CITY OF WOLVERHAMPTON COUNCIL

Statutory Licensing Sub-Committee

Thursday, 23 June 2022

Dear Councillor

STATUTORY LICENSING SUB-COMMITTEE - THURSDAY, 23RD JUNE, 2022

I am now able to enclose, for consideration at next Thursday, 23rd June, 2022 meeting of the Statutory Licensing Sub-Committee, the following documents that were unavailable when the agenda was printed.

Agenda No	Item
3	**Licensing Act 2003 - Application for a Review of a Premises Licence in respect of The Pendulum, Blaydon Road, Wolverhampton, West Midlands, WV9 5NP (Pages 3 - 52)**

If you have any queries about this meeting, please contact the democratic support team:

Contact Donna Cope
Tel 01902 554452
Email donna.cope@wolverhampton.gov.uk
Address Democratic Services, Civic Centre, 1st floor, St Peter's Square, Wolverhampton WV1 1RL

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CITY OF
WOLVERHAMPTON
COUNCIL

Licensing Services, 2nd Floor, Civic Centre, St. Peter's Square, Wolverhampton, WV1 1SH

Application to vary a premises licence to specify an individual as designated premises supervisor 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 / we Mohammed Khalil Ali
(full name(s) of premises licence holder)
being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number
20/22712/PRE

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description
The Pendulum,
Blaydon Road,
Pendeford

Post town	**Post code (if known)**
Wolverhampton	WV9 5NP

Telephone number (if any)

Description of premises (please read guidance note 1)
Public House

and any premises licence to be granted or varied in respect of this application made by

Mohammed Khalil Ali

[name of applicant]

concerning the supply of alcohol at

The Pendulum, Blaydon Road, Pendeford, Wolverhampton, WV9 5NP

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

PER3798

[insert personal licence number, if any]

Personal licence issuing authority

City of Wolverhampton Council

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed [redacted]

Name (please print) Kushwant Kaur

Date 09 June 2022

CITY OF
WOLVERHAMPTON
COUNCIL

Licensing Services, 2nd Floor, Civic Centre, St. Peter's Square, Wolverhampton, WV1 1SH

Consent of individual to being specified as premises supervisor

I Kushwant Kaur
[full name of prospective premises supervisor]

of [redacted]

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

a variation of a Premise's Licence
[type of application]

by

Mohammed Khalil Ali
[name of applicant]

relating to a premises licence 20/22712/Pre
[number of existing licence, if any]

for The Pendulum, Blayford Road, Pendeford, Wolverhampton, WV9 5NP

[name and address of premises to which the application relates]

Part 2

Full name of proposed designated premises supervisor
Kushwant Kaur

Nationality
British

Place of birth
[redacted]

Date of birth
[redacted]

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)
PER 3798

Full name of existing designated premises supervisor (if any)
Mohammed Khalil Ali

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 ☒

I have enclosed the premises licence or relevant part of it ☒

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee ☒
- I will give a copy of this application to the chief officer of police ☒
- I have enclosed the consent form completed by the proposed premises supervisor ☒
- I have enclosed the premises licence, or relevant part of it or explanation ☒
- I will notify the existing premises supervisor, if any ☒
- 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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature [redacted]

Date 09 June 2022

Capacity Premises Licence Holder

For joint applicants signature of 2nd applicant 2nd applicant's solicitor or other authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Mohammed Khalil Ali,
The Pendulum,
Blayford Road,
Pendeford

Post town Wolverhampton	**Post Code** CV9 5NP

Telephone number (if any)
If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Employee Safety Handbook

EMPLOYEE SAFETY HANDBOOK

This handbook has been prepared to provide you with information about our Health and Safety Policy, procedures and arrangements. It also includes information about your duties as an employee and will help you to understand health and safety issues which affect you at work.

WHAT THE LAW REQUIRES

As an employer we must prepare a written health and safety policy statement explaining how we intend to protect the health and safety at work of our employees and anyone else who might be affected by our work activities. Our Health and Safety Policy and Arrangements reflect our commitment to the provision of a safe working environment. They also meet a requirement to identify the duties and responsibilities for employees with responsibilities for managing health and safety in our workplace.

We also have a responsibility and duty to ensure that you are:

- aware of and understand our Health and Safety General Policy;
- aware of and understand the health and safety rules relating to your work;
- provided with adequate information, instruction, training and supervision;
- made aware of the significant risks associated with your work activities and how they may affect others;
- provided with Safe Systems of Work; and
- provided with a safe and healthy working environment.

The policy is reviewed at regular intervals.

We ask you to acknowledge that you have read and understood the rules set out in this handbook, that you will obey them and any other rules or changes that are drawn to your attention. We will also provide, as appropriate, additional documents, training and instruction to help you to carry out your work safely and without risk to your health.

Health and Safety General Policy Statement

Pendulum Pub recognises that it has responsibilities for the health and safety of our workforce whilst at work and others who could be affected by our work activities. We will assess the hazards and risks faced by our workforce in the course of their work and take action to control those risks to an acceptable, tolerable level.

Our Managers and Supervisors are made aware of their responsibilities and required to take all reasonable precautions to ensure the safety, health and welfare of our workforce and anyone else likely to be affected by the operation of our business.

This business intends meeting its legal obligations by providing and maintaining a safe and healthy working environment so far as is reasonably practicable. This will be achieved through:

- providing leadership and adequate control of identified health and safety risks;
- consulting with our employees on matters affecting their health and safety;
- providing and maintaining safe plant and equipment;
- ensuring the safe handling and use of substances;
- providing information, instruction, training where necessary for our workforce, taking account of any who do not have English as a first language;
- ensuring that all workers are competent to do their work, and giving them appropriate training;
- preventing accidents and cases of work related ill health;
- actively managing and supervising health and safety at work;
- having access to competent advice;
- aiming for continuous improvement in our health and safety performance and management through regular (at least annual) review and revision of this policy; and
- the provision of the resource required to make this policy and our health and safety arrangements effective.

We also recognise;

- our duty to co-operate and work with other employers when we work at premises or sites under their control to ensure the continued health and safety of all those at work; and

- our duty to co-operate and work with other employers and their workers, when their workers come onto our premises or sites to do work for us, to ensure the health and safety of everyone at work.

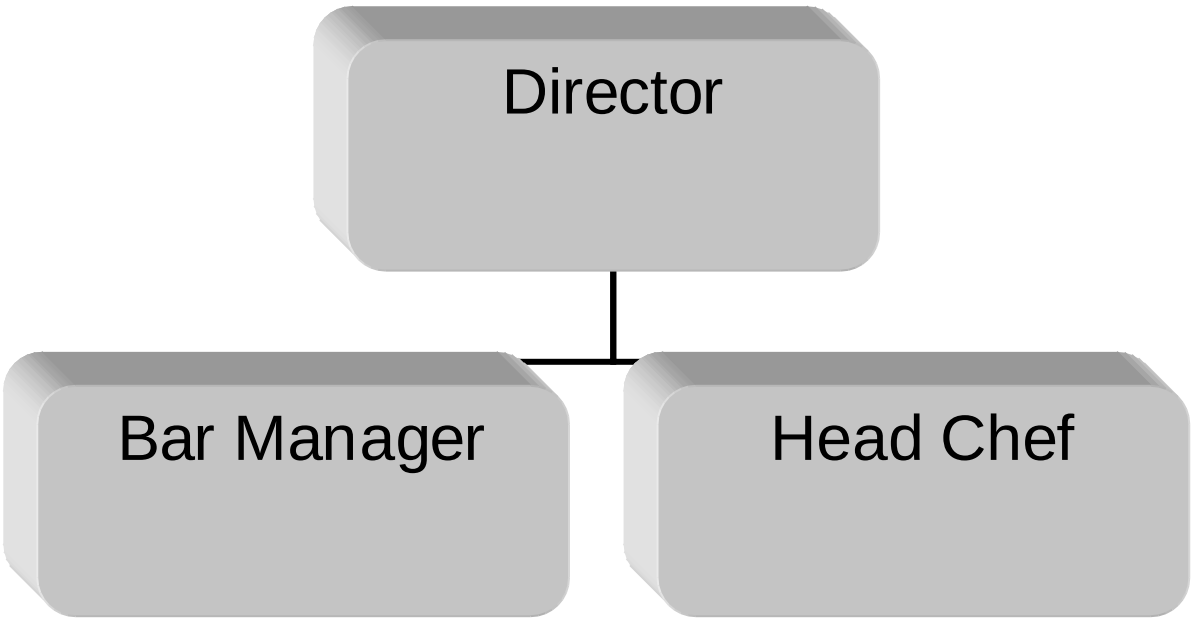
To help achieve our objectives and ensure our employees recognise their duties under health and safety legislation whilst at work, we will also remind them of their duty to take reasonable care for themselves and for others who might be affected by their activities. These duties are explained on first employment at induction and also set out in an Employee Safety Handbook, given to each employee, which sets out their duties and includes our specific health and safety rules.

In support of this policy we have prepared a responsibility chart and specific arrangements.

[A signed and dated copy of this policy is available from your manager by request.]

HEALTH AND SAFETY ORGANISATION

In support of our Health and Safety Policy the Director identified key personnel for its implementation and allocated specific responsibilities as set out here and in the following pages.



RESPONSIBILITIES

Responsibilities are allocated to key management personnel as below.

Key
D - Director
BM - Bar Manager
HC - Head Chef

SAFETY ARRANGEMENTS	D	BM	HC
Managing Safety & Health at Work	✓	✓	✓
Accident, Incident, Ill Health Reporting and Investigation		✓	
Risk Assessment and Hazard Reporting	✓	✓	✓
Occupational Health and Health Surveillance		✓	
Substance & Alcohol Abuse		✓	
Purchasing	✓	✓	✓
New and Expectant Mothers		✓	
Employing Children & Young Persons		✓	
Lone Working		✓	
Health & Safety Training		✓	
Health & Safety of Visitors		✓	
Personal Protective Equipment		✓	✓
Employing Agency and Temporary Staff		✓	✓
Safe Systems of Work		✓	✓
Action on Enforcing Authority Reports	✓		
Equality and Disability Discrimination Compliance		✓	
H&S Information for Employees		✓	✓
Fire Safety - Arrangements and Procedures	✓	✓	✓
First Aid		✓	✓
Welfare, Staff Amenities, Rest Rooms & the Working Environment		✓	
Housekeeping and Cleaning		✓	✓
Pest Control		✓	✓
The Control of Hazardous & Non Hazardous Waste		✓	✓
Access, Egress, Stairs & Floors		✓	
Workplace Signs		✓	
Working in the Open Air. Working in the Sun		✓	

SAFETY ARRANGEMENTS	D	BM	HC
Water Temperature Control			✓
Premises	✓	✓	
Teagle Openings & Similar Doorways		✓	
Electrical Safety		✓	
The Provision, Use & Maintenance of Work Equipment		✓	✓
Hand Tools			✓
Office Equipment		✓	
Storage of Chemical Substances & Agents		✓	✓
Control of Flammable Liquids		✓	✓
Slips, Trips & Falls		✓	✓
The Provision & Use of Machinery		✓	✓
The Safe Use of Machinery		✓	✓
Work at Height		✓	
Access Equipment		✓	
Safety in Food Preparation Environments		✓	✓
Infection Control		✓	✓
Manual Handling		✓	✓
Display Screen Equipment & DSE User Eye Tests & Spectacles		✓	
Legionella Control		✓	
Radon		✓	
Asbestos at Work		✓	
Stress in the Workplace		✓	
Aggression & Violence in the Workplace		✓	✓
Flour Dust in Bakeries		✓	✓
Dermatitis		✓	✓
Coin Operated Amusement Devices		✓	

KEY HEALTH AND SAFETY RESPONSIBILITIES

Introduction

Health and safety legislation places specific duties on employers to make arrangements to protect the health, safety and welfare of their employees whilst at work and anyone else (visitors, contractors, etc) who might be affected by their business activity.

To help us comply with these duties we have assigned specific health and safety responsibilities to Key Personnel as shown on the previous page.

In addition, we have a health and safety management system that includes:

- our Health and Safety Policy;
- safety responsibilities for key personnel;
- safety arrangements to deal with health and safety issues in our workplace;
- risk assessments;
- procedures to deal with emergencies;
- employee safety rules; and
- additional information such as documented Safe Systems of Work, specific safety rules and fire precautions, are also provided.

Other health and safety information provided to employees includes:

- the official Health and Safety Law poster;
- a current Employer's Liability Insurance Certificate;
- health and safety booklets and information sheets;
- information about significant findings from risk assessments and action to be taken; and
- information relating to Safe Systems of Work and work procedures.

EMPLOYEES' LEGAL RESPONSIBILITIES

All employees have a legal duty to take reasonable care for themselves and others and to co-operate with management on all aspects of health and safety.

You must co-operate with and follow all emergency arrangements.

You must ensure that you report all accidents, near misses or damage to equipment and property as soon as possible. You must co-operate and assist with accident or incident investigations when asked.

You must refrain from deliberate acts or interference with anything provided in the interests of health, safety and welfare. This includes alteration, removal or deliberate disablement of guards and other safety devices and unauthorised alteration or repair of equipment.

You must carry out your tasks in a safe manner and follow any instructions, procedures or Safe Systems of Work given to you by managers and supervisors. If you identify a hazard or hazardous situation, you must immediately, or as soon as possible report, it to the person managing the work.

You also have a duty to ensure that all personal protective equipment provided for you is worn as directed, kept clean, maintained and stored in the correct manner.

Remember that these are statutory duties. The Enforcing Authorities can prosecute individual employees who fail to comply. Prosecution can result in heavy penalties - fines and or imprisonment.

SAFETY RULES

This section outlines some of the general health and safety rules that apply while you are working for us. There may be other more specific procedures where particular working practices apply and for which training and instruction will be provided.

Accident Procedures

All work related injuries, however minor, must be reported to management and recorded in the Accident Book.

Report all accidents, incidents, near misses and dangerous occurrences

to management immediately.

Report all instances of damage to any property or articles to management immediately.

Working Practices

Do not operate any equipment or use hazardous substances unless you have been trained and authorised.

Use all work equipment in accordance with your training and instruction.

Report any fault, damage, defect or malfunction in any equipment to management immediately or, if this is not possible, as soon as reasonably practicable.

Do not repair any work equipment unless you have been trained and authorised.

When cleaning work equipment you must use the correct procedure as instructed.

Work equipment must not be left switched on without someone in control of it.

If under 18 years old you must not operate or clean dangerous machinery without direct supervision and instruction.

Use all hazardous substances in accordance with written assessments and instructions.

Always follow our Drugs and Alcohol Policy.

Carry out manual handling tasks as instructed and according to your training.

You must comply with all of our safe working procedures.

When at work you must always wear suitable footwear.

Working Conditions and Working Environment

Always use the correct tools provided for your work.

Clear up spillages as soon as possible, clean as you go. If the spillage is of a hazardous substance report it to a manager.

All hazardous waste must be disposed of in a safe and approved manner.

Do not allow hazardous substances to enter drains or sewers.

Keep floors and other work areas free from obstruction and all other areas clean and tidy. Clean as you go.

Dispose of all rubbish and waste materials as instructed.

Disinfection procedures must be followed as instructed.

You must report any hazardous conditions to management.

Fire Precautions

You must report any use of fire fighting equipment to management.

Do not attempt to fight fires unless you have been trained how to do so.

You must comply with all established emergency procedures.

You must not obstruct any fire escape route, fire equipment or fire doors at any time. Locked or obstructed fire escape routes must be reported immediately to management.

You must not interfere with or misuse any fire equipment provided.

Fire doors should be kept closed at all times, unless fitted with an automatic release device.

Hygiene

You must maintain high standards of personal hygiene at all times when at work.

You must protect all open wounds with a suitable dressing, whilst at work.

You must not consume food or drinks in a place where it may become contaminated.

You are expected to use and treat the toilets, washing and welfare facilities with care and respect, keeping them clean and tidy so that the risk of contamination and cross-infection are minimised.

Health

You must report to management any medical condition, symptoms or use of medication which could affect your safety or the safety of others.

Failure to do so could result in disciplinary action.

You must cooperate with our health surveillance provisions.

You must inform management, as soon as possible, if you are pregnant.

You must report to management any instances of illness that could compromise food hygiene and / or other people's wellbeing. This includes;

- Diarrhoea, sickness (vomiting) and other stomach disorders
- Any discharge from the eyes, ears or nose or a sore throat
- Any septic skin condition such as sores, boils, septic cuts etc.
- Any other infection.

You must inform management of any infections or illness immediately. Decisions to keep you away from work, due to illness, will only be taken after careful consideration.

You must not attend work under the influence of either alcohol or illegal drugs.

Hazard Warning Signs, Signals and Notices

You must comply with all workplace warning signs, signals and notices displayed.

Protective Clothing and Equipment

You are required to use all personal protective equipment as instructed.

You must not damage or misuse personal protective equipment.

After use personal protective equipment must be properly cleaned and stored correctly.

You must inform management of any personal protective equipment defects or loss.

Gross Misconduct

You will be liable to summary dismissal if you are found to have acted in either of the following ways:

- Serious breaches of the preceding health and safety rules, which endanger the lives of or may cause serious injury to employees or any other person.
- Interference with or misuse of any equipment for use at work, such that it may cause harm.

HAZARD REPORTING

If you have concerns about health or safety hazards in the workplace you should raise them with your supervisor or manager so that they do not go unnoticed and remedial action can be taken.

Recognising that some people can feel uncomfortable about raising hazard issues we also have a system which allows you to report your concerns in writing and (should you choose) anonymously. Complete the Hazard Log form at the back of this handbook, put it in an envelope and place it in the mail box.

Should you need additional Hazard Log forms or would rather not use the one in this booklet you can get additional copies by asking your line manager.

We encourage your participation in reporting hazards, so that defects or hazards can be quickly identified and remedied before they can cause injury or ill-health to you or your colleagues.

CONSULTATION

To promote your involvement in the health and safety of the organisation we provide various formal opportunities for employee consultation. Between those opportunities you should raise any general concerns about health and safety at work with your supervisor or manager.

Every effort will be made to provide consultation and communication on important health and safety issues such as:

- risk assessments and subsequent safe systems of work;
- workplace hazards;
- emergency procedures;
- new working practices and new work equipment; and
- workplace welfare issues.

OCCUPATIONAL HEALTH

Hazards that have the potential to harm your health, or anyone connected with our business, are identified in our risk assessments.

It is our policy that we only use substances hazardous to health where there is no alternative safe substance that could be used. Where we have to use hazardous substances we always try to use those that present the lowest level of risk to people who use them.

Where risk assessment identifies the presence of Occupational Health hazards and risks we will always implement suitable control measures. Where occupational health surveillance is recognised as being able to recognise and protect against ill-health appropriate systems will be implemented. You will be informed of any requirement for your involvement in this health monitoring.

We anticipate that you will cooperate and take part in health monitoring which will be for your benefit. The specific results of any monitoring carried out by medical qualified assessors will always be confidential.

RISK ASSESSMENTS

We carry out the process of risk assessment to reduce the risk of injury and ill health, and identify:

- the significant hazards that employees may be exposed to;
- who could be harmed and how;
- the likelihood of someone being harmed by the hazard;
- existing control measures;
- what (if any) further actions are required; and
- appropriate Safe Systems of Work and necessary training.

For further information on risk assessment and to view those relevant to your work you should speak to your supervisor or manager.

GENERAL SAFETY RULES

Applicable to all Employees, Visitors and Contractors

1. **Obey all rules, signs and instructions.**
2. **Attend for health and safety training or induction as instructed.**
3. **If you have not been trained to carry out a work activity do not attempt the work.**
4. **Ensure that all equipment used is in a safe condition.**
5. **Wear Personal Protective Equipment as specified.**
6. **Do not enter any areas for which you are unauthorised.**
7. **All accidents, incidents, hazards and near misses must be reported to the person in charge as soon as possible after the incident.**
8. **Smoking, including e-cigarettes, is not permitted in the workplace.**
9. **Maintain good housekeeping at all times.**
10. **Pedestrian and vehicle traffic routes must be kept clear at all times.**

Pendulum Pub

HAZARD REPORTING FORM

Form HR

Use this form to report workplace hazards unsafe working conditions or practices that you are not able to correct for yourself or are not within your area of responsibility.

If you have a suggested solution or remedy please let us know about it.

The business would prefer that you hand this completed form to a line manager so that the issues can be explained to them but you do not have to do that. You can simply leave it in the mail box.

If you need additional copies of this form or would rather not use the one from this booklet you can get additional copies by asking your line manager.

If you wish to remain anonymous there is no need to give your name. All hazards reported, including anonymous reports, will be taken seriously.

Report date: ……..
Hazard location: ……

Hazard description: …

Suggested solution: …

What is your name? …
(not compulsory)

……..……..

For employer's use

Action identified as necessary:

Action allocated to: ……

Target date for completion: …

Employers should copy basic details of this hazard report to form HL, Hazard Log, which will act as a running record and give an oversight of all hazards reported.

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Pendulum Pub

EMPLOYEE CONFIRMATION OF RECEIPT AND CONTENT OF EMPLOYEE SAFETY HANDBOOK

Please read the notes below, then sign and date this form

Part 1

Pendulum Pub has prepared a Health and Safety Policy. This form is to let you know that the sections of the Policy affecting you, as an employee, are contained in the Employee Safety Handbook.

Should you wish to see the complete Health and Safety Policy this can be arranged; ask your line manager. They will arrange for it to be made available.

Please read the Employee Safety Handbook and take time to understand it. Raise any questions about the content with your manager. Then sign and read the declaration at Part 2.

Part 2

I have read the Employee Safety Handbook. I understand, accept and will comply with the contents. I understand that compliance with the rules and conditions set out forms part of my contract of employment. I will keep myself aware of its contents and any updates I am told about.

Employee signature: .....

Date: .....

Name: .....

Department: .....

Note: By law employers have to make available to employees relevant information about their health and safety policies, procedures and safe working systems. The same legislation requires employees to follow safety rules, procedures and instructions set by their employer and should confirm that they understand these matters. In the event of refusal to sign this document, arrangements will be made to have the contents read to you and this will be recorded by your manager.

© - Peninsula v9

PENINSULA

BAFE FIRE SAFETY REGISTER
Fire Extinguisher Service Provider

kfp

european certification group
BS EN ISO 9001 REGISTERED FIRM

this is to certify that

kingswinford fire protection

Has on this day maintained and inspected the fire extinguishers at your premises, and they have been serviced in accordance with British Standards BS5306: Part 3 and BAFE SP101

Customer

The Pendulum Pub

Address

Blaydon Road, Wolverhampton, WV9 5NP

Date of Issue

17-6-22

Signed

[redacted]

on behalf of Kingswinford Fire Protection

Certificate Number

OK4

kingswinfordfireprotection

Extinguishers • Alarms • Fire Risk Assessments

[redacted]

IFEDA Member

To confirm the validity of the gas operative please contact Gas Safe Register on Tel: [illegible]

Serial No: CP17129008

GAS INSTALLATION SAFETY REPORT (NON-DOMESTIC)

Registered Business: MASTER GAS MAINTENANCE LTD
Address: [redacted]
Postcode: [redacted]
Tel No: [redacted]

Registration No: 191784
Operative Licence No: [redacted]
Date: 19.05.2022
Print Name: [redacted]
Position Held: GAS OPERATIVE

Job Address:
Name: PENDULUM
Address: BLAYDON ROAD
WOLVERHAMPTON
Postcode: WV9 5NP Tel No: 01902783779
Received by (signature): [redacted] HS

Client Details (if different):
Name:
Address:
Postcode: Tel No:

APPLIANCE DETAILS

	Appliance type	Location	Make	Model	Flue type (OF/RS/FL)
1	TANDOOROVEN	KITCHEN	SHAAN	A-NG	FL
2	COOKER	KITCHEN	FALCON	G310	FL
3					
4					

INSPECTION DETAILS

	Operating pressure or heat input (mbar, kW or Btu/h)	Combustion analyser reading (if applicable)	Safety device(s) correct operation (Yes/No/NA)	Ventilation provision satisfactory (Yes/No)	Visual condition of chimney and termination satisfactory (Yes/No/NA)	Flue performance checks (Pass/Fail/NA)	Appliance safe to use (Yes/No)
1	14kw	79PPm	YES	YES	NA	NA	YES
2	38.9kw	74PPm	YES	YES	NA	NA	YES
3							
4							

eter Installation	Yes/No
the meter installation accessible?	YES
the meter adequately supported?	YES
he emergency control valve: a. accessible?	YES
b. fitted with a handle?	YES
c. labeled with direction of operation?	YES
d. complete with emergency notice?	YES
e meter room/compartment/housing adequately ventilated?	YES
e meter room/compartment/housing secure?	YES
e meter room/compartment/housing clear of combustibles etc?	YES

llation Pipework	Yes/No
as installation line diagram fixed near to the primary meter?	YES
gas installation line diagram current/up-to-date?	YES
equate emergency/isolation valves fitted?	YES
ergency/isolation valve handles in place and suitably labelled?	YES
as pipework adequately supported?	YES
as pipework, where located in ducts, adequately ventilated?	YES
as pipework colour coded/identified?	YES
s installation electrically bonded?	YES
pework suitably sleeved and sealed, as appropriate?	YES
s strength/tightness test been carried out?	YES

separate Gas Testing and Purging Certificate (Non-Domestic).

Details of work carried out

Details of remedial work required

Safety Information	Yes/No	If Warning Notice issued, Insert Serial No*
Has a Warning Notice been raised?	NO	—
Have warning labels been attached?	NO	
Has responsible person been advised?	NO	

DECLARATION OF GAS SAFETY

I confirm that all of the work described on this form has been satisfactorily completed in accordance with the current Gas Safety (Installation and Use) Regulations, Standards and Procedures.

Gas operative's signatur[redacted]

eparate Warning Notice Key: Top Copy – Responsible person. Bottom Copy – Gas Operative To re-order quote Ref. CP17

Gas Safe Register is a registered trade mark of the HSE and is used under licence.

Certificate of Insurance

Issue date: 16 May 2022

Simply Business certifies that the information for The Pendulum shown here is correct, as of the issue date above.

For full policy terms and conditions, please refer to the policy wording document.

Company name	The Pendulum
Policy number	MHGS3120458XB
Trade/Business	Public Houses / Restaurant - Licensed
Public liability	up to £2,000,000
Product liability	up to £2,000,000
Employers liability	up to £10,000,000
Policy start date	21 May 2022
Policy end date	20 May 2023

David Summers
Group CEO, Simply Business

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Intranet Demonstation

Location: EXAMPLE

Title : Violence and Aggression	**Date of Assessment :** 17/09/2018	**Risk Assessor :**
Risk Assessment Reference : GEN300	**People involved in making this assessment : K Kaur**	
Task/ Process : Serving, dealing with customers	**People at Risk :** Employees, Members of the Public	

Hazard : Violence, threatening behaviour Employees may be subject to threatened or actual violence or aggressive behaviours in the course of their work and suffer injury and or stress.
Control Measures:
1. We do not tolerate any instance of work-related violence, including verbal abuse, to our staff.
2. All staff have received specific training and instruction in managing abusive and threatening customers and in avoiding conflict. This training given at induction, ad hic briefing sessions and at formal annual refresher training.
3. No member of staff is blamed for an instance of work-related violence caused by a customer or member of the public. All such incidents are investigated and analysed so that lessons can be learned and shared among staff.
4. Managers are trained and instructed to treat reports of violence and agression seriously, to prompltly respond to them, to record details and to share lessons learned with staff and other managers.
5. Managers training includes providing support to any member of staff involved in an incident and to others who may have witnessed the incident or been affected by it.
6. The Police are always involved where actual harm ocurrs and where the same person is regularly abusive of threatening to staff.
7. HD CCTV is used to monitor and survey the premises. Its presence is advertised and cameras are prominent.
8. At busy times .....(detail). .....security staff are employed.
9. Relaxing background music is played to create a pleasant environment.
10. Cash management procedures in place to ensure that little cash is accessible and end of shift cashing-up procedures in place.
11. The premises are well lit, both at the entrance and inside. Counters have been fitted with panic alarms have been designed and sized to (include security devices and) make customer access to staff areas difficult.
12. Lone working does not take place.
13. We are members of a Watch Scheme and work with other local businesses to share information about known troblemakers and when they are present in the vicinity.

Documents Associated with this Risk Assessment:	
Review Date :18/06/2022	**Reviewer : K Kaur**

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CITY OF WOLVERHAMPTON COUNCIL

Statutory Licensing Sub-Committee

Minutes - 1 April 2022

Attendance

Members of the Statutory Licensing Sub-Committee
Cllr Phil Page (Chair)
Cllr Keith Inston
Cllr Wendy Dalton

Premises Licence Holder
Mr Mohammed Khalil Ali
Mr Soran Rostam
Duncan Craig — Barrister

Responsible Authorities
Steph Reynolds — West Midlands Police
Aimee Taylor — West Midlands Police
Greg Bickerdike — Licensing Authority

Employees
Elizabeth Gregg — Senior Licensing & Compliance Officer
Donna Cope — Democratic Services Officer
Jas Kaur — Democratic Services Manager
Sarah Hardwick — Senior Solicitor

Observers:
Cllr Rashpal Kaur
Alison Oldfield — West Midlands Police

Item No. *Title*

1 **Apologies for absence**

There were no apologies for absence.

2 **Declarations of interest**

There were no declarations of interest.

3 **Licensing Act 2003 - Application for a Variation of a premises Licence in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP**

An application for a variation of a Premises License in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP was considered following representations made from the Licensing Authority, West Midlands Police and Other Persons.

The Chair welcomed all parties to the hearing and invited all those present to introduce themselves. All parties did so. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application. Mr Duncan Craig, Barrister representing the Applicant, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Mr Craig, Barrister representing the Applicant, did so as per Appendix 1 of the report.
He discussed the events leading up to the revocation of the licence and stated the following:

1. A number of other premises whose licences were revoked as a result of a breach of Covid Regulations had posed significantly more risk to the public yet were now operating as before.
2. Enough time had now passed since the incident and his client should not be punished indefinitely.
3. His client accepted that he was in the wrong to allow patrons in the premises contrary to Covid regulations and he was sorry.
4. If the application was granted his client would be in attendance at the premises at night. He was aware of the nuisance as he had previously run the premises and would immediately address any nuisance issues.

The Chair afforded all parties present the opportunity to question Mr Craig and his client in relation to his submission. Mr Craig and his client responded to questions asked.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 3 of the report.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. Greg Bickerdike responded to questions asked.

The Chair invited West Midlands Police (WMP) to make representations. Aimee Taylor and Sergeant Steph Reynolds did so as per Appendix 4 of the report.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Miss Taylor and Sergeant Reynolds responded to questions asked.

The Chair invited all parties present to make their final address.

West Midlands Police, the Licensing Authority and the Applicant's Barrister made a final statement.

Sarah Hardwick, Senior Solicitor, provided legal advice to the Sub-Committee and responded to questions asked.

Councillor Page, Councillor Dalton, Councillor Inston, the Senior Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.15 hours.

The Hearing reconvened at 12.25 hours.

Councillor Page, Councillor Dalton, Councillor Inston, the Senior Solicitor and Democratic Services Officer re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee, which was read out by the Senior Solicitor.

Resolved:
The Statutory Licensing Sub-Committee had taken note of all the written concerns raised in respect of the application for the variation of the premises license in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP. It listened to the arguments of those who had spoken at the hearing, both for and against the application.

The Licensing Sub-Committee (LSC) heard from the applicant that:

1. The premises licence of the Pendulum was revoked following review for breach of Covid regulations in 2020. The matter was appealed to the Magistrates Court and terms were agreed to allow them to re-open. The premises were now applying to remove a condition added following appeal that reads "The previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business."
2. In relation to proportionality, reference was made to other premises whose licences were revoked as a result of breach of Covid Regulations. It was argued that these premises posed significantly more risk to the public, yet they were continuing to operate as before.
3. Enough time had now passed since the incident. Mr Rostam should not be punished indefinitely.

4. Mr Rostam accepted he was in the wrong to allow patrons in the premises contrary to Covid regulations, but he was sorry and showed genuine remorse.
5. Representations had been received from a local councillor and residents in respect of nuisance at the premises. The Premises Licence Holder had confirmed he was not able to be at the premises in the evening and if the application was granted Mr Rostam would be in attendance at night. Mr Rostam was aware of the nuisance, he had previously run the premises, and accepted he would immediately need to address any nuisance issues.
6. Mr Rostam admitted his licensing knowledge could be improved and would be prepared to do further training

The Licensing Sub-Committee had not taken into account submissions relating to other premises, not the subject of this application. The decision today was made on evidence presented in relation to the Pendulum only.

The Licensing Sub-Committee heard from and considered written submissions made by the Licensing Authority as Responsible Authority that:

1. They made relevant representations in respect of this application under the Licensing Objective Prevention of Crime and Disorder.
2. On 20 May 2020 the Wolverhampton City Council Statutory Licensing Sub-Committee revoked the premises licence of The Pendulum following a failure to comply with the law and Regulations enacted as a result of the Coronavirus pandemic.
3. The Premises Licence Holder appealed this decision to the Wolverhampton Magistrates Court. Terms of settlement were agreed between the parties which would allow the premises to operate in furtherance of the Licensing Objectives, to include the condition that “the previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business.”
4. It was for members to decide whether the application should be granted and whether the condition should remain in place.

The Licensing Sub-Committee heard from and considered written submissions made by the West Midlands Police as Responsible Authority that:

1. They made relevant representations in respect of this application under the Licensing Objective Prevention of Crime and Disorder.
2. On 20 May 2020 the Wolverhampton City Council Statutory Licensing Sub-Committee revoked the premises licence of The Pendulum following a failure to comply with the law and Regulations enacted as a result of the Coronavirus pandemic. At that time the Premises Licence Holder, and therefore the person responsible for the management of the premises, was Mr Soran Rostam.
3. On appeal to the Wolverhampton Magistrates Court terms of settlement were agreed between the parties. West Midlands Police believed the condition stating that “the previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business” should remain.

4. Given the issues in 2020, they had no trust or confidence in Mr Rostam's ability to be involved in management of the premises.
5. Mr Rostam had volunteered to undertake further training, but the police argue he was aware and did understand his obligations in 2020 as at the time the country went into complete lockdown. At that time, Mr Rostam as Premises Licence Holder, was notified by relevant authorities of provisions under general law relating to closure of premises and how he was required to comply.
6. They appreciate the Premises Licence Holder may need assistance in the evening, but this does not have to be provided by Mr Rostam.
7. There was also concern from local residents.
8. West Midlands Police believed the condition was still relevant and therefore believed the application to vary should be refused.

Relevant representations had been received from a number of other persons by way of written submissions only. Those persons were not in attendance at the hearing but had confirmed that:

1. Cllr Roberts had confirmed that she had received complaints about the Pendulum from residents who had witnessed loud music played until 1am with persons arguing outside the premises on Friday and Saturday Nights. This was causing disruption to residents' sleep.

2. Residents local to the premises had confirmed that they do not want any change to any condition that will result in further nuisance or disturbance at the weekends.

The Licensing Sub-Committee had attached limited weight to representations made by way of written submission only as those making the representations were not in attendance at the hearing and therefore could not be questioned about submissions made.

The jurisdiction of the Licensing Sub-Committee here today was limited to considerations relating to licensable activities only.

It was noted that the applicant had offered to undertake further training however, the Licensing Sub-Committee believed that he should have had the relevant knowledge when issues occurred in 2020 yet he still failed to uphold provisions of the general law. Based upon this and other evidence presented and outlined above, the Licensing Sub-Committee are satisfied that to grant this application, would undermine further the Licensing Objectives.

Based upon the above and in accordance with Section 35 of the LA 2003 the Sub-Committee decided that the application to vary the premises licence should be refused.

It was considered that the above decision was in support of all the licensing objectives.

Written confirmation of the Sub-Committee's decision would be forwarded forthwith.

All parties had a right of appeal to the Magistrates Court within 21 days of receipt of the decision.

Neutral Citation Number: [2016] EWHC 1265 (Admin)

CO/345/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Thursday, 14 April 2016

B e f o r e:

MR JUSTICE JAY

Between:
EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF
(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

Respondent

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(Official Shorthand Writers to the Court)

Mr P Kolvin QC & Mr D Dadds (instructed by David Dadds LLP) appeared on behalf of the **Appellant**

The **Respondent** did not appear and was not represented

J U D G M E N T
(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.

2. The appellant, the East Lindsey District Council, is the licensing authority. The Magistrates' Court in the usual way is not a party to these proceedings. The respondent, Mr Abu Hanif, trading as Zara's Restaurant and Takeaway, is the licence holder. He through a licensing consultant has submitted correspondence making various limited points, but indicating that he would not be taking any part in these proceedings.

3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.

4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:

5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.

6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

7. The subcommittee considered the evidence by Mr Kheng on behalf of Mr Hanif and the Home Office section 182 Guidance to Licensing Authorities. The subcommittee were of the view that the premises licence should be revoked and that revocation was an appropriate step with a view to promoting the crime prevention licensing objective."

8. The respondent then appealed to the Magistrates' Court. There was a hearing on 27 March 2015, and on 23 June the district judge decided to allow the respondent's appeal. On 1 September 2015, the district judge determined the issue of costs and on 7 January 2016 he stated the case. The appeal to the district judge was de novo, but he accepted that he could only allow the appeal if the subcommittee's decision was "wrong", the burden being on the appellant before him to establish that.

9. Looking now at the stated case, the district judge noted that the respondent had received a civil penalty for employing an illegal worker under section 15 of the Immigration, Asylum and Nationality Act 2006. An immigration officer gave evidence to the effect that although by virtue of section 21 a criminal offence was committed, such proceedings were rarely brought. The district judge also noted that the police and the Council's licensing officer were no longer saying that the respondent was a serial offender, but a redacted report which was placed before the subcommittee still gave the impression that he "was in a much worse position than he actually was". As for the failure to pay the minimum wage, the district judge said this:

    A. "In his evidence before me Mr Hanif accepted that he had not paid the minimum wage and this in itself can be a criminal offence. I found that this was not the main basis of the subcommittee's decision however and again there was no evidence that he had been reported for that alleged offence. It would appear from their reasons that the subcommittee used the evidence of paying cash in hand as justification for the finding that he knowingly employed Mr Miah. The prosecuting authority however appear to have taken a different view in offering the civil penalty."

10. The district judge's core reasoning was that no crime had been committed. As he put it:

    A. "It appeared to me that no crime had been committed as a result of the visit to the premises in April of last year. A civil penalty had been imposed rather than

prosecution for the section 21 offence and no other crime had been reported in relation to not paying the minimum wage."

11. In the district judge's view, the crime prevention objective was not engaged.

12. The district judge also criticised the subcommittee for adopting an inconsistent approach because in other similar cases only warnings were issued. Finally, he considered that the subcommittee may have been influenced by comments in the police report, leading them to believe that they were dealing with a serial offender.

13. At the conclusion of the stated case, the district judge posed two questions for my determination. I will address these at the end of my judgment.

14. I was taken by Mr Philip Kolvin QC to various provisions of the Licensing Act 2003 as amended. Under section 4(1)and(2) a licensing authority must carry out its licensing functions with a view to promoting the licensing objectives, which include "the prevention of crime and disorder". The provisions dealing with the review application brought by the police are contained in sections 51 and 52. Under section 52(3), the licensing authority (and on appeal the Magistrates' Court):

    A. "... must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives."

15. The epithet "appropriate" was introduced by amendment in 2011. Previously the test had been stricter. In my judgment, it imports by necessary implication the concepts of proportionality and relevance.

16. Mr Kolvin submitted that the district judge erred in a number of respects. First, he wrongly held that, given that criminal proceedings were never brought, the crime prevention objective (see section 4(2)) was not engaged. The statute is concerned with the prevention rather than the fact of crime. Secondly, and in any event, the interested party had committed criminal offences in relation to tax evasion, the employment of an illegal worker, and employing an individual at remuneration below the minimum wage. As for the employment of an illegal worker, Mr Kolvin accepted that this requires knowledge on the part of the employer, and he also accepted that it is not altogether clear whether the district judge found as a fact that the respondent possessed the requisite knowledge. However, the core question is the promotion of the licensing objectives, not

the fact of anterior criminal activity, and in this regard a deterrence approach is appropriate.

17. Thirdly, Mr Kolvin submitted that there was no evidence of an inconsistent approach by the subcommittee in giving warnings in some cases because all cases turn on their own facts. Finally, Mr Kolvin submitted that there was no basis for the district judge's conclusion that the subcommittee may have been influenced by a suggestion that the respondent was a serial offender.

18. I accept Mr Kolvin's submissions. In my view the district judge clearly erred. 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. The district judge's erroneous analysis of the law precluded any proper consideration of that issue. In any event, I agree with Mr Kolvin that criminal convictions are not required.

19. To the extent that the analysis must be retrospective, the issue is whether, in the opinion of the relevant court seized of the appeal, criminal offences have been committed. In the instant case they clearly had been: in relation to tax evasion (see the common law offence of cheating the Revenue and the offence of fraudulent evasion of tax contrary to section 106A of the Taxes and Management Act 1970); and the employment of Mr Miah at remuneration below the minimum wage (see section 31 of the National Minimum Wage Act 1998). Moreover, given the evidence that Mr Miah never provided the relevant paperwork, notwithstanding apparent requests, the obvious inference to be drawn is that the respondent well knew that he could not, and that no tax code and National Insurance number had been issued. The corollary inference in my judgment is that the respondent well knew that Mr Miah could not provide the relevant paperwork because he was here illegally.

20. I also accept Mr Kolvin's submission that each case must turn on its own facts. As a matter of law, unless it could be said that some sort of estoppel or related abuse of process arose in the light of warnings given in other cases, the alleged inconsistent approach led nowhere. In my judgment, it could not be so said.

21. Finally, I agree with Mr Kolvin that there is nothing in the point that the subcommittee could have been misled about the interested party being a serial offender. The point that

the subcommittee was making was the fact that the respondent had worked at premises where illegal workers were also employed meant that he should have been vigilant to the issue.

22. Thus the answer to the district judge's two questions are as follows:

    A. Q. "Was I correct to conclude that the crime prevention objective was not engaged as no crimes had been proceeded with, the appellant only receiving a civil penalty?"

    B. No.

    C. Q. "Was I correct in concluding that the respondent had been inconsistent in similar decisions in not revoking the licence [sic]?"

    D. No.

23. Having identified errors of law in the district judge's decision, the next issue which arises is whether I should remit this case for determination in the light of my ruling or whether I have sufficient material to decide the issue for myself. I should only adopt the latter course if satisfied that the issue is so obvious that no useful purpose would be served by remission. I am so satisfied. 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. Another way of putting the matter is that the district judge had no proper basis for overturning the subcommittee's assessment of the merits.

24. It follows in my judgment that the only conclusion open to the district judge in the present case was to uphold the revocation of the respondent's licence. This appeal must be allowed and the respondent's licence must be revoked.

25. MR KOLVIN: My Lord, I'm very grateful. Can I deal with the question of costs, both here and below.

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

29. MR KOLVIN: My Lord, we would ask for the costs before this court. I just want to pray in aid four very brief points. The first is the result. The second is that the district judge's approach was expressly urged on him by the respondent's legal team. Thirdly, that the respondent was expressly urged to concede this appeal to stop costs running, he was given that opportunity at pages 42 and 43 of the bundle. Fourthly, perhaps a little bit tugging at the heart strings, but there's no reason why the Council Tax payers of East Lindsey should bear the cost of establishing what has been established in this court. So we would ask for the costs up here.

30. There is a schedule and the schedule has been served upon Mr Hanif by letter dated 16 March of 2016. I don't know whether the schedule has found its way to my Lord, if not I can hand up a copy.

31. MR JUSTICE JAY: It has.

32. MR KOLVIN: It has. My Lord, I can see that VAT has been added on. It doesn't need to be because of course the Council can retrieve the VAT, so my application is for £16,185. I know there's not a lot of explanation around my fee, but it was taken on a single fee for all work involved in relation to the case stated; advice, the skeleton argument and attendance today, so it's one single --

33. MR JUSTICE JAY: What about your junior's fees?

34. MR KOLVIN: My learned junior is also my instructing solicitor, he wears two hats.

35. MR JUSTICE JAY: I see.

36. MR KOLVIN: He has his own firm which is Dadds LLP, and he is also a member of the bar, so although he has appeared as my junior, his fee is wrapped up in the solicitors' fees set out in the schedule.

37. MR JUSTICE JAY: Okay. What about the costs below?

38. MR KOLVIN: My Lord, I'm just trying to ascertain what the position is.

39. MR JUSTICE JAY: I thought there was no order for costs below.

40. MR KOLVIN: There was no order for costs below, that was on the basis that the appeal had been allowed. The situation in relation to costs of licensing appeals are set out in section 181 of the Act, which enables the court to make such order as it thinks fit. Normally when appeals are dismissed there is no real question about it, costs follow the event. When appeals are allowed, some further considerations come into play, which are expressed by the Master of the Rolls in a case which you may have come across called City of Bradford v Booth, which is the case where the Master of the Rolls said that local authorities shouldn't be put off from trying to make honest and reasonable decisions in the public interest. And so one has to take account additionally of the means of the parties and their conduct in relation to the dispute, but in this case of course the appeal has now been dismissed, and so we would say that the ordinary rule is that the costs should follow the event, the appeal having failed. I'm just trying to ascertain whether schedules were ever served below, in the light of the way the case came out. **(Pause)**

41. My Lord, I'm really sorry that we don't actually have the schedule here, apparently it was £15,000. If you were minded to order costs below the options are either I suppose to wait and we will have the thing emailed up, or to say, "Look, it was below, it's a little bit more complex, they should be assessed if not agreed."

42. MR JUSTICE JAY: This is going to wipe him out, isn't it?

43. MR KOLVIN: Well he has already said, I have to say, I'm just telling you frankly what I've been told this morning, that when the bundles and the schedules were served on him, he had clearly read them, but he said, "If you win in the High Court and get costs against me, then I'm just going to declare myself bankrupt." So there may well be a bit of football(?) about this, but nonetheless it was his appeal, his team raised a point which in retrospect was very surprising, and caused an awful lot of costs to be incurred.

44. MR JUSTICE JAY: Yes. Well I am going to assess the costs here in the round figure of £15,000.

45. MR KOLVIN: Thank you.

46. MR JUSTICE JAY: If there was a schedule, which you tell me there was, below, it is proportionate that I assess those costs rather than put you to the trouble of a detailed assessment, so if you could have that emailed to my clerk in due course, I will assess the costs below.

47. MR KOLVIN: Thank you, my Lord.

48. MR JUSTICE JAY: On the basis of that schedule.

49. MR KOLVIN: We're not trying to be too ambitious, but we would like to see what we can --

50. MR JUSTICE JAY: I'll take a broad brush approach to that.

51. MR KOLVIN: Thank you.

52. My Lord, the only other thing to mention is that this isn't the only case which is kicking around the east of England where licensing subcommittees are being urged to take no action because there has been no prosecution in these immigration cases. Although I appreciate that this is hardly stellar law making, it's an application of pretty well established legal principles to the facts, I'm asking whether my Lord would be minded to certify this so that we can adduce the authority in other cases, because it's a clear statement of the law that there doesn't need to have been a prosecution. So with the practice direction in mind, would my Lord be minded to --

53. MR JUSTICE JAY: Just remind me of the practice direction.

54. MR KOLVIN: Yes, can I hand it up?

55. MR JUSTICE JAY: Yes. **(Handed)**

56. MR KOLVIN: If Mr Hanif had come I wouldn't need to make the application. It's paragraph 6.1. The judgment has to clearly indicate that it purports to establish a new principle or extends the present law and that has to take the form of an express statement to that effect, and then 6.2 says what categories of judgment we're dealing with, which include applications attended by one party only.

57. So that's the situation we're in. In reality these judgments get around anyway, because we're dealing with administrative tribunals and not courts, but sometimes the point is taken, "Ah yes, but the court didn't certify".

58. MR JUSTICE JAY: But where's the new principle I've established?

59. MR KOLVIN: My Lord, what you have said clearly, which hasn't been said before, by dint of the fact that not many licensing cases reach the lofty heights of this building, is that there does not need to have been a prosecution in order for the crime to have --

60. MR JUSTICE JAY: Oh, I see. Well that's so obvious it almost goes without saying, that's why it hasn't been said before.

61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellant and other licensees in the east of England.

62. MR JUSTICE JAY: Okay.

63. In terms of the logistics, if you want a copy of the judgment, don't you have to pay for it?

64. MR KOLVIN: We may have to, and we would be obviously very pleased to do so.

65. MR JUSTICE JAY: Because I'm not sure that all judgments are, in the Administrative Court, they're not all transcribed and published.

66. MR KOLVIN: That is correct, and I have no doubt that my client would be -- this isn't a matter about the costs of the judgment.

67. MR JUSTICE JAY: No, fortunately it doesn't cost that much. But I will give the certification. I have never been asked to do so before, I must confess.

68. MR KOLVIN: Yes.

69. MR JUSTICE JAY: Because these cases are referred to almost willy nilly, if they're available on Lawtel or wherever.

70. MR KOLVIN: Yes, they are.

71. MR JUSTICE JAY: Then they're just provided.

72. MR KOLVIN: They get into the textbooks and they --

73. MR JUSTICE JAY: No-one objects.

74. MR KOLVIN: Yes. It has happened once before, in relation to the meaning of the Court of Appeal judgment in Hope and Glory, and Lindblom J, as he then was, was asked repeatedly would he certify in relation to the meaning of Hope and Glory, which is an important test, and he was pretty engaged in the practice direction. But since then that judgment, there's always an argument in court about whether it can be cited or not. The difference between licensing and some other fields of law is that very few cases reach here, so when they do, the judgments of High Court judges are gold dust.

75. MR JUSTICE JAY: Yes, well I'm happy to make the certification.

76. MR KOLVIN: Thank you very much indeed.

77. MR JUSTICE JAY: We wouldn't want this point to be taken again successfully.

78. MR KOLVIN: No.

79. MR JUSTICE JAY: Now as a matter of courtesy, is the judgment, once available, sent to the district judge, or is it something that I should do informally?

80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments, but we're very happy to undertake to do so.

81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent --

82. MR KOLVIN: Indeed.

83. MR JUSTICE JAY: -- so he can ingest it. I think you should send it to the district judge, just saying that the judge directed that out of courtesy he should see it.

84. MR KOLVIN: We're very happy to do that. Thank you very much indeed.

85. MR JUSTICE JAY: Thank you very much.

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