



**ESSEX
POLICE**

Protecting and serving Essex

Premises Licence Review

RAZZA

TEMPLE BUILDINGS, BRAINTREE ROAD, FELSTED, ESSEX, CM6 3DL



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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 (delete as applicable)

Part 1 – Premises or club premises details

RAZZA Temple Buildings Braintree Rd	
Post town Felsted, Essex	Post code CM6 3DL

Name of premises licence holder or club holding club premises certificate (if known) Sayasta MIAH Temple Buildings Braintree Rd Felsted Essex CM6 3DL

Number of premises licence or club premises certificate (if known) PL0347

Part 2 - Applicant details

I am

Please tick ✓
yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

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

Surname **First names**

I am 18 years old or over Please tick ✓ yes

Current postal address if different from premises address

Post town **Post Code**

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address 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 and off the premises Monday – Thursday Noon – 14:30, Monday – Thursday 1700 – 2300 Friday & Saturday Noon – 14:30, Friday & Saturday 1700 – 23:30 Sunday Noon – 1430, Sunday 1700 – 22:30. Non Standard Timings: Bank Holidays Noon – 1230. Regulated entertainment hours are co terminal with alcohol except Bank Holidays which are 20:00 – 00:30

The premises operates as an Indian Restaurant and takeaway

The Premises Licence Holder and Designated Supervisor is Mr Sayasta MIAH

The current licence was granted by Uttlesford District Council on 28/12/2012 and is not time limited.

Immigration Enforcement Officers attended the premises on Wednesday 23 August 2017. Power of entry to the premises was made using a warrant under paragraph 12(2) schedule 2 of Immigration Act 1971AA. 2 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 2 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.

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

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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	

Notes for Guidance

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

Document 1

1.0 Outline of the Circumstances leading to the Review Application RAZZA

1.1 Immigration Enforcement Officers attended the premises on Wed 23 August 2017. Power of entry to the premises was using a warrant under paragraph 17(2) schedule 2 of Immigration Act 1971AA. **(see statement of DAVIS Document 2)**

1.2 On attendance at the premises, RAZZA Restaurant, Temple Buildings, Braintree Road, Felsted, Essex CM6 3DL. The attendance yielded the location and arrest of 2 immigration offenders.

1.3 Immigration Officer Davis was stationed at the rear of the premises and at 1810 when officers entered the front of the building a male attempted to exit via this door whilst attempting to take off a white chefs jacket. **(see statement of DAVIS Document 2)**. This individual was then spoken to by IO CLOUTING and identified as [REDACTED] a Bangladesh national.

1.4 Home Office checks confirmed [REDACTED] is listed as an absconder since March 2016. [REDACTED] was arrested at 1820 pending removal from the UK, [REDACTED] has no leave to remain in the UK, no permission to work and failed to report as required. It is believed he was working at the premises, he was dressed the same as three other males present, black trousers, smart black shoes and white collared shirt. It is believed he was working as a waiter. **(see statement of CLOUTING document 3)**

1.5 IO DAVIS then ascended stairs he heard noises coming from and was met on the landing by an older male in a pink shirt who confirmed he was British and had a British passport in the nearby room, he was subsequently identified as [REDACTED], whilst following this male to view the passport another male was encountered, dressed in a red t shirt and dark trousers.

1.6 This male was very nervous and gave his name as [REDACTED] dob [REDACTED], [REDACTED] stated he had arrived in 2009 as a working holidaymaker with a visa until 2011. He had been served notice as an overstayer but had given his papers to a solicitor in Ilford and logged a human rights application. He has no right to work. **(see statement of DAVIS document 2)**

1.7 [REDACTED] after speaking with IO Davis then came down the stairs and shut the restaurant for business. He stated to IO NEWELL that he was a waiter and did not know any of the other staff members contradicting what he had told IO DAVIS, "Do you work here?", "Yes I am a waiter", "OK, do you know how many other staff are here tonight?", "Yes, all six of us" **(see statement of DAVIS document**

2) [REDACTED] further stated that the restaurant owner is Md Saysta MIAH. (see statement of NEWELL document 4)

1.8 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.

1.9 Of the 2 individuals located and identified as Immigration Offenders in this document, the following updates apply:

[REDACTED] - has an outstanding Human Rights Application and was served at the scene with notice of his immigration status (a RED1, RED3 & IS96) and released to report to the Immigration Office at Becket House (see Doc 2 Statement of DAVIS). No right to work.

[REDACTED] - Home office records show subject claimed Asylum on [REDACTED] which remains outstanding. Subject is currently being detained at Harmondsworth detention centre and no longer an absconder. Subject has no valid leave. No right to work. (See Doc 5).

1.10 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.

1.11 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.

1.12 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 Brokenshine, Immigration Minister quoted when he introduced the Immigration Act 2016) "illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages". It also provides those employing illegal workers with a competitive advantage over its business rivals and deprives the UK Government of income tax receipts. It also deprives workers access to State care and protection, the minimum wage, protection of the working time and health and safety regulations and both the State and (compulsory) private pension schemes.
- 7.7 In particular; the sub-committee will be asked to consider (below) the cases of *R (Bassetlaw District Council) v Worksop Magistrates' Court*; [2008] WLR (D) 350 and *East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway)*, [2016] EWHC 1265 (Admin) where in both cases

the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.

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

7.9 Paragraph 11.27 of the Guidance states:

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises..... for employing a person who is disqualified from that work by reason of their immigration status in the UK.

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

7.10 Paragraph 11.28 of the Guidance states:

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

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

7.11 In support of this statement; Essex Police would draw the sub-committee's attention to the "Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales" (Home Office)[April 2017] where at section 4.1 it states;

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

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

8.0 Case Law

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

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

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

promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence (now contained within paragraphs 11.26 and 11.27).

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

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

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

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

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

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

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

8.8 This has some corollary with the argument of some review application respondents that the imposition of conditions to check immigration status either directly or through an agency (*though essentially a requirement since 2006 under the Immigration, Asylum and Immigration Act 2006*) would serve

as sufficient remedy for the employment of illegal workers to negate a deterrent (suspension/revocation) being imposed by the sub-committee despite the wording of the Guidance at paragraph 11.28.

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

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

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

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

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

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

APPENDIX A

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

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

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

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

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

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

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

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

General Advice

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

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

Checking the Documents

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

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

Taking a copy of the documents

When you copy the documents:

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

If the job applicant can't show their documents

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

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

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

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

ACCEPTABLE DOCUMENTS

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

RESTRICTED (when complete) Document 2

WITNESS STATEMENT

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

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

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

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

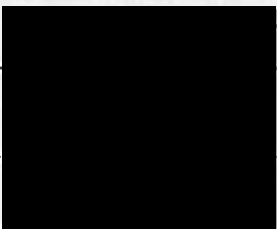
Signature  Date: 27 August 2017

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

On Wednesday 23rd August 2017 I was on duty in full uniform, including body armour which carried the legend "Immigration Enforcement", in company with Immigration Officers NEWELL, CLOUTING, DALDRY, DONALDSON & CLARKE when we had cause to attend the premises located at Temple Building, Braintree Road, Felsted, Essex which is known as "Razza" Indian restaurant; in order to execute a search warrant issued under paragraph 17 of schedule 2 to Immigration Act 1971 (as amended) to look for immigration offenders.

With IO CLOUTING I approached the rear of the building where there was a single white UPVC door with half moon top light, on hearing at 18:10hrs over airwave radio that officers had entered the front of the premises I stood next to the door and after a moment a male attempted to exit via this door. I opened the door fully and saw that he was of Bengali origin and was attempting to take off a white chef's style jacket. I stepped inside and identified myself to him and flushed him back into what appeared to be a hallway, he promptly put his hands up beside him on the wall whilst facing me. IO CLOUTING stepped in behind me and I asked her to take over control of him as I could hear a noise from the stairs just behind me.

Ascending the stairs I rose to the top and on the landing was met by a slightly older male of Bengali origin who was sporting a pink shirt and on identifying myself to him I asked "Are you the manager?" "No". "Do you work here?" "Yes I'm a waiter", "OK, do you know how many staff are here tonight?" "Yes, all of us, six", "Is anyone else up here tonight?" "No". I noted that he spoke with only a slight accent and surmised that he was not likely to be an immigration offender so asked "What nationality are you?" "British, I have my passport in there" indicating to rooms to his left. I followed him through

Signature:  Signature Witnessed by: 29

RESTRICTED (when complete)

Continuation of Statement of: [REDACTED] DAVIS

Page 2

the large upstairs area to a room which was locked and on seeing him approach the door I saw another male of Bengali origin, a younger man, who was wearing a red t-shirt and dark trousers. I identified myself to him and asked "Where are you from?" He appeared immediately very nervous, I could see him visibly shaking as he replied "Bangladesh" I then asked "Do you have a visa?" He started to stutter a reply and I interrupted him and said "No, of course you don't", I took hold of his left arm at the elbow and said to him "I'm detaining you as a person who I believe may be liable to removal from the UK as an immigration offender". Having requested assistance from colleagues via airwaves, I was joined first by IO CLOUTING who spoke to the second man who I'd spoken to, who had now handed me a GBR passport and was subsequently identified as [REDACTED] and then by IO CLARKE, who swept the remainder of the upstairs before accompanying me and the detained male downstairs.

The male initially asked for the toilet and on appearing downstairs then asked for a glass of water. I then sat him down at a table and asked him to give me his name, he wrote in my pocket notebook [REDACTED] and I read this back to him and then rewrote it. He then told me that he had arrived as a working holidaymaker in 2009 with a visa to 2011 and had overstayed and heard nothing from the Home Office but had given his papers to a solicitor [REDACTED] in Ilford. Armed with this information I then made a check with a colleague at Peterborough office who was able to confirm to me that the identity given had been served notice as an overstayer, had no permission to work, but had an outstanding human rights application. I conducted a short Q&A notebook entry to clarify what he was doing at the premises and where he lived, he identified the man in the pink shirt who I had previously described, as either his "uncle" or his "brother", which I took to mean that he was loosely related either by blood or by village as these terms commonly seem to indicate in Bengali relations in my experience. I allowed him a drink of water and he appeared to calm down significantly at this point.

In discussion with colleagues I established that there was no likelihood that the case would be expedited with him having an in-country right of appeal so [REDACTED] would not be accepted into immigration detention. On this basis I served [REDACTED] with new notice of his immigration status, a RED1, RED3 & IS96; his photograph and fingerprints were taken by IO DONALDSON and his bio-data taken by IO NEWELL before I then explained via his "Uncle / brother" in very clear terms what he needed to do in relation to the form RED3 and I released him to report to the immigration office at Becket House.

Signature:
2004/05(1)

[REDACTED SIGNATURE]

Signature Witnessed by:

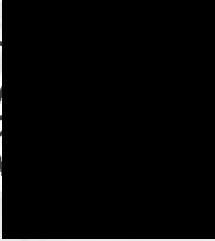
RESTRICTED (when complete)

Continuation of Statement of: **DAVIS**

Page 3

On leaving the premises at approximately 19:10hours, I noted that the first man that I had spoken to, who had attempted to leave via the rear door of the premises and whom had been taking of a chef's jacket, had been detained by colleagues and was now in custody in the rear of an Immigration Enforcement vehicle.

I produce a certified copy of my pocket notebook entries as my exhibit JDA/1 and am willing to attend court or any other hearing if necessary.

[Handwritten signature]


Signature: Signature Witnessed by:
2004/05(1)

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: ~~Magistrates' Court Act 1980, s.58~~

Statement of [redacted] Clouting URN:

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

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: [redacted] Date: Friday 25th August 2017

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

On WEDNESDAY 23RD AUGUST 2017, whilst in full uniform and personal protective equipment I attended, along with colleagues from FELIXSTOWE IMMIGRATION ENFORCEMENT OFFICE, RAZZA, THE TEMPLE BUILDING, BRAINTREE ROAD, FELSTEAD, DUNMOW, ESSEX, CM6 3DL. The Officer in Charge (OIC) was IMMIGRATION OFFICER (IO) NEWELL. Officers present in the visit briefing lead by OIC NEWELL were IO CLOUTING, Chief Immigration Officer DAVIS, IO CLARKE, Her Majesty's Inspector (HMI) DALDRY and IO DONALDSON. The briefing was held at FELIXSTOWE IMMIGRATION ENFORCEMENT OFFICE, CUSTOM HOUSE, VIEWPOINT ROAD, FELIXSTOWE, IP11 3RF.

A Paragraph 17(2) Schedule 2 Warrant was obtained to search RAZZA for a [redacted] a national of Bangladesh and [redacted] nationality unknown.

At 18:11hrs, Officers named above entered RAZZA. I was assigned to cover the rear of the premises with CIO J. DAVIS. An IC4 male was encountered by CIO J. DAVIS at the back door to the premises. CIO J. DAVIS informs Officers over the radio that he believed the male was attempting to leave the premises. This IC4 male was escorted by IO DONALDSON to a quiet seating area in the restaurant. I went upstairs with CIO J. DAVIS to search the accommodation above RAZZA. 2 IC4 males were encountered upstairs. I spoke to 1 of the males who gave his details to me as [redacted] a British Citizen. I conducted checks on Home Officer systems that confirmed the males identity. I thanked him for his time and assisted CIO J. DAVIS escort the other IC4 male encountered, downstairs.

At approximately 18:18hrs, I entered the main part of the restaurant where Immigration Officers were speaking to the male staff encountered and ascertaining their identity. I spoke with the male who was first encountered at the back door of the premises and asked him for his name, Date of Birth (DOB) and nationality. He was wearing black trousers, smart black shoes and a white collared shirt. He was dressed the same as 3 other males present and I believed they all worked as waiters in the restaurant. The male stated to me that his name was [redacted]

Signature: [redacted] Signature witnessed by: N/A

Continuation of Statement of [REDACTED] Clouting

[REDACTED], he gave his [REDACTED] and his nationality as Bangladesh. I conducted checks on Home Office systems by the telephone. I spoke with IO Paddy RUSH of Peterborough Immigration Enforcement who stated to me that [REDACTED] had been listed as an Absconder since March 2016. He was served Immigration paperwork on 15/08/2015 as a person who has obtained leave to remain by deception and asked to report regularly to Immigration. He failed to report from February 2016 and was listed as an absconder in March 2016.

At 18:20hrs, I arrested [REDACTED] under Paragraph 17(1) Schedule 2 of the Immigration 1971 as a person liable to be detained. I explained to him that he has no valid leave in the UK, no permission to work and has failed to report as required, leave the UK or make any applications. I stated to him that therefore I was arresting him pending his removal from the UK and asked him if he understood, He stated that he did.

I spent the next 10 minutes speaking to the subject about his medical problems. The male came across as very nervous and he therefore was speaking very quickly and a great amount. This therefore meant that the conversation about his medical conditions took more time than necessary as he failed to give me simply to facts and instead gave me information that was not relevant to the question I was asking. I eventually ascertained that [REDACTED] has an abscess on his bottom that he had two operations last year to drain. He stated that he believed it might be coming back however he stated he was only taking ibuprofen and paracetamol for the pain. He also stated he had ligaments problems in his knee and had had an operation in November 2016 to tighten the ligaments. He stated that it is stiff at the moment but he takes paracetamol and ibuprofen for pain.

He then attempted to explain to me that he was not working. He stated words to the effect of 'I'M NOT WORKING, THEY JUST NEEDED SOME HELP BECAUSE OF STAFFING PROBLEMS!' I explained to [REDACTED] that I believed he was working because he was dressed the same as other staff members in the restaurant and because he was in the rear of the premises where I believe only staff would be. He attempted to argue with me over the next few minutes and at 18:31hrs [REDACTED] referred to one of the other IC4 members of staff as his colleague. He then stated again that he was only helping out. I asked [REDACTED] the following questions:

Q. WHO'S THE MANAGER?

A. DON'T KNOW.

Q. DID YOU SHOW ANYBODY ANY DOCUMENTS TO SHOW YOU HAD THE RIGHT TO WORK?

A. NO.

I asked the male where he lived and he stated that he lived in London. I asked him if he stayed upstairs and he stated that he did not but that some of his stuff was upstairs.

At 18:35hrs, with assistance from HMI DALDRY I escorted the male upstairs to a room he stated was not his but that his bag was in. He showed us a change of clothes and stated that he came here in jeans and then changed so he could help out.

At 18:37hrs, HMI DALDRY authorised the detention of [REDACTED] pending his removal from the UK. I asked [REDACTED] if there was anything he wished to take with him to the police station and he pointed at a phone charger

Signature: [REDACTED]

Signature witnessed by: N/A

Continuation of Statement of [REDACTED] Clouting

that was plugged in down the side of the single bed. I asked him once again if he stays in this room, he stated he doesn't. [REDACTED] was allowed to pack his phone charger and asked if he could bring his gavisgon and his cigarette's. I asked him where these were and he pointed at the bedside table where there were packets of medication including ibuprofen and gaviscon and 2 packets tobacco. I once again asked the subject if he stayed in this room, he stated he did not. I asked the male where his passport was and he stated it was in London. I was not satisfied that [REDACTED] lived in London and infact believed that he lived above the RAZZA for most nights in the week. I therefore believed that the reason he was so adamant he did not stay in that room was because he was attempting to hide something from me. HMI DALDRY authorised a 25A Schedule 2 search of the subjects bedroom in search of documents which may aid in his removal. This was authorised at 18:42hrs.

I asked IO CLARKE to join me in [REDACTED]'s room to assist in this search. At 18:44 the search began and at 18:53hrs the search was completed. No documents were located however more belongings of the subject were located and confirmed that the subject has once or still does live in that room.

I once again confirm with [REDACTED] that he takes no prescription medication and he stated that he didn't. I asked [REDACTED] to empty his pockets and he took out a telephone which he put in his bag. Once [REDACTED] had collected a few belongings I escorted the subject downstairs with IO CLARKE and HMI DALDRY. I obtain the cell van keys from OIC NEWELL and at 18:58hrs I escort the male from the premises to the cell van with HMI DALDRY. I checked the cell in the back of the vehicle and confirmed that there were no belongings within the cell before asking [REDACTED] to step up into the cell whilst minding his head.

I remained stood with HMI DALDRY and [REDACTED] whilst awaiting the other officers. At 19:12hrs, the remaining officers exited the premises. I escorted [REDACTED] to the unmarked car, checked the back seat for belongings and checked the child lock was on the door and then asked him to get into the vehicle. I sat next to [REDACTED] and remained next to him whilst transferring to Chelmsford Custody. IO CLARKE drove.

At 19:32hrs, IO CLARKE, [REDACTED] and I arrived at Chelmsford Custody. The subject was booked into custody.

This statement was compiled with reference to my personal issued note book number IE008765, pages 4, 5, 6, 7, 8 and 9.

Signature:

[REDACTED]

Signature witnessed by:

N/A

WITNESS STATEMENT

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

Statement of **[REDACTED]** Newell URN:

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

This statement (consisting of: 1..... 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: **[REDACTED]** Date: Friday 25th August 2017

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

I am an Immigration Officer based at ICE EAST OF ENGLAND SUFFOLK AND ESSEX, CUSTOM HOUSE, VIEWPOINT ROAD, FELIXSTOWE, SUFFOLK, IP11 3RF. I was on duty in full Immigration Enforcement uniform on Wednesday 23rd August 2017 when I attended, with other colleagues, the address of RAZZA, TEMPLE BUILDING, BRAINTREE ROAD, FELSTED, DUNMOW, ESSEX, CM6 3DL.

Power of entry to the premises was using a warrant under paragraph 17(2) schedule 2 of Immigration Act 1971AA. The target of the visit was a **[REDACTED]** aged 25-34 yrs national of BANGLADESH and a **[REDACTED]** born **[REDACTED]** unknown nationality.

I arrived at the premises at approximately 1810 hrs and entered via the front customer door, as I did so I noticed two female customers sat eating a meal, there was a male in a black waistcoat, and white shirt stood behind the counter area. I identified myself and explained and served the warrant . All other staff were contained by officers and all sat at the rear of the restaurant.

A male in a pink shirt that had been spoken to by an officer upstairs came down and shut the restaurant for business. I took the warrant from the male I had given it to when we entered and went over to the bar and again served and explained it to this male who I now know to be **[REDACTED]**. He stated that he was a waiter and did not know any of the other staff members. He confirmed that the owner of the restaurant was MD SAYSTA MIAH.

At 1834hrs I served the notification of potential liability on **[REDACTED]**.

I left the premises at 1903hrs along with colleagues and one arrested male with no incidents.

I write this statement as soon as practicable after the event on Friday 25th August 2017 in the Felixstowe office at 1430hrs with reference to my personal issued notebook pages 64 and 65. Also with reference to my own recollection of events. **[REDACTED]**

Signature: **[REDACTED]** Signature witnessed by:

ERN	174179
Date	27 September 2017
Prepared By	[REDACTED]
Requesting Officer	[REDACTED]
Your Ref	76878
Organisation	Police

oOo

Name	[REDACTED]
HO Reference	[REDACTED]
Date of Birth	[REDACTED]
Nationality	Bangladesh
Check(s) requested	Response
Current Status	Home office records show subject claimed Asylum on 06-Sep-2017 which remains outstanding. Subject is currently being detained at Harmondsworth detention centre and no longer an absconder. Subject has no valid leave. [REDACTED]

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: ICSSVECStatements@homeoffice.gsi.gov.uk