



Premises Licence Review

RADHUNI

56 High Street, Newport, Saffron Walden, Essex, CB113QX



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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals.

In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

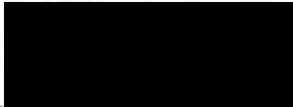
You may wish to keep a copy of the completed form for your records.

I Vicky Powell 72551, Licensing Officer Essex Police

**apply for the review of a premises licence under section 51 of the
Licensing Act 2003 for the premises described in Part 1 below**

Part 1 – Premises or club premises details

RADHUNI 56 High Street	
Newport, Essex	Post code CB11 3QX

Name of premises licence holder or club holding club premises certificate (if known)
SHAMIM AHMED 

Number of premises licence or club premises certificate (if known)
146

Part 2 - Applicant details

I am

Please tick ✓
yes

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

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

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

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

Please tick ✓ yes

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev) ☐

Surname First names

I am 18 years old or over ☐ Please tick ✓ yes ☐

Current postal address if different from premises address

Post town Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address ESSEX POLICE COUNTY LICENSING HUB BRAINTREE POLICE STATION BLYTHS MEADOW BRAINTREE CM7 3DJ
Telephone number (if any) 01245 452035 EXT 400176
E-mail address (optional) Licensing.applications@essex.pnn.police.uk

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

- | | |
|---|---------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | x |
| 2) public safety | |
| 3) the prevention of public nuisance | |
| 4) the protection of children from harm | |

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

This premise has been granted a premises licence by Uttlesford District Council authorising the sale of alcohol on the premises only. Monday – Saturday 1100 – 0000, Sunday Noon -2330.

There is no provision for off sales, regulated entertainment or late night refreshment.

The premises operates as an Indian Restaurant and takeaway

The Premises Licence Holder and Designated Supervisor is Mr SHAMIM AHMED

The current licence was granted by Uttlesford District Council and is not time limited.

HMRC officers attended the premises on Friday 01 September 2017. Power of entry to the premises was using a warrant under paragraph 17(2) schedule 2 of Immigration Act 1971AA. 3 illegal workers were located at the premises.

This undermines the Prevention of Crime and Disorder

Objective of the Licensing Act 2003, the crime committed being the offence of employing illegal workers under sections 3+35 of the Immigration Act 2016.

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

Please see Police Submission and supporting documents.

In this case a number of males were found to be working illegally at the premises.

They did not have the right to work in the UK. Although there was no right to work they

were employed anyway.

(See Documents 3&4).

Please tick ✓ yes

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

☐

If yes please state the date of that application

Day Month Year

1	1	1	1	1	1	1	1
---	---	---	---	---	---	---	---

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

NONE

Please tick ✓ yes

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date

13/10/17

Capacity for and on behalf of Chief Constable of Essex Police

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

VICKY POWELL 72551
LICENSING OFFICER
BRAINTREE POLICE STATION

Post town
BRAINTREE

Post Code
CM7 3DJ

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Licensing.applications@essex.pnn.police.uk

Licensing Act 2003
Premises Licence

146

LOCAL AUTHORITY



**Licensing Section
 Uttlesford District Council
 Council Offices
 London Road
 SAFFRON WALDEN
 ESSEX
 CB11 4ER**

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

RADHUNI / LONDON / LIMITED

56 HIGH STREET, NEWPORT, ESSEX, CB11 3QX.

Telephone 01799 542777

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON the premises only	Monday to Saturday	11:00am	Midnight
	Sunday	Noon	11:30pm
	Non Standard Timings: Christmas Day & Good Friday 12 noon to 11:30pm. New Year's Eve, except on a Sunday, 11:00am to midnight; New Year's Eve on a Sunday, 12 noon to 11:30pm. New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	11:00am	12:30am
Sunday	Noon	Midnight
Non Standard Timings: Christmas Day & Good Friday 12 noon to 12 midnight. New Year's Eve, except on a Sunday, 11:00am to 12:30am; New Year's Eve on a Sunday, 12 noon to 12 midnight, New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON the premises only



Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

SHAMIM AHMED

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

SHAMIM AHMED

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. [REDACTED]

Issued by [REDACTED]



ANNEXES

Annexe 1 - Mandatory Conditions

Mandatory conditions - supply of alcohol

- 1) No supply of alcohol may be made under the premises licence
 - at a time when there is no designated premises supervisor in respect of the premises licence or
 - at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended

- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Embedded Conditions of the 1964 Act

- 1) Suitable non-alcoholic beverages, including drinking water, shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.
- 2) The premises must be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.
- 3) Intoxicating liquor shall not be sold on the premises otherwise than to persons taking table meals there and for consumption by such persons as an ancillary to his meal.

The following conditions shall come into force on 6th April 2010

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.



ANNEXES continued ...

The following conditions shall come into force on 1st October 2010

4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Annexe 2 - Conditions Consistent with Operating Schedule

None.

Annexe 3 - Conditions Imposed Following a Hearing

None.

Annexe 4 - Plan of Premises

See attached.

Chief Executive



1.0 Outline of the Circumstances leading to the Review Application

1.1 Intelligence from a routine licensing visit on 25/08/2017 (see Doc 5) led to Immigration Enforcement officers attending the premises on Friday 01 September 2017. Power of entry to the premises was using a warrant under paragraph 17(2) schedule 2 of Immigration Act 1971AA.

1.2 On 1st September 2017 Immigration Control & Enforcement Officers attended the premises of Radhuni Restaurant 56 HIGH STREET, Newport, SAFFRON WALDEN, Essex, CB113QX. The attendance yielded the location of 3 immigration offenders who were detained.

1.3 Officer Clarke entered the rear of the premises and spoke with 2 males, identifying the first as [REDACTED], date of birth [REDACTED], a Bangladesh National. [REDACTED] confirmed he was here illegally. During questioning by Officer Clarke [REDACTED] stated that he was working this day in the kitchen at the restaurant. [REDACTED] was arrested. Officer Clarke then spoke with a second male, [REDACTED] date of birth [REDACTED], a Bangladesh National. Checks confirmed his status as an overstay. Neither of the 2 males were eligible to work in the UK. [REDACTED] was dressed in chefs whites and confirmed he had worked at the restaurant for 3 days cooking the rice. He did not know who had employed him. He also stated he did not get paid, that he had shown no papers to work and did not have a contract of employment. (See Document 3, Statement of IO Clarke).

1.4 At approximately the same time another Immigration Enforcement Officer, Officer Gear, entered the front of the building and encountered a male who was in the restaurant area but looked to make his way out the back kitchen area. The male was identified as [REDACTED], date of birth [REDACTED], a Bangladesh National. During questioning [REDACTED] confirmed he had no status in the United Kingdom. Checks confirmed [REDACTED] is an illegal entrant with no permission to live or work in the UK. [REDACTED] further stated he had worked at the premises for more than 3 months, his payment is in the form of accommodation, food and sometimes a little money (£10-£30). He did not know the name of the business owner and stated the manager had not arrived yet. The manager was referred to as [REDACTED]. [REDACTED] stated that he had not been asked to show or provide any documents to work.

1.5 [REDACTED] had previously been encountered by immigration officials in 2014 and jumped from a balcony to escape. He is fully aware he has no right to live/work in the UK.

1.6 A further 2 males were also questioned by Officer Gear. These males confirmed identities and status and the first was shown to have a family visa and the second was a British National. (See document 4, Statement of IO Gear).

1.7 The statements given demonstrate clearly that no heed was taken to identify the validity of entitlement to work, that the workers finding themselves in this employ were not suitably or adequately remunerated, effectively working as modern day slaves and that legislation required of the employer, to validate right to work, to operate under employment law, fulfilling minimum wage, NI and tax contribution requirements, was wholly ignored.

1.8 Of the 3 individuals located and identified as no right to work, the following updates apply: [REDACTED] – has subsequently on [REDACTED], claimed Asylum which is under consideration. Home Office records show he has no valid leave to remain and no right to work. (See document 6) [REDACTED] was the surname provided at time of initial encounter, subsequent checks give the full name as detailed here.

1.9 [REDACTED] – Home Office computer records show that on 26 April 2012 the above named subject was granted leave to remain as a Tier 4 general Student until 31 May 2014 with conditions of no recourse to public funds and employment restricted to work a maximum of 20 hours per week during term time, providing they attend college based studies for a minimum of 10 hours a week, during the day time and on weekdays. A student is able to work full time hours when on vacation, subject to the course requirements and the place of study.

1.10 On 20 June 2013 the Home Office curtailed the leave to expire on 19 Aug 2013 with condition of no recourse to public funds and work prohibited.

1.11 On 25 Nov 2014 the subject submitted an out of time application for further leave to remain which was refused on 07 May 2015.

1.12 On 21 May 2015 the subject lodged an appeal which was dismissed on 16 Feb 2017. On 01 March 2017 the subject made further application for leave to remain.

1.13 At the time of employment and the raid at the premises the subject would not have been able to provide any proof of right to work. (See document 7)

1.14 [REDACTED] - Has no valid leave to remain in the United Kingdom. On 12 Sept 2017 the subject claimed Asylum in the United Kingdom which remains under consideration. The subject does NOT have a right to work in the United Kingdom. (See document 8).

1.15 In accordance with paragraph 11.9 of the Statutory Guidance Essex Police will amplify its representation at the subsequent hearing and may submit further evidential or supporting material ahead of the hearing in support of its application.

1.16 Essex Police would ask the authority to take account of such additional documentary or other information produced by it in support of its representations, as it may do under Regulations 18 of the Licensing Act 2003 (Hearings) Regulations 2005.

1.17 Furthermore, in accordance with Regulation 8 of those Regulations; Essex Police confirms that its representatives will attend the hearing and additionally requests permission for Jack Davis (Chief Immigration Officer, Immigration Compliance and Enforcement, East of England), or his deputy, to appear at the hearing so that they may, if necessary, assist the Authority on any matter of immigration policy, procedure or practice arising in relation to the circumstances of the enforcement activity which forms the basis of this review application.

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 Illegal workers were discovered at the premises. 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 and taken advantage of their situation by failing to correctly follow employment procedure and pay them correctly.
- 3.2 Sections 4 – 7 (of this submission), 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 Brokenshire, 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

WITNESS STATEMENT

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

Statement of **CLARKE**

URN:

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: **IMMIGRATION OFFICER 3180 CLARKE**Date: **Monday 04th September 2017**

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

I am an Immigration Officer currently based at the ICE EAST OF ENGLAND SUFFOLK & NORTH EAST ESSEX, CUSTOM HOUSE, VIEWPOINT ROAD, FELIXSTOWE, SUFFOLK, IP11 3RF. Whilst on duty wearing personal protective equipment clearly identifying myself as an Officer of Immigration Enforcement, at 17:55hrs on FRIDAY 01st SEPTEMBER 2017 I attended the RADHUNI INDIAN RESTAURANT, 56 HIGH STREET, NEWPORT, SAFFRON WALDEN, ESSEX, CB113QZ following an operational briefing provided by OIC IO CLOUTING at the above office. As directed I approached and attended the rear of the premises in order to contain the property as officers entered via the front. I entered via a side entrance whereas IO DENHAM entered via the kitchen. There were eight males in total located and after a search of the property I returned to the front customer area. I introduced myself and spoke with two males. The first male spoke English, he was able to tell me he was [REDACTED] and a national of Bangladesh. During a Q&A he answered the following:

Q) Immigration Status? A) Visit visa Q) When expire? A) It has expired Q) Do you have any visa? A) No, nothing. Q) Do you consider yourself to be here illegally? A) Yes Q) When did you arrive in the UK? A) 2009 Q) Where do you live? A) I cant remember Q) Do you have any

Signature:

Signature witnessed by:

Continuation of Statement of [REDACTED] CLARKE

family in the UK A) Sister Q) DO you have any medical Issues? A) I have bad knees Q)How long have you been working here in this restaurant? A) Just today Q) Whats your position/job? A) Helping in the kitchen Q) How much do you get? A) I am just helping Q) Who employed you? A) I don't know, hes not here. At 1812hrs I was satisfied that [REDACTED] was a person liable to be detained in the UK under and arrestable under P17(1) of Schedule 2 to the IA1971. I informed him he was under arrest, I provided the caution and explained the situation. He remained seated whilst I spoke with the second person. Male 2 stated he was [REDACTED] and a national of Bangladesh. I conducted checks with IO Andy TAYLOR who stated that [REDACTED] had previously been served administrative papers as an overstayer in November 2016, had lodged applications to remain in the UK but they had been refused and since being placed on temporary reporting, he had failed to report as required confirming that he was a person liable to be detained under Paragraph 16 of Schedule 2 to the IA1971. Checks revealed that [REDACTED] had an outstanding application to remain as a spouse however this had been lodged out of time since his leave to remain as a student had been curtailed to expire 19.08.2013. [REDACTED] was a person liable to be served administrative papers as a person who had remained beyond his leave in the UK, neither were permitted to work in the UK. At 1845hrs I referred both cases to CIO BOOTH who authorised the continued detention of [REDACTED] with the intention of progressing his case to removal, service of administrative papers and Temporary release was authorised for [REDACTED] as he had an outstanding application. I explained the situation to [REDACTED] and asked him some further questions; Q How long have you worked here for? A) 3 days Q) Job title A) Kitchen helper, cooks rice Q) Who supplied your chefs whites (which he was wearing) A) They were hanging up in the kitchen Q) Who employed you A) It was a telephone contact, I don't know Q) How much do you get paid A) I don't Q) Did

Signature: IO 3180 CLARKE

Signature witnessed by: [REDACTED]

Continuation of Statement of [REDACTED] CLARKE

you show any papers to work? A) No Q) Do you have a contract A) No. Both [REDACTED] and [REDACTED] were fingerprinted and photographed by IO DENHAM, I served all necessary papers on both [REDACTED] was requested to leave the premises as he had no permission to work, IO DENHAM escorted [REDACTED] to the waiting vehicle and escorted him to Harlow Custody, I left the premises at 1910hrs. I make this statement as soon as practicable with reference to pages 23, 24, 25, 26, 27, 28 of my personal notebook 008762. I complete this statement at 17:23hrs on Monday 04th September 2017 at the Office of ICE East of England – Felixstowe.

Signature: IO 3180 CLARKE

Signature witnessed by:

RESTRICTED (when complete)

Document 4

WITNESS STATEMENT

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

URN

Statement of [REDACTED] BEAR.....

Age if under 18 Over 18 (If over 18 insert "over 18") Occupation: Immigration Officer

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature [REDACTED] Date: 06/09/2017

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

I am an Immigration Officer currently based at EAST OF ENGLAND ICE, CUSTOM HOUSE, VIEWPOINT ROAD, FELIXSTOWE, SUFFOLK, IP11 3RF. I am an Arrest trained Immigration Officer. On 01/09/2017 I was tasked to attend RADHUNI, 56 HIGH STREET, NEWPORT, SAFFRON WALDEN, CB11 3QZ.

My role on the visit was an arrest Officer and I was part of the front entry team.

I was provided information that a male by the name of [REDACTED] born [REDACTED] could be working at the premises illegally.

At approx 18:01hrs I entered the premises through the front door with IO DONALDSON and IO CLOUTING.

As I entered I encountered a male now known to me as [REDACTED] went to walk out the back of the premises to the kitchen area, I told the male to stay where he was and he remained in the restaurant area, I then went back into the kitchen area and rounded up the staff and asked them to join other colleagues in the front of the premises.

Signature: [REDACTED] Signature Witnessed by: 36

RESTRICTED (when complete)

Continuation of Statement of [REDACTED] GEAR

Page 2

When all staff members were seated in restaurant area, I began to check the details of the males in front of me.

Male 1.

Q, What is your name?

A, [REDACTED]

Q, Date of Birth?

A, [REDACTED]

Q, Nationality?

A, Bangladesh

Q, Status in the United Kingdom?

A, I have no status.

At 18:05hrs I then arrested [REDACTED] as a person liable to removal from the United Kingdom due to the fact that he stated he has no status within the United Kingdom, I asked if he understood which he claimed to.

Male 2.

Q, What is your name?

A, [REDACTED]

Q, Date of Birth?

A, [REDACTED]

Q, Nationality?

A, Bangladesh

Signature:
2004/05(1)

Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: [REDACTED] GEAR

Page 3

Q, Status in the United Kingdom?

A, I Have a family VISA, I arrived in the United Kingdom with my father on [REDACTED]

Male 3.

Q, What is your name?

A, [REDACTED]

Q, Date of Birth?

A, [REDACTED]

Q, Nationality?

A, Bangladesh

Q, Status in the United Kingdom?

A, I am a British national, obtained nationality 6/7 years ago.

I then conducted checks with an Officer over the phone with a colleague based in the Immigration Office at Bedford.

Checks confirmed that [REDACTED] is an Illegal entrant to the United Kingdom and has no permission to live or work in the United Kingdom. [REDACTED] does have permission to be in the United Kingdom and [REDACTED] is a GBR national.

I then concentrated my questioning on the Immigration Offender [REDACTED]

Q, How Long have you worked here?

A, More than 3 months

Q, How many hours worked?

A, Randomly, any time

Signature: [REDACTED]
2004/05(1)

Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of [REDACTED] GEAR

Page 4

Q, Do you received payment?

A, I received accommodation food and sometime little money

Q, How much money?

A, £10 - £30

Q, Who is in charge of this business?

A, Guy who is not here

Q, who is in charge today?

A, He has not arrived yet

Q, Name of the manager

A, [REDACTED]

Q, Did you show any documents to work?

A, No, I begged him for a job.

Q, Is this your only address?

A, Yes

Q, Any medical problems?

A, High Blood pressure, this is not medicated and not been diagnosed by a Doctor.

Heart beating fast, claims to have seen a Doctor 2 years ago but was not given any medication

Back problems from when he jumped from the balcony when initially encountered on

22/02/2014. Claims to take pain killers from over the counter when needed,

Chest cough, claims to take Cold and Flu tablets from pharmacy.

Signature:
2004/05(1)

Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of [REDACTED] GEAR

Page 5

Q, Family in UK?

A, None

Q, Relationship in UK?

A, None

I then took [REDACTED] to his living accommodation which was located above the restaurant to conduct a search for identity documents (Under power 25A Sch2 of the 1971 IA AA).

I then left the premises and [REDACTED] was placed in the cell van to go on to custody.

I make this statement with reference to my original notes made at the scene and my recollection of events.

Signature:
2004/05(1)

..... Signature Witnessed by:

Visit Details**ID:** V2720008

Details: I went to visit the premises this afternoon for a routine licence check. When I arrived at 1310 the premises was closed despite website information listing 1200 - 1400 as lunch opening hours. There were people (presumably staff) inside and when I went round the back one member of staff (would only give first name as Sam) came out. I asked to come in to do a routine licensing check and was refused entry and told to come back at 1700 or 1900 when the manager would be in. I asked who was in charge at the premises and Shamin Ahmed was named as the manager. I enquired as to whether he lived at the premises and was told he lived in London. I said I would arrange to come back when he was there, I was then told actually he wouldn't be there tonight as was on holiday. I asked for how long and where, 3 weeks and unknown. UDC have Shamin Ahmed as the sole occupier of the premises above the restaurant and he received sole occupancy discount for this flat on the council tax. There was washing hanging outside the flat and looked to be that of more than one adults. It is possible others are living at the address.

Date: Fri 25 Aug 2017 13:10**Spoc:** PSE 42072551 [REDACTED] Powell**Type:** Police**Reason(s):**

- Proactive

Created By: PSE 42072551 [REDACTED] Powell - 25/08/2017 14:52**Updated By:** PSE 42072551 [REDACTED] Powell - 25/08/2017 14:52

Enquiry	
ERN	176242
Date	03 October 2017
Prepared By	
Requesting Officer	
Your Ref	76878
Organisation	Police

oOo

Name	
HO Reference	
Date of Birth	
Nationality	Bangladesh
Check(s) requested	Response
	<p>Home Office records show that on 14/09/2017 the above named subject claimed Asylum which is under consideration.</p> <p>Home Office computer records show that the above named subject has no valid leave to remain and no right to work.</p>

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, please send this by email to: [ICES\\$VECStatements@homeoffice.gsi.gov.uk](mailto:ICES$VECStatements@homeoffice.gsi.gov.uk)



Home Office

OFFICIAL - SENSITIVE

SVEC
Lunar House
Croydon

Enquiry	
ERN	173934
Date	26 September 2017
Prepared By	
Requesting Officer	
Your Ref	76878
Organisation	Police

oOo

Name	
HO Reference	IF PROVIDED
Date of Birth	
Nationality	Bangladesh
Check(s) requested	Response
Immigration History	<p></p> <p>Home Office computer records show that on 26-Apr-2012 the above named subject was granted Leave to Remain as a Tier 4 General Student until 31-May-2014 with conditions of no recourse to public funds and employment restricted to work a maximum of 20 hours per week during term time, providing they attend college based studies for a minimum of 10 hours a week, during the day time and on weekdays.</p> <p>A Student is able to work full time hours when on vacation, subject to the course requirements and the place of study.</p> <p>On 20-Jun-2013 the Home Office curtailed the leave to expire on 19-Aug-2013 with condition of no recourse to public funds and work prohibited.</p> <p>On 25-Nov-2014 the subject submitted an out of time application for further leave to remain which was refused on 07-May-2015.</p> <p>On 21-May-2015 the subject lodged an appeal which was dismissed on 16-Feb-2017.</p>

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, please send this by email to: ICESSVECSStatements@homeoffice.gsi.gov.uk

OFFICIAL - SENSITIVE

Name	[REDACTED]
HO Reference	IF PROVIDED
Date of Birth	[REDACTED]
Nationality	Bangladesh
Check(s) requested	Response
	<p>On 01-Mar-2017 the subject made further application for leave to remain.</p> <p>On 23-Sep-2017 the subject was granted Leave to Remain in the United Kingdom under Family/Private Life scheme valid until 23-Mar-2020 with conditions of No recourse to public funds and work permitted.</p>

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, please send this by email to: ICESSVECStatements@homeoffice.gsi.gov.uk



Home Office

OFFICIAL - SENSITIVE

SVEC
Lunar House
Croydon

Enquiry	
ERN	173936
Date	26 September 2017
Prepared By	
Requesting Officer	
Your Ref	76878
Organisation	police

oOo

Name	
HO Reference	IF PROVIDED
Date of Birth	
Nationality	Bangladesh
Check(s) requested	Response
Current Status	<p></p> <p>Home Office computer records confirm that the above named subject has no valid leave in the United Kingdom.</p> <p>On 12-Sep-2017 the subject claimed Asylum in the United Kingdom which remains under consideration.</p> <p>The subject does <u>not</u> have a right to work in the United Kingdom.</p>

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