial disposal (e.g. a warning or immigration civil penalty etc.) to a judicial disposal (prosecution) – one being cost.
- 6.2 A prosecution may follow where the evidence is compelling that an employer has employed an illegal worker and had reasonable cause to believe that worker was disqualified from working.
- 6.3 Alternatively, where the evidence is less compelling or the evidence points to negligence rather than intent, a civil penalty may be issued in accordance with

the Home Office Code of Practice on Preventing Illegal Working (May 2014). In the case of a civil penalty the balance of probabilities test applies whereas a prosecution requires a higher burden of proof.

- 6.4 There are many factors where, even if an illegal worker is discovered, a penalty may not be imposed and these include the subsequent cooperation of the employer. Often though there is no dispute that an illegal worker was working at a premises, immigration officers conducting the initial investigation cannot gather sufficient evidence to 'prove' that the individual was 'employed' at that time. This can often be the case where wages are not paid, 'friends' assist or it is alleged an unpaid trial period was underway – as well as 'they only started today' defence.
- 6.5 However, to issue a civil penalty under section 15 Immigration, Asylum and Nationality Act 2006 the Home Office Code of Practice requires some proof that not only was an illegal worker working at the premises but they were 'employed'. Usually this is taken as meaning the illegal worker was under a contract of service or apprenticeship, whether express or implied and whether oral or written.
- 6.6 In such cases where this cannot be demonstrated, a civil penalty may not be issued even where the premises licence holder or his agent has facilitated an illegal worker committing an offence under section 24B Immigration Act 1971 (as amended by Immigration Act 2016) of working illegally. This does not however prevent the crime prevention objective being engaged with as the premises licence holder has nonetheless facilitated a criminal offence taking place and the lack of checks suggests that in the past (and is likely in the future) 'employed illegal workers. The *East Lindsey* case (see 8.2) provides that action (revocation) to prevent what is likely to happen in the future is legitimate.
- 6.7 The issuing of a civil penalty means Immigration Enforcement is confident it can demonstrate (on the balance of probabilities) that the illegal worker was 'employed' and that a statutory excuse (i.e. that proper checks were carried out) does not exist. A prosecution demonstrates that Immigration Enforcement is confident it can show (beyond all reasonable doubt) that the illegal worker was 'employed' and the employer had reasonable grounds to believe they had no right to work.
- 6.8 The lack of either a civil penalty or prosecution **does not** mean that an illegal worker was not working; rather that the strict definition of 'employed' has not been made out sufficiently even though the illegal worker themselves committed an offence which was facilitated by the premises licence holder or its agents.

7.0 Statutory Guidance (s182 LA 2003) and the Authority's Licensing Policy

7.1 In order to deflect responsibility and avoid punitive action, respondent's to review hearings sometimes refer to both the statutory guidance issued under section 182 Licensing Act 2003 and those parts of the Authority's own policy which replicate paragraph 11.10 of that Guidance, viz:

Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holder's early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.

7.2 Essex Police submits that in the particular circumstances of cases where Immigration Control and Enforcement receive intelligence concerning the employment of illegal workers and act upon it; such warnings are inappropriate.

7.3 Not only would advance warning of enforcement activity prevent the detention of persons committing crimes and the securing of evidence; a warning after the event to comply with immigration legislation serves as an inducement to continue serious criminal activity until caught 'the first time'.

7.4 In particular; Essex Police submits that paragraph 11.10 does not apply when more specific paragraphs (Reviews arising in connection with crime, 11.24 – 11.29) apply to the case in question.

7.5 *Paragraph 11.26*

*Where the licensing authority is conducting a review on the grounds that the premises have 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.The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the **prevention of illegal working** in the interests of the wider community and not those of the individual licence holder.*

7.6 Thus the financial hardship occasioned by the suspension or revocation of the premises licence should, we opine, not sway the sub-committee but instead it should look at what is appropriate to promote the objective within the wider business and local community given (as the Rt. Hon James Brokenshine, Immigration Minister quoted when he introduced the Immigration Act 2016) "illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages". It also provides those employing illegal workers with a competitive advantage over its business rivals and deprives the UK

Government of income tax receipts. It also deprives workers access to State care and protection, the minimum wage, protection of the working time and health and safety regulations and both the State and (compulsory) private pension schemes.

7.7 In particular; the sub-committee will be asked to consider (below) the cases of *R (Bassetlaw District Council) v Worksop Magistrates' Court*; [2008] WLR (D) 350 and *East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway)*, [2016] EWHC 1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.

7.8 Essex Police submit that in this case, revocation of the premises licence is appropriate and proportionate as deterrence to other businesses in implementing the authority's duty to prevent illegal working.

7.9 Paragraph 11.27 of the Guidance states:

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 licensed premises..... for employing a person who is disqualified from that work by reason of their immigration status in the UK.

Essex Police would draw the sub-committee's attention to the change in wording of this paragraph following the April 2017 revision of the guidance, where the previous reference to 'knowingly employing' was removed.

7.10 Paragraph 11.28 of the Guidance states:

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.

Essex Police considers this paragraph self-explanatory; where an enterprise employs illegal workers it is the duty of Essex Police to work with Immigration Enforcement to bring forward reviews and for the authority to consider revocation in the first instance.

7.11 In support of this statement; Essex Police would draw the sub-committee's attention to the "Guidance for Licensing Authorities to Prevent Illegal Working

in *Licensed Premises in England and Wales*" (Home Office)[April 2017] where at section 4.1 it states;

"It is envisaged that licensing authorities, the police, Home Office (Immigration Enforcement) and other law enforcement agencies will use the review procedures effectively to deter illegal working".

- 7.12 The changes to the Statutory Guidance (11.25 & 11.26) and the July 2016 changes to the Immigration Act aim to disrupt undocumented migrants' ability to secure a settled lifestyle or establish themselves in the UK by depriving them of employment opportunities, such as either they choose to not come to the UK or they remove themselves voluntarily.
- 7.13 Since the main draw for illegal migration is work, and since low-skilled migrants are increasingly vulnerable to exploitation at the hand of criminal enterprises, the law has strengthened enforcement measures and the statutory Guidance to deter illegal workers and those that employ them.
- 7.14 Deterrence is a key element of the UK government's strategy to reduce illegal working and is supported by both the Guidance and Case Law (see 8.0 below).

8.0 Case Law

- 8.1 Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.
- 8.2 *R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350.*

This was a case where a premises had sold alcohol to under age persons and subsequently the licensing authority suspended the licence. This was overturned on appeal to the Magistrates' Court and subsequently appealed to the High Court by the authority.

- 8.3 Issues relevant to the case before today's sub-committee which were considered in the *Bassetlaw* judgement included:
- whether a licensing authority was restricted to remedial action (not punitive action such as revocation); and
 - certain criminal activities which may arise in connection with licensed premises, and which the Secretary of State considers should be treated particularly seriously - and the licensing authority's duty in circumstances such as these "... 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 holder of the premises licence (now contained within paragraphs 11.26 and 11.27).

8.4 It also considered what is now contained withi) paragraph 11.20

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

8.5 It also considered; what is now contained within paragraph 11.21

However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises.

8.6 In the judgement, in favour of the Authority, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

"Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State. However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable."

8.7 Having confirmed the legitimacy of punitive measures (suspension/revocation) for offences listed in (what is now contained within paragraph 11.27 of the Guidance), Mrs Justice Slade concerned herself with another aspect of the appeal – namely the imposition of conditions which were already present but not properly implemented (paragraph 34.1).

8.8 This has some corollary with the argument of some review application respondents that the imposition of conditions to check immigration status either directly or through an agency (*though essentially a requirement since 2006 under the Immigration, Asylum and Immigration Act 2006*) would serve as sufficient remedy for the employment of illegal workers to negate a deterrent (suspension/revocation) being imposed by the sub-committee despite the wording of the Guidance at paragraph 11.28.

- 8.9 Mrs Justice Slade stated: *The sixth new provision was acceptable identification to establish the age of a purchaser shall be a driving licence with photographs, passport or proof of age scheme card recognised by or acceptable by the licensing authority. I am told these provisions were already in place, but not properly implemented. No doubt those are perfectly sensible and appropriate provisions to be included on a licence. However it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14 year old girls.*
- 8.10 Essex Police contends that in the case before the sub-committee the facts are similar. In the cited case straightforward sensible enquiries could have been made as to the age of the children and the imposition of additional conditions as a form of remedy was considered inappropriate by Mrs Justice Slade for 'those serious cases' set out in the Guidance.
- 8.11 In the case before the sub-committee, simple steps (set out at Appendix A) were available to prevent the employment of illegal workers – none were taken; the imposition of conditions to remedy this situation is inconsistent with the section 182 Guidance and this case citation. A negligent employer should expect revocation in the first instance.
- 8.12 *East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway), [2016] EWHC 1265 (Admin)*

This is a recent High Court decision (published April 2016) which has similarities with the one before the sub-committee in that it related to the employment of an illegal worker and where a prosecution for such had not been instigated.

Amongst other matters it had been argued for the premises licence holder that the crime prevention objective was not engaged where a prosecution or conviction for the employment of an illegal worker was not in place. Whilst the initial hearing may have suggested several illegal workers being employed, the High Court appeal and decision related to the employment of one individual and is therefore, Essex Police would argue, indistinguishable from the matter before the sub-committee today.

- 8.13 The case reaffirms the principle that responsible authorities need not wait for the licensing objectives to actually be undermined; that crucially in considering whether the crime prevention objective has been engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor. It also reaffirmed the case of *Bassetlaw* in concluding that deterrence is a legitimate consideration of a sub-committee.

Mr Justice Jay stated: *"The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required."*

Mr Justice Jay added: *"Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked."*

APPENDIX A

HOW DOES AN EMPLOYER ENSURE THEY EMPLOY ONLY 'LEGAL WORKERS'

The Home Office has made checklists widely available which set out what a responsible employer should ask for ahead of employing any person in order to demonstrate 'due diligence' and avoid liability for inadvertently employing an illegal worker.

Since April 2017 these checklists have been embedded in the statutory applications for personal licences and premises licences, the transfer of premises licences and designated premises supervisor variations.

The first 4 'hits' on a Google search for "right to work" are links to employer checklists and information on the GOV.UK website.

The first link (<https://www.gov.uk/check-job-applicant-right-to-work>) details general advice, checking the documents, taking a copy of the documents, what if the job applicant can't show their documents and provides details of an employers' telephone helpline (see below). This page has a direct link to what documents are acceptable proofs of a right to work in the UK this lists the acceptable documents and what to look for (it includes photographs and what to look for in particular).

The second link is to the Home Office document; "An Employer's Guide to Right to Work Checks" (published 16 May 2014 last updated 16 August 2017).

Another link provides a site (<https://www.gov.uk/employee-immigration-employment-status>) which guides an employer through the process **AND** allows an employer to make an online submission to the Home Office to check if the proposed employee is prohibited from working as well as providing a telephone helpline.

The first link (<https://www.gov.uk/check-job-applicant-right-to-work>) provides:

General Advice

Amongst the advice contained on the GOV.UK website is the following:

- You must see the applicant's original documents;
- You must check that the documents are valid with the applicant present; and
- You must make and keep copies of the documents and record the date you made the check.

Checking the Documents

In relation to checking the documents it also adds that an employer needs to check that:

- the documents are genuine, original and unchanged and belong to the person who has given them to you;

- the dates for the applicant's right to work in the UK haven't expired;
- photos are the same across all documents and look like the applicant;
- dates of birth are the same across all documents;
- the applicant has permission to do the type of work you're offering (including any limit on the number of hours they can work);
- for students you see evidence of their study and vacation times; and
- if 2 documents give different names, the applicant has supporting documents showing why they're different, eg: a marriage certificate or divorce decree

Taking a copy of the documents

When you copy the documents:

- make a copy that can't be changed, e.g. a photocopy
- for passports, copy any page with the expiry date and applicant's details (eg nationality, date of birth and photograph) including endorsements, eg a work visa
- for biometric residence permits and residence cards (biometric format), copy both sides
- for all other documents you must make a complete copy
- keep copies during the applicant's employment and for 2 years after they stop working for you
- record the date the check was made

If the job applicant can't show their documents

You must ask the Home Office to check your employee or potential employee's immigration employment status if one of the following applies:

- you're reasonably satisfied that they can't show you their documents because of an outstanding appeal, administrative review or application with the Home Office;
- they have an Application Registration Card; or
- they have a Certificate of Application that is less than 6 months old

Application registration cards and certificates of application must state that the work the employer is offering is permitted. Many of these documents don't allow the person to work.

The Home Office will send you a 'Positive Verification Notice' to confirm that the applicant has the right to work. You must keep this document.

ACCEPTABLE DOCUMENTS

The list of acceptable documents can be found via the link to https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441957/employers_guide_to_acceptable_right_to_work_documents_v5.pdf



WARRANT TO ENTER AND SEARCH PREMISES

Magistrates' Courts in South East England Guildford
FIM 08 03 2018 1 CLOUTING 17

On this day an application was made by:

Name **Immigration Officer 15114 CLOUTING**

State under which Section warrant to be issued for the issue of a warrant under **Paragraph 17(2) of Schedule 2 of the Immigration Act 1971 (as amended)**

Specify premises to enter and search the premises situated at:

- **The Bengal Diner, Fox Street, Colchester, CO7 7PP.**

Identify so far as possible, the articles or persons to be sought. and search for:

- **Mynul HOSSAIN 01/01/1986 a national of Bangladesh**
- **Jasim MIAH a national of Bangladesh**
- **Jamil ALI a national of Bangladesh**

Authority is hereby given for any Constable or Immigration Officer, accompanied by such person or persons as are necessary for the purpose of the search, to enter the said premises on one occasion only, within one month from the date of issue of this warrant and to search for the person(s) in respect of which the application is made.

Date: 8th March 2018

Philip SLAYMAKER Justice of the Peace

RESTRICTED (when complete)

WITNESS STATEMENT

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

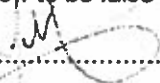
URN

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Statement of: **Jack DAVIS**.....

Age if under 18: **OVER 18** . (If over 18 insert "over 18") Occupation: **CHIEF IMMIGRATION OFFICER**

This statement (consisting of 2 pages 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 which I know to be false or do not believe to be true.

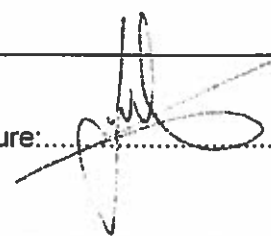
Signature  Date: **23rd/2018**

Tick if witness evidence is visually recorded (supply witness details on rear)

On Thursday 8th March 2018, I was on duty in full uniform, including body armour which carried the legend "Immigration Enforcement", in company with Immigration Officers CLOUTING, DONALDSON, NEWELL, CLARKE & DENHAM when we had cause to attend the premises known as "BENGAL DINER" located at Fox Street, Colchester CO7 7PP, to execute a search warrant issued under paragraph 17 of schedule 2 to Immigration Act 1971 (as amended) to look for a named immigration offender.

At approximately 18:20hrs, with DONALDSON I entered through the front door and made my way directly ahead and to the left through a door into what appeared to be the kitchen, where I immediately saw several males who appeared to be members of staff. One of these was attired in a dark suit, with a waistcoat and dark shirt and appeared to be dressed as a waiter or front of house staff. The others were wearing what are commonly known as "Chef's whites". DENHAM arrived in the kitchen through the rear door after a moment and at this point, having identified ourselves by declaring "IMMIGRATION OFFICERS, STOP WHAT YOU'RE DOING" I then spoke to the man who was dressed in black clothing and ascertained that he spoke good English. I told him "WE NEED TO SPEAK TO YOU ALL, SO CAN EVERYONE TURN THE BURNERS OFF PLEASE". DENHAM, DONALDSON and I then escorted what transpired to be five males, four of whom were in chef's whites, through to the dining area where we seated them at a long table and proceeded to speak to them.

After the staff had all been seated, I spoke to the male who I'd previously identified as being attired in black and who spoke good English, I said to him Q) WHERE ARE YOU FROM? A) PAKISTAN, Q) DO YOU HAVE A VISA? A) NO, I'VE OVERSTAYED. I then said, "OK, THANKS FOR BEING SO

Signature:  Signature Witnessed by:

RESTRICTED (when complete)Continuation of Statement of: **Jack DAVIS**

Page 2

HONEST, AT THIS POINT I'M ARRESTING YOU AS A PERSON WHO IS LIABLE TO DETENTION UNDER THE IMMIGRATION ACT". I then spoke to a second male who told me that he had indefinite permission to be in the UK and his passport was in London, followed by a third male who told me that he was British. By this point, at about 18:25hours, other colleagues had arrived and NEWELL started to speak to the second male, I returned to speaking to the male who I'd arrested and at this point commenced notes in my pocket notebook, a certified copy of the relevant pages of which, I produce as my exhibit JD/1. In summary, he gave his name as SIBTAIN ZAFAR and stated that he lived above the restaurant. After initially telling me he'd only been working there a couple of weeks, he then explained that he'd been working at the restaurant for two years and was paid £260 per week with accommodation, all of which was cash in hand. His boss, who was responsible for paying him, he identified as "SAIFUL ALAM". He stated that he had only a verbal contract and had not shown any identity documents to get work. He signed a declaration in my pocket book that everything that I'd recorded was an accurate record of his answers and my questions.

At 18:40 hours I escorted ZAFAR Upstairs where he identified a bed in a room as being his and surrendered his expired Pakistan passport to me, he went on to explain about how he was in a relationship with a local lady and knew all the customers very well. I then witnessed as he made a call to his girlfriend and heard the conversation on speaker phone, at this point it was obvious that he'd not told her of his immigration status and he asked her to come to speak to us. I continued my conversation with ZAFAR to ascertain his personal circumstances, he told me that he'd borrowed money to come to study in the UK, but the college had been a scam and he'd been too ashamed to return home to tell his family, due to the loss of the money. So, he'd ended up working at restaurants, which he described as "Happy Prison" as he had enough money to survive, but not enough to ever do anything to resolve his status or situation. He reasserted that he had been at this business for two years and was head waiter and knew all the regular customers.

I ascertained that what ZAFAR was telling me was broadly what was on record at the Home Office and after NEWELL spoke to his girlfriend, that his stated period of time at the restaurant and work was truthful.

At 19:55 hours, NEWELL, CLOUTING & I left the premises, having taken the decision to bail ZAFAR was an overstayer in the UK and requiring him to report to police whilst his personal circumstances and relationship with a British woman were considered. I make this statement from memory and with reference to the contents of my aforementioned pocket notebook and am willing to attend court if necessary.

Signature:
2004/05(1)

Signature Witnessed by:

CG30 brief @ Clackm. 23/08. 6

08/03/18 PM visit Fox Street Colchester
0750 @ Car Park of the Woodley
Fender w/ NEU & CLO Awaiting
Don/CA/DON.

1805 brief by CLO
TS3ICEP1054

(A) Bengal Diner Fox Street
Colchester - COT 7PP.

(W) 17(2) 08/03

G Richard Johnson

S Cahery Booth

B Emma Clowdy.

Cover for Don AI

(11) Jasem MIAH BGD

(12) Jamil ALI BGD

(13) Mynal Hossain 01911986

Alleg. illegal working.

1820 Entry a/c Day Don about
kitchen. S & Mabel Don

throw back. Escort them to
park & sit down. Speak to
Mr. Stator Park & had
overstayed.

(12) Stated 14k ppt in London

(12) Stator GBR.

1825 (Q) Name?

A) SIBTAIN ZAFAR

(Q)DOB?

A) 01/01/1990

(Q) Home address?

A) live here

(Q) Work here?

A) yes

(Q) How long?

A) couple of weeks.

(Q) being paid?

A) Non pay yet

(Q) just accommodation & food?

A) yes. will definitely get
paid.

7

TS3ICEP1054

DAVIS C10353

THREE PAGES OF PNB ENTRIES
CERTIFIED TO BE A TRUE COPY
OF THE ORIGINAL, WHICH I
PRODUCE AS MY EXHIBIT 50/1.

08/03/2018

Q) Who employed you? ———

A) The Company

Q) Anyone here? ———

A) No Lady! Spoke with on phone

Q) What's C's ———

A) The Bengal Diner

Q) Do you have a passport? ———

A) Somewhere left. Expired

Q) Did you have a visa? ———

A) 4 year Student

Q) When did that expire? ———

A) 3/4 years ago 2014 end?

Q) Did you show any I.D. to get work? ———

A) No.

Q) Why not go home? ———

A) Like to stay

Q) Do you have a contract? ———

A) Just a verbal one

Q) Do you have any family here? ———

A) No I have a girlfriend but she's not connected to this business

Q) Any relatives to your visa? ———

A) No

Q) Any I.D. ———

A) A DVLA.

Q) Any medical problems? ———

A) No.

Q) What's GF name ———

A) Cheryl Hillman 24041971

688 Valley Spring Fox Street Colchester CO 7711.

Q) I have to be honest I've been working here 2 years.

Q) Are you being paid? ———

A) Yes! Cash in hand £260 wk with accommodation

Q) Who of the kids who pays you? ———

A) Saiful ALAM. I think

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of **John Joe DONALDSON** URN:

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Age if under 18 Over 18 (if over 18 insert 'over 18') Occupation: **Immigration Officer**.....

This statement (consisting of: 3..... 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 anything in it which I know to be false, or do not believe to be true.

Signature:  Date: **09/03/2018**.....

Tick if witness evidence is visually recorded (supply witness details on rear)

I am currently employed as an Immigration Officer on the East of England ICE – Felixstowe team. On 08/03/2018 I was involved in an Immigration Enforcement visit to BENGAL DINER, FOX STREET, ARDLEIGH, COLCHESTER, CO77PP. I entered the premises at approximately 1820hrs and made my way straight to the kitchen area where I encountered x5 males. One of these males I now know to be a NAZRUL ISLAM born 27/07/1981 a national of Bangladesh who was in the kitchen cooking on a stove. I instructed him to turn off the stove which he did. ISLAM appeared nervous and was looking around the room and I suspected him to be looking for an escape route. I therefore took him by the arm and escorted him into the restaurant area and told him to take a seat. I initially questioned him and he stated:

JJD: What is your name, date of birth and nationality?

NI: NAZRUL ISLAM, 27/07/1981, I'm from Bangladesh.

JJD: Immigration status?

NI: I don't know.

JJD: How long have you been in the UK?

NI: 12 years.

JJD: Where do you live?

NI: Upstairs.

JJD: How did you come to the UK?

Signature:  Signature witnessed by:

Continuation of Statement of John Joe DONALDSON

NI: I had a two year visa, a working holiday, it has expired.

At approximately 1829hrs I checked Home Office systems which gave an initial no trace of ISLAM. I also scanned his fingerprints using Home Office technology. While waiting for the results of the fingerprint check I continued to question ISLAM. He stated:

JJD: What's your job here?

NI: A cook, the second chef.

JJD: How much do you get paid?

NI: I get to live upstairs.

JJD: Who's the boss here?

NI: (No response).

JJD: Have you currently got any outstanding applications to the Home Office?

NI: I had a two year visa, no applications.

At approximately 1837hrs the fingerprint scan came back with a no match result. I therefore arrested ISLAM at 1838hrs under Sch 2 Para 17(1) of the Immigration act 1971 as I suspected him to have entered the UK without leave a breach under Section 3(1)(a) and an offence under Section 24(1)(a) of the Immigration Act 1971.

At 1840hrs I conducted a search of ISLAM's bed space in the living accommodation above the restaurant. This was conducted under section 25A(2) of the Immigration Act 1971 and CIO DAVIS was informed of this search. At approximately 1851hrs IO CLARKE found a photocopy of a visa issued to ISLAM. The visa details were as follows:

Working Holiday visa VF 11/09/2006 VT 11/09/2008 VAF No. 310940. With this information using Home Office systems I verified that this was a genuine visa issued to ISLAM. ISLAM is therefore an overstayer a breach under Section 24(1)(b)(i) of the Immigration Act 1971. I informed ISLAM that he was under arrest as an overstayer. At approximately 1852hrs IO CLARKE found a BGD passport no. BN0550094 issued to ISLAM VF 02/03/2017 VT 01/03/2022 which I seized under Section 25A(7) of the Immigration Act 1971. I then continued to question ISLAM and he stated:

JJD: How much do you get paid to work here?

Signature:  Signature witnessed by:

Continuation of Statement of John Joe DONALDSON.....

NI: £250 a week.

JJD: Cash?

NI: Yes.

JJD: Who is the boss?

NI: Mr ALAM.

JJD: Did you show him your passport before starting work here?

NI: No.

JJD: How many days a week do you work here?

NI: 6 days.

JJD: Do you have a contract?

NI: No.

JJD: Does your boss feed you?

NI: Yes for free.

At approximately 1915hrs I escorted ISLAM off the premises and into a marked Immigration Enforcement van. I then transported him to Basildon Police custody where I booked him in and left him with Essex Police after serving Form IS91.

This statement was compiled at Custom House, Viewpoint Road, Felixstowe, IP11 3RF on 09/03/2018 at 1145hrs with reference to my PNB no. IE008755 pages 60-64..

Signature:



Signature witnessed by:

03/2015



Witness contact details

URN: / / /

Name of witness:

Home address: Postcode:

Email address: Mobile:

Home telephone number: Work telephone number:

Preferred means of contact (specify details for vulnerable/intimidated witnesses only):

Gender: Date and place of birth:

Former name: Ethnicity Code (16 + 1):

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing to attend court? Yes [] No [] If 'No', include reason(s) on form MG6.
b) What can be done to ensure attendance?
c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?
d) Does the witness have any particular needs? Yes [] No []

Witness Consent (for witness completion)

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes [] No []
b) I have been given the Victim Personal Statement leaflet Yes [] No []
c) I have been given the leaflet "Giving a witness statement to the Home Office...." Yes [] No []
d) I consent to police having access to my medical record(s) in relation to this matter
e) I consent to my medical record in relation to this matter being disclosed to the defence:
f) I consent to the statement being disclosed for the purposes of civil proceedings
g) Child witness cases only. I have had the provision regarding reporting restrictions explained to me.

Signature of witness: PRINT NAME:

Signature of parent/guardian/appropriate adult: PRINT NAME:

Address and telephone number if different from above:

Statement taken by (print name): Station:

Time and place statement taken:



08/03/18 - Breating wooden Pender,
1807 Essex OTC 2LO (Col 12d). -
TS3ICEP1057, Bengal -
Diner Fox street Leicester -
C07 7PP - Sch 2.17(2)W

08/07/18

G - R. Johnson

S - G - Booth

AI - Me

① JASMIN MZALI BGD.

② JAMIL ALI BGD.

③ MINUL HOSSAIN

01/01/66 (unknown)

- Md Minul KARIM

10/10/89 BGD - overstay, expul

- Md Joyentul Uddin

Udon 06/01/89 BGD

- outstanding AST, no work.

1520 - enter premises, go to kitchen

→ 5 milk crates & brought
to restaurant area.

1522 - Name?

NAZIRUL ISLAM

NASRUL

NAZIRUN⁵⁰ ISLAM

DOB? 27/07/1981. BGD.

Immigration status?

I don't know.

- 12 years in UK.

- Lives upstairs.

1527 - I had a two year visa,
working holiday, it has
expired.

TS3ICEP1057

J. DONALDSON

1829 - Claire Bedford (GARY) 62

CID - N/T

CRS - N/T.

1839 - What's your job here?

Cook 2nd Chef.

- How much do you get paid?

I get to live upstairs.

- Who's the boss? (No reply)

- Came to the UK in 2006.

- Two year visa.

- No, no applications to the HO.

1838 - Arrest 17(1) EA1971 illegal

entry 3(1)(a) 27(1)(a).

- No trace RPID, (1837).

1840 - S25A6 search upstairs

authorized by C/O DAVIS

1847 - No meals.

No bills

Not in a relationship

1849 - Living here 2 weeks.

1851 - Photograph of visa found

Visa working holiday

11/04/06 - 11/09/06.

1852 - PPT found = B&D BNO550094

VF 02/03/17 VT 01/03/22

Seized 25A(7) EA1971.

1853 - Auth to detain C/O DAVIS.

1857 - How much do you get paid?

£250 a week.

- Cook?

Yes.

- Who is the boss?

Mr Almy

- Did you show him your passport before working here?

No

- How many days a week?

6 days

- Do you have a contract?

No.

- Does your boss feed you?

Yes for free.

Subject 1 filled : To be completed by the Police (Justification and legislation must be completed or your request will be rejected)		
Home Office ref (if known)	Z1121836	
Police Officer	42006895 STEPHEN SPARROW	
Police email address	licensing.applications@essex.pnn.police.uk	
Subject's name	Sibtain Zafar	
Subject's nationality	Pakistan	
Subject's date of birth	01/01/1990	
Male / female	Male	
Subject's address	Bengal Tiger, Fox St, Colchester, Essex, CO7 7PP	
Additional information	Right to work status in the UK and prior immigration history	
Justification / legislation : For use at a local authority hearing under the Licensing Act 2003		
Below: Home Office official use only		
Cid/Personal ID/HO		
Check(s) requested	Response	
Confirmation of details	Is there a trace of the subject?	Yes
Current status	Valid leave to remain in the UK?	No
Right to work	Does the individual have the right to work in the UK?	No
Recourse to public funds	Does the individual have recourse to public funds in the UK?	No
Other	On 08-Mar-2018 the above named subject was served with a RED form, Notice of Immigration Decision of Notice of Removal: Persons who require, but no longer have leave to enter or remain are liable to removal from the United Kingdom under section 10 of the Immigration and Asylum Act 1999 (as amended by the Immigration Act 2014)	

Standard Disclaimer

The above information is confidential and forwarded on the understanding that it is not disclosed to any third party. Should there be any ensuing criminal legal proceedings, any of the above information may only be submitted in the form of an official Home Office witness statement, which you can obtain through this office. If a witness statement is required, please send this form by email to: ICESSVECStatements@homeoffice.qsi.gov.uk.

Subject 1 filled : To be completed by the Police (Justification and legislation must be completed or your request will be rejected)		
Home Office ref (if known)		
Police Officer	6895 STEPHEN SPARROW	
Police email address	Licensing.application@essex.pnn.police.uk	
Subject's name	Nazrul Islam	
Subject's nationality	Bangladesh	
Subject's date of birth	27/07/1981	
Male / female	Male	
Subject's address	Begal Diner Fox St Ardleigh Colchester CO7 7PP	
Additional information	Right to work status and prior immigration history	
Justification / legislation : For use at a local authority hearing under the Licensing Act 2003		
Below: Home Office official use only		
Cid/Personal ID/HO	J1130978	
Check(s) requested	Response	
Confirmation of details	Is there a trace of the subject?	Yes
Current status	Valid leave to remain in the UK?	No
Right to work	Does the individual have the right to work in the UK?	No
Recourse to public funds	Does the individual have recourse to public funds in the UK?	No
Other	Home Office computer records show that the subject submitted an Asylum Claim 12/03/2018, this is outstanding.	

Standard Disclaimer

The above information is confidential and forwarded on the understanding that it is not disclosed to any third party. Should there be any ensuing criminal legal proceedings, any of the above information may only be submitted in the form of an official Home Office witness statement, which you can obtain through this office. If a witness statement is required, please send this form by email to: ICESSVECStatements@homeoffice.gsi.gov.uk.

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: Alan BECKETT

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Licensing Officer 75984

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:  (witness) Date: 05/04/2018

About 19.55 hours on Wednesday 4th April 2018 I together with Special Sergeant DORRINGTON who was in full uniform attended the Bengal Diner Restaurant situated at Fox Street Ardleigh CO7 7PP. At that location I met a male who stated he was Mr Syful ALUM and who confirmed that he is both the Designated Premises Supervisor (DPS) and Premises Licence Holder (PLH) of that venue. I introduced myself and showed him my Police identification card, I am given to understand that Her Majesty's Immigration Service (HMI) visited the venue on 08/03/2018 and detained 2 suspected illegal workers. I said to Mr ALUM I was there in relation to that visit and I asked to see his right to work documentation. He replied it was with his accountant. I queried why it was not at the venue because if he was visited again by HMI he should have the documentation to hand if he in fact had it. He replied that the Restaurant was not a secure place to store copies of passports. I replied that I found it hard to imagine in a venue that size he could not find a secure method of storage. Mr ALUM mentioned that the company details had changed from Well Smart Ltd to Just Most Ltd and this change took place after the raid. I asked if he was both the DPS and PLH at the time of the HMI visit and he confirmed that he was. I asked if he was aware of what was required and he seemed unsure and it was agreed I would e mail the information that I had to him. Special Sergeant DORRINGTON and I left the premises on the way out I noticed a group of 3 or 4 persons at the rear of the restaurant who were seemingly having a meal. I did not get exact details as I did not want to embarrass Mr ALUM in front of his customers.

Statement made as original notes on Thursday 05/04/2018 @ 07.55 hours

Signature:  Signature witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [] [] [] []

Statement of: Catherine DORRINGTON

Age if under 18: OVER 18 (if over 18 insert 'over 18') Occupation: Acting Special Sergeant

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [Handwritten Signature] (witness) Date: 11th April 2018

On Wednesday 4th April 2018 at about 19:55 hours I attended the BENGAL DINER RESTAURANT, FOX STREET, ARDLEIGH CO7 7PP with Licencing Officer 75984 ALAN BECKETT. When we entered the premises we were met by a male who introduced himself as Mr Syful ALUM. He confirmed he was the Designated Premises Supervisor (DPS) and the Premises Licence Holder (PLH) of the venue. Alan BECKETT introduced himself and myself and we both showed our Police Identification Cards. Alan BECKETT then explained the reason for our visit which was in relation to a visit that was made by Her Majesty's Immigration Service (HMI) to the BENGAL DINER RESTAURANT on 8th February 2018 where two suspected illegal workers were detained." He then asked Mr ALUM if he could see his right to work documentation. Mr ALUM replied that it was with his accountant. Alan BECKETT explained that it was very important to have this documentation on site in case he got visited again by HMI. Mr ALUM explained that the venue was not secure enough to store this documentation and passports. Alan BECKETT then went on to say there should be somewhere in the venue to secure these documents and maybe he should invest in a safe. Mr ALUM said that the Company details had changed from Well Smart Ltd to Just Most Ltd and this change took place after the visit from HMI. He said "I WILL BE HERE ALL THE TIME NOW, IT WILL BE RUN PROPERLY." He was questioned by Alan BECKETT as to whether he was both the DPS and PLH at the time of the HMI visit. Mr ALUM said that he was. Alan BECKETT then explained what the requirements were and what he had to adhere to with regard to employing staff and said that he would email Mr ALUM this information. Myself and Alan BECKETT then left the premise where I noticed approximately 4 people sitting at the back of the restaurant eating. These are my original notes.

Signature: [Handwritten Signature] Signature witnessed by: