

# Public Document Pack

**Mid Devon District Council**

## **Licencing Sub Committee**

**Tuesday, 5 September 2023 at 10.00 am**

**Next ordinary meeting  
Date Not Specified at Time Not Specified**

**Please Note:** This meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

## **Membership**

Cllr J Cairney  
Cllr A Cuddy  
Cllr L G J Kennedy

## **A G E N D A**

*Members are reminded of the need to make declarations of interest prior to any discussion which may take place*

- 1      **Apologies**  
To receive any apologies for absence.
- 2      **Election of Chairman**  
To elect a Chairman for the Sub-Committee.
- 3      **Determination of a Premises Licence Application for Belluno Italian Restaurant, Newton St Cyres, EX5 5DA (Pages 3 - 160)**  
An application has been received from the Home Office (Immigration Enforcement) for a premises licence to be reviewed under the Licensing Act 2003. The premises is Belluno, Italian Restaurant, Newton St Cyres, Exeter, Devon, EX5 5DA

The licensing authority (Mid Devon District Council) must hold a hearing to determine the application.

## **Meeting Information**

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If you want to ask a question or speak, email your full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Member Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

If you would like a copy of the Agenda in another format (for example in large print) please contact on:

Public Wi-Fi is available in all meeting rooms.



## LICENSING SUB-COMMITTEE

DATE OF HEARING: 5<sup>TH</sup> SEPTEMBER 2023

### DETERMINATION OF A PREMISES LICENCE APPLICATION FOR BELLUNO ITALIAN RESTAURANT, NEWTON ST CYRES EX5 5DA

**Cabinet Member(s):** Cllr David Wulff, Cabinet Member for Community and Leisure

**Responsible Officer:** Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

**Reason for Report:** An application has been received from the Home Office (Immigration Enforcement) for a premises licence to be reviewed under the Licensing Act 2003. The premises is Belluno, Italian Restaurant, Newton St Cyres, Exeter, Devon, EX5 5DA

The licensing authority (Mid Devon District Council) must hold a hearing to determine the application.

**RECOMMENDATION:** That this review application be decided in accordance with the licensing objectives.

**Financial Implications:** The potential cost of defending an appeal in the courts.

**Legal Implications:** If there is an appeal against the decision Mid Devon District Council (the Council) could find itself bearing the costs.

**Risk Assessment:** If the decision is not reasonably and lawfully made it could be overturned on appeal to the Magistrates' Court.

**Equality Impact Assessment:** No equality issues identified for this report.

**Relationship to Corporate Plan:** Not applicable

**Impact on climate change:** Not applicable

**Additional information relevant to this application:** None

## 1.0 THE PROCESS

1.1 The Licensing Act 2003 ('the Act') introduced a new concept into licensing legislation – that of a premises licence review and it is a key part of the licensing process.

- 1.2 At any stage following the grant of a premises licence, a responsible authority (see below), or any other person, such as a resident living in the vicinity of the premises, may ask a licensing authority to review a licence because of a matter arising in connection with one or more of the licensing objectives. The licensing objectives are:
- the prevention of crime and disorder
  - public safety
  - the protection of children from harm
  - the prevention of public nuisance
- 1.3 The process of applying for a review of a licence under the Act is prescribed by regulation and requires the applicant to copy the application to the licence holder, the relevant licensing authority (the Council) and all of the responsible authorities. These are the police, fire service, weights and measures, body responsible for health and safety, the planning authority, the body responsible for child protection, the health authority, and the Home Office.
- 1.4 On receipt of the application the Council is obliged to advertise it by displaying a notice prominently at the Council offices and at the premises so passers-by may read it. A notice must also go on the Council's website.
- 1.5 Any of the responsible authorities and any other interested parties then have 28 days to make any representations.

## **2.0 PREMISES AND HISTORY**

- 2.1 Belluno Italian Restaurant is a premises in Newton St Cyres, Exeter, Devon, EX5 5DA. **Annex 1** is a picture of the restaurant.
- 2.2 The premises licence was transferred in 2018 from the Crown and Sceptre public house, owned by Heavitree Brewery. The licence holder of the premises is Kirton Ventures Limited, who own the freehold and lease the premises to Belluno Bar and Grill Limited. Mr Haqif Derti, the director of Belluno Bar and Grill Limited, has been the Designated Premises Supervisor since August 2018.
- 2.3 A copy of the public register relating to the premises licence is attached to this report as **Annex 2**. It contains details of the licensable activities authorised, the times permitted and the conditions to which the premises must operate.
- 2.4 A copy of the plan for the premises is attached to this report as **Annex 3**.
- 2.5 The statutory guidance specifies that *.....Licensing authorities should look to the police as the main source of advice on crime and disorder* (Paragraph 2.1). The licensing authority has contacted the police as part of the review process and they have no crime and disorder concerns with regards to this premises. In addition it should be noted that during the period of the premises licence to date no concerns in relation to crime and disorder have been raised by any other responsible authority with the Council.

### **3.0 REVIEW APPLICATION SUBMITTED BY THE HOME OFFICE (IMMIGRATION ENFORCEMENT)**

- 3.1 An application to review the premises licence was received by the Council on 14 June 2023 as per **Annex 4**. The application included a detailed licence review pack and this is attached as **Annex 5**.
- 3.2 The review application states that, illegal working has been identified at this premises. This relates to the following licensing objective:
- the prevention of crime and disorder
- 3.3 The supporting documents submitted by the Home Office (Immigration Enforcement) contain records made by Immigration officers arising from an enforcement visit conducted at Belluno Italian Restaurant on the 9<sup>th</sup> of December 2022.
- 3.4 The documents also contain the reasons why they have called for the review. For ease they are summarised below.
- 3.5 *Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.*

*A firm response to this criminal behaviour is required to ensure that the 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. Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally. Immigration Enforcement asks that the premises licence is revoked.*

### **4.0 RESPONSIBLE AUTHORITIES**

- 4.1 The application to review was copied to all of the responsible authorities.
- 4.2 No representations were received from other responsible authorities.

## **5.0 OTHER PERSONS**

- 5.1 The Act allows 'other persons' to make representations provided they are relevant to one or more of the licensing objectives. Representations may be positive or negative in that they can either be in support of the application to review or alternatively, in support of the premises subject of the review.
- 5.2 The Council received three letters/representations from the public in response to the public notices.
- 5.3 It should be noted that two of these were in support of the application (or "positive"). These included positive experiences about the nature of the premises and the positive contribution the premises made to the community. They have not been accepted as relevant representations, as in the view of the Licensing Officer, they did not relate to the likely effect of the licence on the promotion of one or more of the licensing objectives. One representation was 'negative' but the person wished to remain anonymous. The Council does not accept anonymous representations. As a result, none of the representations are included in this report bundle.

## **6.0 LICENCE HOLDER RESPONSE**

- 6.1 The licence holder's legal representative, Isca Legal LLP, has responded to the application on their behalf and their submissions and supporting documents are attached at **Annex 6a, 6b and 6c**.
- 6.2 It provides a comment in response to the points raised by the Home Office (Immigration Enforcement). It goes on to state, amongst other things, that there is no evidence for the Home Office (Immigration Enforcement) to assert that there has been any criminality at the premises.

## **7.0 LICENSING POLICY**

- 7.1 The Act requires the Council as the licensing authority to formally adopt a policy setting out how it will deal with its duties under the Act. That policy must be reviewed every five years and this Council formally adopted the current policy which came into effect on 7 January 2019.
- 7.2 Members must have regard to the policy when making their decision. A copy will be available at the hearing and it is also available on the Council's website here: [Statement of Licensing Policy Licensing Act 2003 \(middevon.gov.uk\)](https://www.middevon.gov.uk/Document/Statement%20of%20Licensing%20Policy%20Licensing%20Act%202003) It contains the following pieces of information.
- 7.3 Mid Devon District Council has a duty to administer and enforce the Licensing Act 2003 (the "Act") which gives local authorities responsibility for licensing the sale and supply of alcohol, regulated entertainment and the provision of late night refreshment. (Paragraph 1.1)

- 7.4 The purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community (Paragraph 3.1)
- 7.5 When determining applications the Licensing Authority will have regard to this policy, the Act and Section 182 Guidance. The overriding principle adopted by this Authority will be that each application will be determined on its merits. (Paragraph 4.4)
- 7.6 Any application for a review should be treated seriously. Responsible authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. (Paragraph 4.44)
- 7.7 When considering a review of a premises licence or club premises certificate, the Authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives. (Paragraph 4.46)

## **8.0 GOVERNMENT GUIDANCE**

- 8.1 Licensing authorities must have regard to the Government Guidance issued under Section 182 of the Licensing Act and the current version is that which was issued by the Home Office in December 2022. A copy will be available at the hearing and it can also be viewed here: [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064222/Revised-Guidance-issued-under-section-182-of-the-Licensing-Act-2003.pdf)  
It includes the following:
- 8.2 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety (Paragraph 2.5)
- 8.3 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate

for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises. (Paragraph 2.6)

- 8.4 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. (Paragraph 11.7)
- 8.5 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders 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. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation. (Paragraph 11.10)
- 8.6 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder. (Paragraph 11.17)
- 8.7 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker (Paragraph 11.18)
- 8.8 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. (Paragraph 11.21)
- 8.9 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it should be rare merely to

remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives. (Paragraph 11.22)

- 8.10 Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. (Paragraph 11.24)
- 8.11 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. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. (Paragraph 11.26)
- 8.12 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 (Paragraph 11.28)

## **9.0 DETERMINATION AND OPTIONS**

- 9.1 An 'order of play' document setting out how the hearing will run is attached at **Annex 7**.

- 9.2 The section 182 guidance further states:

It is important that a licensing authority gives comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act. (Paragraph 13.10)

- 9.3 It is important that licensing authorities also provide all parties who were party to the original hearing, but not involved directly in the appeal, with clear reasons for any subsequent decisions where appeals are settled out of court. Local

residents in particular, who have attended a hearing where the decision was subject to an appeal, are likely to expect the final determination to be made by a court. (Paragraph 13.11)

- 9.4 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (Paragraph 9.43)
- 9.5 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. (Paragraph 9.44)
- 9.6 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence. (Paragraph 11.19)
- 9.7 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. (Paragraph 11.20).

9.8 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. 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. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence. (Paragraph 11.23)

9.9 Conditions can only be attached to a premises licence if they are considered appropriate for the promotion of the licensing objectives. If consideration is being given to amending or attaching conditions, the following extract of Section 182 Guidance must be taken in to account:

The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);

- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format. (Paragraph 1.16)

9.10 Members have five working days from the conclusion of the hearing to make a decision.

## 10.0 APPEAL

10.1 If any party (i.e. applicant or 'other person') is dissatisfied with the decision made then they have the right of appeal to the Magistrates' Court within 21 days of formal notification of the decision.

### **List of Annexes to this Report**

Annex 1:	Picture of the restaurant
Annex 2:	Copy of the public register relating to the premises
Annex 3:	Plan of the premises
Annex 4:	Application to review the premises licence
Annex 5:	Review pack submitted by Home Office (Immigration Enforcement) <b>[Disclaimer – Annex 5 documents have been redacted by Home Office (Immigration Enforcement) following their guidelines for redaction]</b>
Annex 6a – 6c:	Licence holder's submissions and supporting documents
Annex 7:	Order of play

**Contact for more Information:** Alan Drake [adrake@middevon.gov.uk](mailto:adrake@middevon.gov.uk) / Simon Newcombe ([snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk))

**Circulation of the Report:** Legal / Regulatory Sub-Committee / Licence holder and their representative / Review applicant

### **List of Background Papers:**

- Licensing Act 2003 - [Licensing Act 2003 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Section 182 Guidance [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)
- Mid Devon District Council Licensing Act Policy - [Statement of Licensing Policy Licensing Act 2003 \(middevon.gov.uk\)](http://middevon.gov.uk)

Belluno Restaurant, Newton St Cyres



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You are here » Home » Licensing Act Premises Search » Detail » **Application**

## Licensing Act 2003 - Premises Licence Register as at 16:47 on 22 August 2023

### Belluno

Newton St Cyres, Exeter, Devon, EX5 5DA

**Premises Licence MDV PR0088 from from 28/08/2018 to indefinite**

### Licence holder(s)

Full Name:	Kirton Ventures Ltd
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### Designated Premises Supervisor

Full Name:	Mr Haqif Derti
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### Permitted Activities

- the supply of alcohol
- provision of late night refreshment

### Premises Open Hours Granted

	Time From	Time To
Monday to Thursday	10:00	00:30
Friday and Saturday	10:00	02:00
Sunday	10:00	00:30

### Activities - Times Granted

	Time From	Time To
<b>I. Late night refreshment (Indoors)</b>		
Monday to Thursday	23:00	00:00
Friday and Saturday	23:00	01:30
Sunday	23:00	00:00

#### J. Supply of alcohol for consumption ON and OFF the premises

Monday to Thursday	10:00	00:00
Friday and Saturday	10:00	01:30
Sunday	10:00	00:00
Christmas Eve	10:00	01:30
New Years Eve		

Deregulated

### Additional Conditions

#### ANNEX 1 - MANDATORY CONDITIONS

The supply of alcohol is prohibited: -

- At a time when there is no designated premises supervisor, or,
- At a time when the designated premises supervisor does not hold a personal licence.
- Every supply of alcohol shall be made or authorised by the holder of a personal licence.

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.

In this paragraph, an irresponsible promotion means 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 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.

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).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

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. 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.

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.

**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

Alcohol can be sold from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

All staff have received suitable training in licensing law, what to do in an emergency and in general safety precautions.

An anti drug policy agreed by the Police and local authority will be in force.

There will be a 30-minute drinking-up time prior to the premises closing when alcoholic beverages will not be supplied.

Gangways, exit routes and steps will be maintained in good order with non-slippery and even surfaces, edges of steps and stairways will be conspicuously marked.

The electrical system, including portable appliances will be inspected and tested annually by a competent person to ensure safety.

The Gas System including appliances will be inspected and tested by a CORGI registered gas engineer annually and a satisfactory Gas Safety Certificate will be obtained.

All safety certificates and inspection reports will be kept on site and made available for inspection by officers of relevant statutory bodies.

No customers will be permitted to take open containers of alcoholic or soft drinks from the premises.

Regular glass and bottle collection will be undertaken throughout opening hours.

Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly.

Staff / CCTV system will monitor the use of the car park to ensure patrons do not congregate in this area and cause annoyance.

A proof of age policy to the satisfaction of the police and the Local Authority will be in place.

**ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

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## Latest Plan of Premises details for Belluno

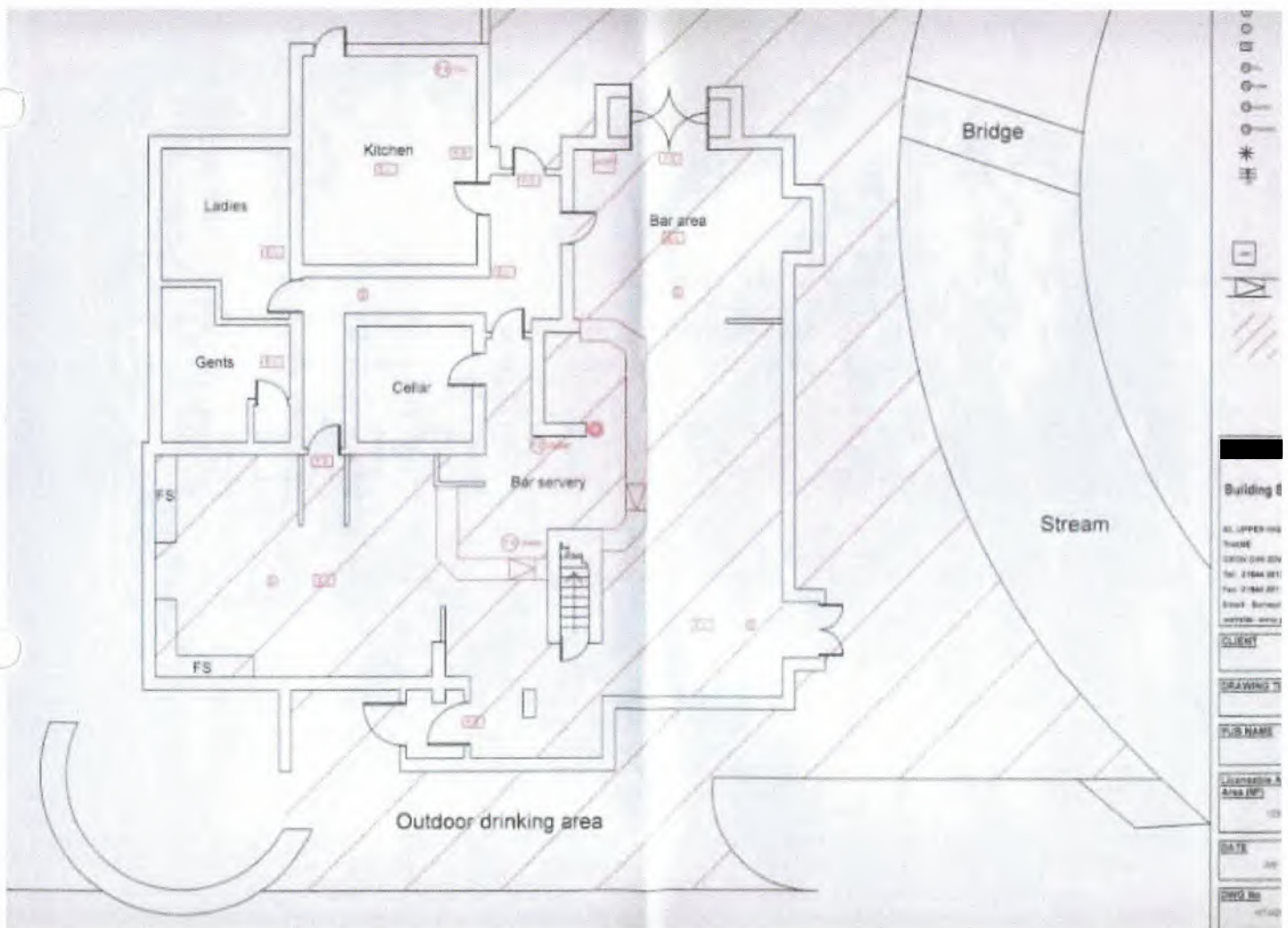
Details entered: 12 October 2005 at 13:09 by [REDACTED]  
 Date requested:  
 Date received: 02/08/2005

Reason: **Convert**

Result:  
 Name:  
 Date commences:

Result Date:  
 Number:  
 Date expires:

Notes:



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*[Insert name and address of relevant licensing authority and its reference number (optional)]*  
 Licensing Authority: Mid Devon District Council

**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 Home Office Immigration Enforcement**

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or club premises details**

Postal address of premises or, if none, ordnance survey map reference or description	
Belluno Italian Restaurant Newton St Cyres	
Post town Exeter	Post code (if known) EX5 5DA

Name of premises licence holder or club holding club premises certificate (if known)
Kirton Ventures Ltd

Number of premises licence or club premises certificate (if known)
MDV PR0088

**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**

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) IE.Alcoholreviews@homeoffice.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="checked" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

Grounds for review:

We have grounds to believe the license holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

Please refer to accompanied review pack for detailed information

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

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

**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 ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

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

Signature [REDACTED]  
.....

Date 14/06/2023  
.....

Capacity **Responsible Authority**.....

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

**Alcohol Licensing Team  
Lunar House  
40 Wellesley Road**

**Post town  
Croydon**

**Post Code  
CR9 2BY**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) IE.Alcoholreviews@homeoffice.gov.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.

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Home Office

The following document has been redacted by  
Home Office (Immigration enforcement)

## Premises Licence Review

**Belluno Italian Restaurant,  
Newton St Cyres,  
Exeter,  
EX5 5DA**

# Contents

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## Case Summary

On 09 December 2022, the Plymouth ICE team visited the Belluno Italian Restaurant, Newton St Cyres, Exeter, EX5 5DA. Intelligence gathered during a previous ICE visit to a residential address in Exeter suggested that [REDACTED] was working as a chef at the Belluno. Entry to the premises was gained by fully informed consent.

Four arrests were made by officers for suspected immigration offenses.

A referral has been made to the Civil Penalty Compliance Team in relation to the illegal working.

The owner of the business has been identified as Haqif Derti.

## Licensed Premises History

The Local Authority responsible for issuing the Premises Licence is Mid Devon District Council.

The premises license number is MDV PR0088 and is held by Kirton Ventures Ltd. (Company number 03013312). Registered office address - Mount Cottage, Mount Pleasant, Westleigh, Bideford, Devon, EX39 4LJ. Correspondence address Lime Court, Pathfields Business Park, South Molton, Devon, United Kingdom, EX36 3LH. Martin John Fishleigh and Rex Rozario are named as Directors of Kirton Ventures Ltd.

The DPS is named as Mr Haqif Derti.

It must be noted that during the Enforcement Visit, neither Martin John Fishleigh nor Rex Rozario were encountered. Nor was there any suggestion that either were responsible for the Belluno Restaurant.

The registered company appears on Companies House as follows:

BELLUNO BAR & GRILL LIMITED Company number 12211240. The registered office address is Belluno Bar & Grill, Newton St. Cyres, Exeter, England, EX5 5DA. The sole Director appointed at incorporation on 17 September 2019 is listed as Haqif Derti.

## Enforcement Visit dated: 09 December 2022

Entry was gained to the premises at 18:08. Upon entering, Immigration Officers encountered the following workers suspected of working illegally.

██████████, Albanian

Home Office records show no evidence of ██████████ entering the UK legally.

██████████ was at work in the kitchen, wearing chefs' whites when officers entered. He was detained in the kitchen of the Belluno after running from officers and arrested under Schedule 2 Paragraph 17(1) of the Immigration Act 1971. He was served immigration papers for illegal entry into the UK and accepted into immigration detention pending removal from the UK.



Photograph of ██████████ in his chef's uniform

During the interview he admitted to working as a chef – predominately on busy days – Fridays and Saturdays from 6pm to 9pm. He confirmed the Belluno was owned by Haqif Derti and that the pair were cousins. He had been working at the Belluno for around 6-8 weeks. He receives around £150 per week in cash for his work.

Haqif Derti was interviewed about ██████████ employment. He told officers "██████████ is just helping, (I) don't give him money or accommodation, just food. Pocket money when he needs, 20-40 pounds. (He) Didn't show docs for right to work. He's from same village. He helps in kitchen as chef. He's been doing it here for 3 weeks. I allowed him to help here."

██████████ had no right to work in the UK as an illegal entrant.

████████████████████, Greek

When Officers entered the Belluno, ██████████ was seen hiding behind the bar. She was seen by officers trying to remove her apron and ducking down in an attempt to evade officers. The apron was later found to be on a shelf amongst bottles.

Home Office records show that ██████████ had previously applied for EUSS leave in April 2022 which was refused in July 2022. ██████████ made another application for EUSS leave in August 2022 and withdrew it in November 2022. On the 17 November 2022 ██████████ left the UK. When questioned, ██████████ admitted to returning “about a week ago.” She had not applied for the correct visa if she wished to undertake employment. ██████████ entered the UK as a visitor via the electronic gates at the UK border – with no right to work. ██████████ was previously encountered by Immigration Enforcement working illegally in June. ██████████ would have been under no illusion that this type of entry prohibited employment.

██████████ admitted having worked at the Belluno since around June 2022. She admitted to working everyday Monday, Tuesday, and Wednesday lunchtime service. Today she started about 6pm she stated that she did not have set hours. She admitted that Haqif Derti had given her the job and that she gave him her national insurance number. She is paid £9.50 an hour via bank transfer. This payment is made on a Sunday.

When questioned, Haqif Derti said that ██████████ had started at the Belluno 6 months ago, she had just taken 2 weeks holiday (voluntary departure from the UK). She's paid £9.50 per hour into her bank. She works as a waitress; she has received payslips she is on the payroll. Haqif Derti admitted to giving her the job – stating that he allowed her to work at the Belluno.

Payslips for the Belluno in ██████████ name were located during the last enforcement visit that ██████████ was encountered on. During this visit, she also stated ██████████ was a chef, although did not make it clear that he was working at the Belluno.

██████████ entered the UK as a visitor, she had no right to work. ██████████ claimed that she had the right to work due to having a national insurance number. Her attempts to evade detection from officers clearly demonstrates she had knowledge of her precarious living and working arrangements in the UK.

████████████████████, Romanian

██████████ was seen by officers working behind the bar on entry. ██████████ was seen to display adverse behaviour towards officers, namely rapid movement to evade officers' attention. During the interview, ██████████ claims to have entered the UK 2 or 3 months ago, she was looking for change of circumstances in her life. ██████████ entered the UK as a visitor. If ██████████ had intended to work, then she would have been required to obtain the correct visa prior to entering the UK. There is no trace of ██████████ on Home Office systems, there is no record of ██████████ applying for a visa which would permit work.

During interview [REDACTED] admitted that her job was to prepare drinks and take orders from the bar to customers tables. She had been working at the Belluno since around the 11 September 2022. Her hours of work are from 5-10pm four days a week. [REDACTED] confirmed that Haqif Derti was the manager of the Belluno, and he told her what days and hours to work. [REDACTED] told officers that she was not paid in cash but the Manager – Haqif Derti allowed her to choose food to eat from the kitchen. [REDACTED] further admitted to officers that she believed that Haqif Derti knew that she was not allowed to work in the UK.

[REDACTED] had no right to work in the UK as she had entered as a visitor.

[REDACTED], Albanian

[REDACTED] initially seen in the kitchen but was eventually encountered by officers in an upstairs bedroom. He admitted to arriving at the Belluno around a month ago and infrequently helps out. He stated to officers that he helps out in the kitchen and sometimes sets the fire for the ovens. He also helps out on the bar. He admitted to not having a set schedule – but he helps out as and when required. He confirmed that the boss was Haqif Derti and that he lets him stay and help out. In exchange for helping out, [REDACTED] is allowed to stay at the Belluno for no cost and is provided free food from the restaurant. He went on to say that Haqif Derti knows that he is not allowed to work – and that he just helps out, sometimes.

[REDACTED] arrived in the UK on 06 September 2022 by small boat. As an illegal entrant to the UK, he has no permission to work. When questioned about [REDACTED], Haqif Derti stated only that he ([REDACTED]) was his cousin and that he did not work at the Belluno – despite [REDACTED] own admission.

[REDACTED], Albanian

[REDACTED] was seen hastily exiting the front of the Belluno Restaurant. She was suspected to have been illegally working. When questioned about working at the Belluno, [REDACTED] stated that she comes here every evening - but just help out when they are busy. Her brother drops her off and picks her up. She helps as a waitress and had been doing so since November 2022. She is paid around £8.00 per hour but also gets tips left by customers. [REDACTED] also claimed that she is given free food when she is on shift – if she eats there whilst not at work then she is required to pay. [REDACTED] went on to tell officers that she was not required to show any documents that could prove her eligibility to work in the UK to her employer prior to her employment commencing. She further stated that the employer was aware that she had no permission to work in the UK.

Haqif Derti was interviewed about [REDACTED] employment. He told officers [REDACTED] started a few weeks ago, 4 weeks. She is paid £9/hr plus tips. She is a Waitress here. She gave Greek identity card (not copied) I direct her to do jobs, I allowed her to work.”

Home Office systems show that [REDACTED] made an application for a family visa in April 2021 as an Albanian national, this application was void. During the visit, [REDACTED] claimed she was a Greek national. There is no evidence to substantiate her claim of being Greek.

[REDACTED] stated that she was planning to leave the UK to visit her partner in Switzerland in January 2023.



## Reasons for Review

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

There were five illegal workers encountered 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. In this case, the business owner Haqif Derti admitted to employing the workers.

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 can work. All employers are dutybound by law to conduct these checks, and guidance can be found on the .Gov website or by using a search engine. Additional information on how to conduct these checks is available online, this includes the Home Office's official YouTube page. The information is readily available; however, the license holder has deliberately overlooked the rules and laws in place to prevent crime and disorder.

Section 182 guidance at point 11.27 states that certain activity should be treated particularly seriously, and this includes employing someone who is disqualified from that work by reason of their immigration status in the UK. 11.28 of the guidance states that it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Immigration Enforcement submits that for commercial reasons those engaged in the management of the premises employed illegal workers and showed a flagrant disregard for the law in regard to sale of alcohol by placing the authority for that and supervision of the premises into the hands of a person who could not lawfully undertake that duty; a warning or other activity falling short of a full review is inappropriate; therefore, Immigration Enforcement has proceeded straight to review.

## Outcome Sought

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol or provide certain types of regulated entertainment and late-night refreshment.

There are four licensing objectives which underpin the Act, and which need to be taken into account and promoted throughout the licensing process.

The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

Belluno Italian Restaurant under the control of Haqif Derti has been found employing illegal workers. This business has clearly failed to meet the prevention of crime and disorder objective.

Neither the licensees appear to have any obvious connection to the business, and none have been mentioned by the staff. Derti is named as the DPS and is clearly profiting from the license being in place at his business. Whatever systems that the business may claim to have in place regarding employment of staff and checks on their right to work, they are woefully inadequate. Indeed, it seems that their employment practices as a whole are open to concern - one of the offenders claimed to be working but this was contradicted by Derti, and one claimed not to be paid except for receiving food. Both claims suggest that there is an element of not only off the books employment and therefore failure to pay National Insurance and tax etc, but there is a strong likelihood that such payments would be significantly under the national minimum wage and verge upon potential elements of modern-day slavery.

Illegal workers are those subject to immigration control who 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. 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 their revocation/suspension of their premises licence.

Since 1996 it has been unlawful to employ a person who is disqualified from employment because of their immigration status. A statutory excuse exists where the employer can demonstrate they correctly carried out document checks, i.e., that they were duped by fake or forged documents.

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 required to 'knowingly' employ an illegal worker".

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.

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 Home Office (Immigration Enforcement) highlights this as relevant irrespective of whether a civil penalty is imposed, or a prosecution launched for employing an illegal worker.

Immigration Enforcement has submitted that the license holder chose to accept the assurances of the employees on face value, rather than complete the necessary right to work checks that is incumbent of all employers. Conducting these checks is a simple task and should be part of their business-as-usual practices. Guidance is available online and the Home Office have published "[Right to work checks: an employer's guide](#)" which can be found on the .Gov website. Additional information on how to conduct these checks is readily available online, this includes the Home Office's official YouTube page which gives a step-by-step video on how to conduct the checks. The information is readily available; however, the license holder has deliberately overlooked the rules and laws in place to prevent crime and disorder.

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.

A firm response to this criminal behaviour is required to ensure that the 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.

Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally. Immigration Enforcement asks that the premises licence is revoked.

This submission and appended documents provide the licensing subcommittee with background arguments and information pertinent to that contention. These provide the sub-committee with a sound and defensible rationale as to why it should revoke the licence.

## Appendix A – Officer Records

Encounter\_[REDACTED]\_(EV19-857,316)-Complete

Encounter\_[REDACTED]\_(EV19-857,316)-Complete

Encounter\_[REDACTED]\_([REDACTED])-Complete

Encounter\_[REDACTED]\_([REDACTED])-Complete

Encounter\_[REDACTED]\_([REDACTED])-Complete

Fretext\_Observations\_([REDACTED])-Completed (1)

Illegal\_Working-Employee\_[REDACTED]\_([REDACTED])

Illegal\_Working-Employee\_[REDACTED]\_([REDACTED])

Illegal\_Working-Employee\_[REDACTED]\_([REDACTED])

Illegal\_Working-Employer\_Haqif\_Derti\_([REDACTED])

## Illegal Working - Employee

### Details

Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED] - GRC Greece
[REDACTED]	[REDACTED]
Subject name	[REDACTED]
Subject DOB	[REDACTED]
Subject nationality	GRC Greece
Subject gender	Female
Time	18:58
Created at geolocation	No geolocation available
Creation date	09-12-2022 18:58:18

### Language of Interview

What language is the interview carried out in?	Greek
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

### Obligation

How long have you been working here?	I come here every evening but just help out when they are busy my brother drops me off and picks me up I have helped out here since mid November
What is your job role/ what are your duties?	I work as waitress
how much do you get paid	Approx £8 per hour on average and some tips when I help out they give me food but when customer I have to pay

### Control

Who gave you this job (name and role in business)?	The boss asks me to help his name is sala
Did boss ask if you have permission to work.or ask to see your ID	Yes the boss asked if I'd like to work.here and I said I'm.here on holiday but if you want some help I can help you The boss knows I'm.going to Switzerland to meet my boyfriend in January

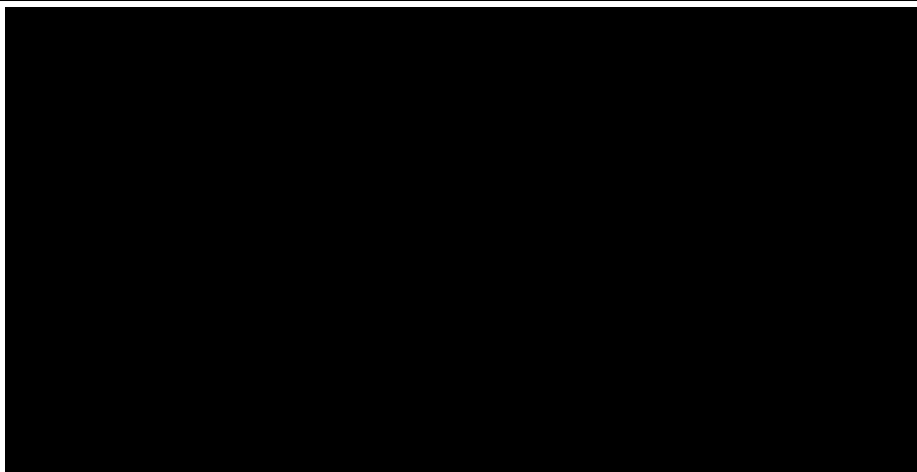
Remuneration	
If money, how much and how do you receive it?	£50 cash approx and some tips
Do you pay income tax or have a National Insurance number?	No
Pre-employment Checks	
What name does the employer know you as?	██████ (it means love in greek)
Did you show documents before being offered the job? If so, what?	No
Does your employer know you're not allowed to work in the UK?	Yes
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
I confirm that I have understood all the questions and that the details are true and correct.	
Interviewee signature (██████████)	 09-12-2022 19:25:06
Observations	
Observations	Subject exited front of business as we arrived wearing work wear I believed she was working illegally
Do you suspect this person of illegal working?	Yes

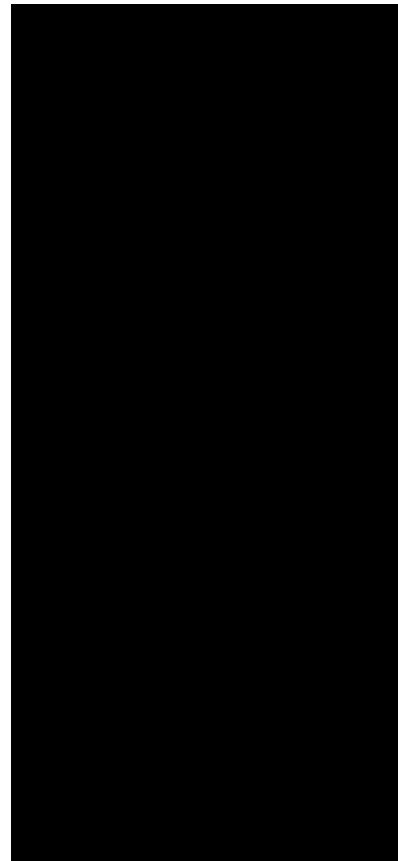
Photo 1



Caption

staff rotas

Photo 2

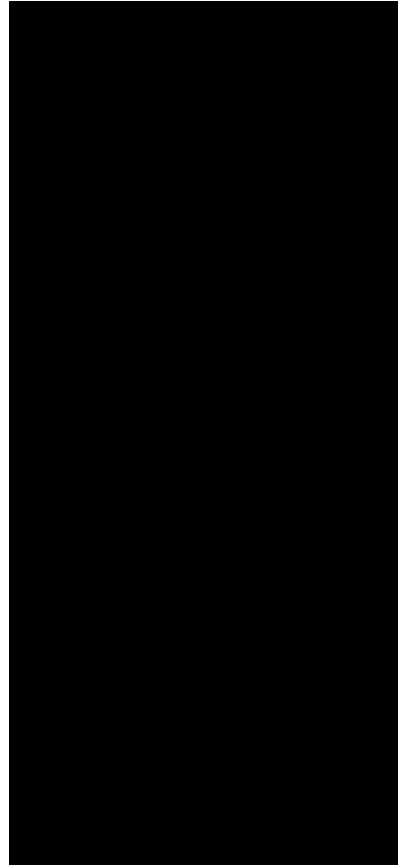


Caption

staff rotas



Photo 3



Caption

subject wearing work.wear

Encounter	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED] - GRC Greece
Time	18:09
Created at geolocation	No geolocation available
Creation date	09-12-2022 18:09:04
Chosen Identity	
Identity source/type	Declared
Name	[REDACTED]
DOB	[REDACTED]
Gender	Female
Nationality	GRC Greece
Languages	
Languages spoken	Greek
Interpreter used?	Yes
Interpreter details	[REDACTED]
Does the individual understand the interpreter?	Yes
Encounter	
Encountering officer	[REDACTED]
Is this encounter related to a Small Boats event?	No
Is this person the subject of the visit?	No
Do you suspect an immigration offence?	Yes
Why do you suspect the person of an immigration offence?	illegal working
Declared immigration status	Holiday maker
How and when did the subject last enter the UK?	28/11/22
[REDACTED]	[REDACTED]

Are there any vulnerabilities/trafficking/safeguarding issues?	No
Is the subject considered a 'rough sleeper'?	No
Where in the premises was the subject located?	Hastely Exiting front of premises
Are you taking enforcement action?	Yes
<div style="background-color: black; width: 100px; height: 15px;"></div> <div style="background-color: black; width: 50px; height: 15px;"></div>	
Biographic search results	<div>Systems checked <div style="background-color: black; width: 100px; height: 15px;"></div></div> <div>Result of checks No trace other than application for family visa in April 21as an Albanian national</div> <div>Status returned by system checks</div>
<b>Identity Documentation</b>	
Document 1	<div>Document type</div> <div>Name in document (if different from above)</div> <div>Document reference</div> <div>Document expiry date</div> <div>Country of issue (if different from nationality above)</div> <div>Suspected fraudulent</div> <div>Notes</div> <div>Photos</div>
<b>Notes</b>	
No notes entered.	
<b>Management Checks Complete</b>	
Date management checks complete	19-12-2022 15:36:28
Reviewer(s)	<div style="background-color: black; width: 100px; height: 15px;"></div>

Encounter	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
ProntoID	[REDACTED] - ROU Romania
Time	18:18
Created at geolocation	<div>Easting 288093</div> <div>Northning 97976</div>
Creation date	09-12-2022 18:18:20
Chosen Identity	
Identity source/type	Declared
Name	[REDACTED]
DOB	[REDACTED]
Gender	Female
Nationality	ROU Romania
Languages	
Languages spoken	English
Interpreter used?	No
Encounter	
Encountering officer	[REDACTED]
Is this encounter related to a Small Boats event?	No
Is this person the subject of the visit?	No
Do you suspect an immigration offence?	Yes
Why do you suspect the person of an immigration offence?	Adverse behaviour on entry, rapid movements once we entered the premises.
Declared immigration status	<div>Entered 2 or 3 months ago, looking for change of circumstances.</div> <div>Visitor to the UK.</div>
How and when did the subject last enter the UK?	<div>Entered by airplane, September 2022.</div> <div>Claimed she change of experience in the UK.</div>
[REDACTED]	[REDACTED]

<b>[REDACTED]</b>	<b>[REDACTED]</b>
Are there any vulnerabilities/trafficking/safeguarding issues?	No
Is the subject considered a 'rough sleeper'?	No
Where in the premises was the subject located?	Working behind the bar
Are you taking enforcement action?	Yes
<b>[REDACTED]</b>	
Biographic search results	<p>Systems checked      Person Check</p> <p>Result of checks      No trace.</p> <p>Status returned by system checks</p>
<b>Identity Documentation</b>	
Document 1	<p>Document type</p> <p>Name in document (if different from above)</p> <p>Document reference</p> <p>Document expiry date</p> <p>Country of issue (if different from nationality above)</p> <p>Suspected fraudulent</p> <p>Notes</p> <p>Photos</p>
<b>Notes</b>	
Arrested 18:28 WIB.	

Encounter	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED] - ALB Albania
Time	18:12
Created at geolocation	<div>Easting 288151</div> <div>Northing 98090</div>
Creation date	09-12-2022 18:12:52
Chosen Identity	
Identity source/type	Declared
Name	[REDACTED]
DOB	[REDACTED]
Gender	Male
Nationality	ALB Albania
Languages	
Languages spoken	English
Interpreter used?	No
Encounter	
Encountering officer	[REDACTED]
Is this encounter related to a Small Boats event?	No
Is this person the subject of the visit?	Yes
Declared immigration status	
How and when did the subject last enter the UK?	2014
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Are there any vulnerabilities/trafficking/safeguarding issues?	No
Is the subject considered a 'rough sleeper'?	No

Where in the premises was the subject located?	Kitchen area running from officers
Are you taking enforcement action?	Yes
<div style="background-color: black; width: 100px; height: 15px;"></div> <div style="background-color: black; width: 50px; height: 15px;"></div>	
Biographic search results	<b>Systems checked</b> Person Check <b>Result of checks</b> <b>Status returned by system checks</b>
<b>Identity Documentation</b>	
Document 1	<b>Document type</b> <b>Name in document (if different from above)</b> <b>Document reference</b> <b>Document expiry date</b> <b>Country of issue (if different from nationality above)</b> <b>Suspected fraudulent</b> <b>Notes</b> <b>Photos</b>
<b>Notes</b>	
I entered the kitchen following the arrest of another male by my colleague IO [REDACTED]. On entering the kitchen a male dressed in chef whites ran towards the exit. I arrested him on suspicion of being an immigration offender.	
<b>Management Checks Complete</b>	
Date management checks complete	19-12-2022 16:11:08
Reviewer(s)	[REDACTED]

Encounter	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
ProntoID	[REDACTED] - ALB Albania
Time	18:21
Created at geolocation	<div>Easting 288094</div> <div>Northing 97985</div>
Creation date	09-12-2022 18:21:19
Chosen Identity	
Identity source/type	Declared
Name	[REDACTED]
DOB	[REDACTED]
Gender	Male
Nationality	ALB Albania
Languages	
Languages spoken	Albanian
Interpreter used?	Yes
Interpreter details	[REDACTED]
Does the individual understand the interpreter?	Yes
Encounter	
Encountering officer	[REDACTED]
Is this encounter related to a Small Boats event?	No
Is this person the subject of the visit?	Yes
Declared immigration status	States passport is at Brooke house
How and when did the subject last enter the UK?	September 2023 by small boat
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Are there any vulnerabilities/trafficking/safeguarding issues?	No



Is the subject considered a 'rough sleeper'?	No	
Where in the premises was the subject located?	Bedroom upstairs	
Are you taking enforcement action?	No	
████████████████████ ████████		
Biographic search results	<b>Systems checked</b> ██████████ <b>Result of checks</b> Confirmed arrival via small boat and wished to claim asylum but refused to answer questions and then eventually stated he owes money back in Albania. Released from detention on basis of Asylum claim. No record of Asylum claim at the moment.  <b>Status returned by system checks</b>	
<b>Identity Documentation</b>		
No documentation provided.		
<b>Notes</b>		
As there is an outstanding asylum application even though it is not showing on the system he has claimed so going to get an address and update records and make sure his case is progressed		

Encounter	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
ProntoID	[REDACTED] - GRC Greece
Time	18:06
Created at geolocation	<div>Easting 288088</div> <div>Northing 97986</div>
Creation date	09-12-2022 18:07:28
Chosen Identity	
Identity source/type	Declared
Name	[REDACTED]
DOB	[REDACTED]
Gender	Female
Nationality	GRC Greece
Languages	
Languages spoken	Greek
Interpreter used?	Yes
Interpreter details	[REDACTED]
Does the individual understand the interpreter?	Yes
Encounter	
Encountering officer	[REDACTED]
Is this encounter related to a Small Boats event?	No
Is this person the subject of the visit?	No
Do you suspect an immigration offence?	Yes
Why do you suspect the person of an immigration offence?	Hiding behind bar. seen by external cover to remove apron and duck down. Apron noted on shelf amongst bottles
Declared immigration status	Greek
How and when did the subject last enter the UK?	Applied for EUSS August I came back about a week ago

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
Are there any vulnerabilities/ trafficking/safeguarding issues?	No
Is the subject considered a 'rough sleeper'?	No
Where in the premises was the subject located?	Hidden behind bar
Are you taking enforcement action?	Yes
<b>[REDACTED]</b>	
Biographic search results	Systems checked Result of checks Status returned by system checks
<b>Identity Documentation</b>	
Document 1	Document type Name in document (if different from above) Document reference Document expiry date Country of issue (if different from nationality above) Suspected fraudulent Notes Photos
<b>Notes</b>	
No notes entered.	

## Illegal Working - Employee

### Details

Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED] - ALB Albania
[REDACTED]	[REDACTED]
Subject name	[REDACTED]
Subject DOB	[REDACTED]
Subject nationality	ALB Albania
Subject gender	Male
Time	18:36
Created at geolocation	<div>Easting 288094</div> <div>Northing 97985</div>
Creation date	09-12-2022 18:36:13

### Language of Interview

What language is the interview carried out in?	English
Interpreter used?	No

### Obligation

How long have you been working here?	I do not work here full time, I help out when it's busy on Friday and Saturday
What is your job role/ what are your duties?	Chef / cooking
What days/ hours do you work each week?	Friday and Saturday 6pm to 9pm

### Control

Who gave you this job (name and role in business)?	My cousin owns the business here, Belluno. Aqif Derti is my cousin. He helps me out with money.
Who tells you what days/ hours to work?	I come to help, no one tells me.
Who tells you what tasks/ duties to do each day?	My cousin doesn't tell me what to do, I just help.
How long have you worked/ helped out at Belluno	About 6-8 weeks

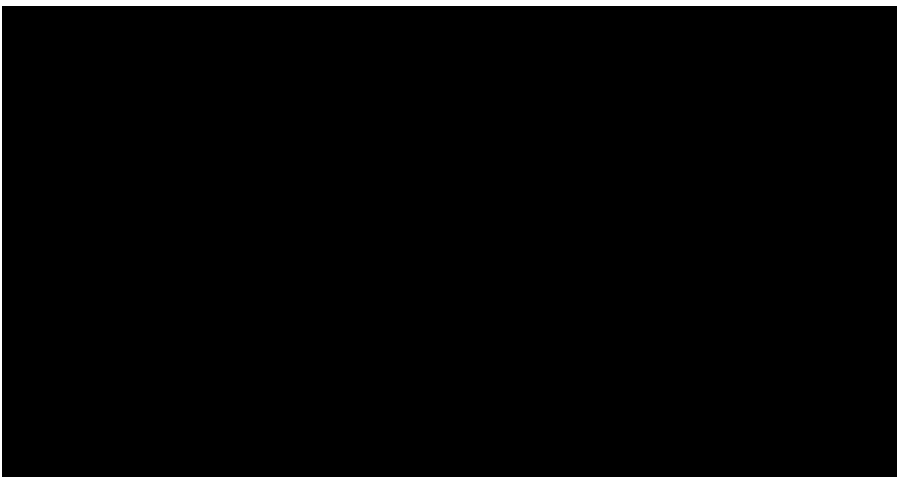
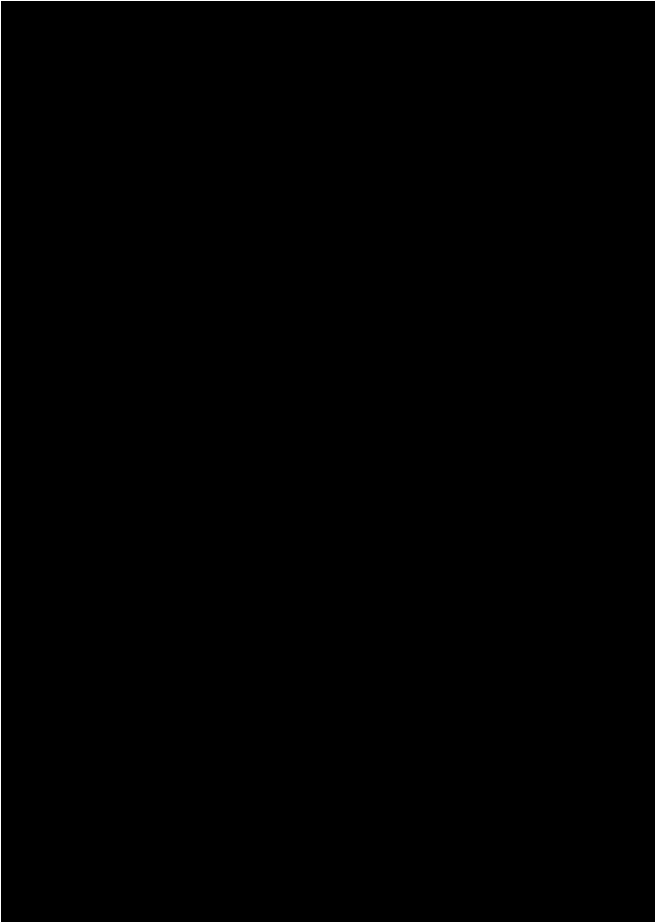



Remuneration	
How are you paid (money, accommodation, food)?	My cousin helps you with money, free food anytime.
If money, how much and how do you receive it?	My cousin gives me money when I need it. He gave me £150 last week.
Do you pay income tax or have a National Insurance number?	No I get paid cash
Pre-employment Checks	
What name does the employer know you as?	██████, he's my cousin.
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
I confirm that I have understood all the questions and that the details are true and correct.	
Interviewee signature (██████)	 09-12-2022 18:52:24
Observations	
Observations	Encountered in the kitchen area, wearing chef whites, ran from officers and arrested on suspicion of being an immigration offender.
Do you suspect this person of illegal working?	Yes

Photo 1		
	Caption	
	Exhibit Ref	
	Common name	
Management Checks Complete		
Date management checks complete	19-12-2022 16:12:54	
Reviewer(s)		



**Illegal Working - Employer****Details**

Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	Haqif Derti - [REDACTED] - GBR British Citizen
[REDACTED]	[REDACTED]
Employer	Haqif Derti
Subject DOB	[REDACTED]
Subject nationality	GBR British Citizen
Subject gender	Male
Time	19:41
Created at geolocation	<div>Easting 288094</div> <div>Northing 97984</div>
Creation date	09-12-2022 19:37:24

**Language of Interview**

What language is the interview carried out in?	English
Interpreter used?	No

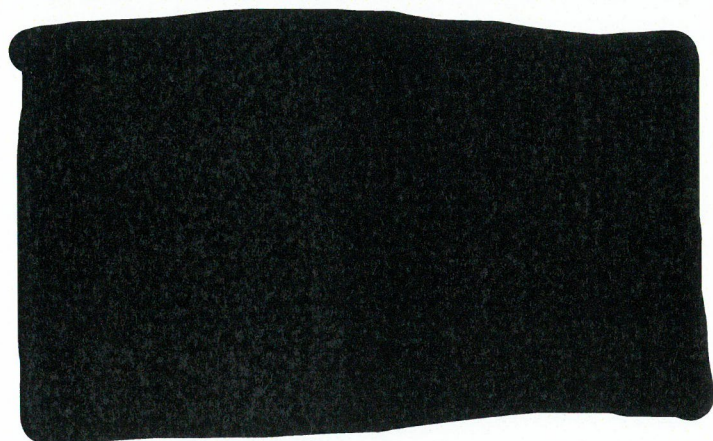
**Employer Details**

No details provided.

**Declaration by Employer**

I confirm that I have understood all the questions and that the details are true and correct.

Signed by Haqif Derti



09-12-2022 19:53:08



## Observations

### Observations

is just helping, don't give him money or accomm just food. Pocket money when he needs, 20-40 pounds.

Didn't show docs for rtw. He's from same village. He helps in kitchen as chef. He's been doing it here for 3 weeks.

I allowed him to help here.

Start here 6 months ago, she had 2 weeks holiday (immigration removed from uk).

She's paid £9.50 into bank.

She is waitress, had payslips she's on payroll.

I give her jobs, I allowed her to work here.

She's only helping as waitress and in bar, cleaning.

She gets free food, pocket money £50-70 whenever she needs it.

She showed a passport.

I allowed her to work

He's my cousin, he doesn't work at all.

Started a few weeks ago, 4 weeks.

She's paid £9/hr plus tips etc

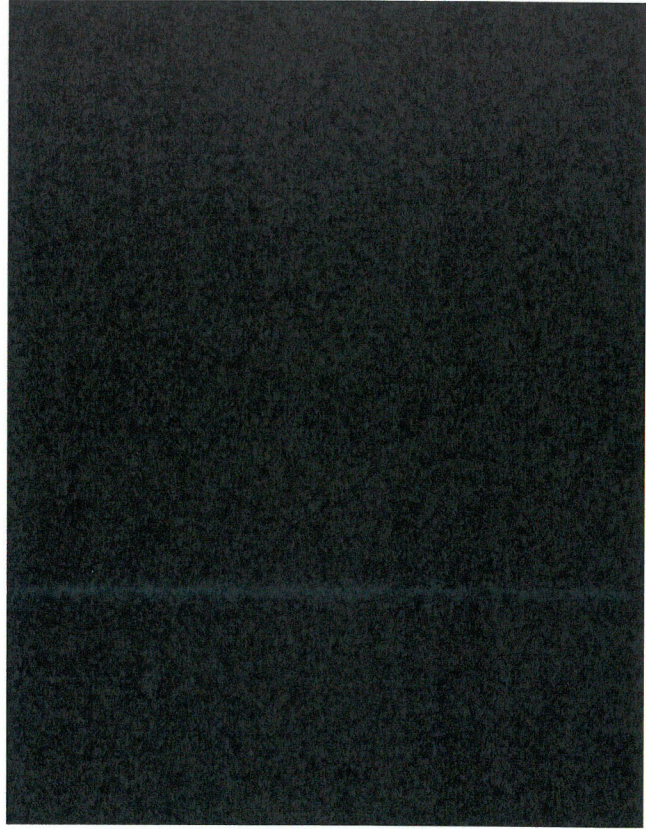
Waitress here.

She gave GRC identify card (not copied)

I direct her to do jobs, I allowed her to work.



Photo 1



Caption

RN



<b>Freetext</b>	
<b>Details</b>	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
Address	Belluno Italian Restaurant, Newton St Cyres, Exeter, EX5 5DA (Visit Address)
[REDACTED]	[REDACTED]
Time	19:40
Created at geolocation	No geolocation available
Creation date	09-12-2022 19:40:19
Is this entry related to a Critical Incident?	No
<b>Entry</b>	
Title	Observations

Text

Manager (little man in red t shirt and grey trousers) was aggressive and non compliant after initial entry, making demands and saying he had a party of 50 people coming and we were interrupting the running of his business.

Manager was aggressive and argumentative with IO [REDACTED] when he was trying to explain the CP referral notice. He got up and walked away from IO [REDACTED] at one point, but came back to again demand names are crossed off the list before it gets sent off.

Manager got angry again and said "Is this Happy Christmas to me?" and that if he was fined £20,000 per illegal worker he would have to close his business "because of Immigration". IO [REDACTED] again attempted to explain about the process, as did CIO [REDACTED], but the Manager kept aggressively talking over them.

Manager demanded one of the workers be crossed off the list as he wasn't in uniform which the Manager said meant he didn't work at Belluno.

Manager said that because the two he wanted removed had NI numbers they had the right to work. He stated that he could prove that because they were on the payroll and had payslips.

Manager then stated that [REDACTED] be crossed off the list as she had the right to work here. Myself and IO [REDACTED] both encountered her, and she wasn't wearing a uniform (she was working in an unbranded, black t shirt and black, ripped jeans), and does work there (she was found trying to hide herself behind the bar), so the Manager's justification for the other worker not working there "because he isn't wearing a uniform" does not seem to be credible.

During my and IO [REDACTED] encounter with [REDACTED], the Manager came in and stood watching for a while but I stood in between his sightline with the person being interviewed, as the subject was under arrest and as such, he was not able to communicate with her.

[REDACTED] started off being quite annoyed and slightly aggressive, and refused to believe she did not have the right to work there. She freely admitted to myself and IO [REDACTED] that she was working as a waitress at Belluno. She stated that as she had an NI number, she therefore had the right to work.

She admitted to returning to the UK via the e-gates (this grants tourist entry ONLY), and that she was coming to the UK to live and work. (This is therefore entry by deception.)

She stated everything was so confusing about work, and why did the UK make it so hard for people like her to be allowed to work here, it was pointed out to her that, when she was previously encountered by Immigration in June, again, working illegally, it would have been explained to her then what she was required to do to enable her to work legally in the UK, however,

despite this knowledge, she came back to the UK within a week of voluntarily departing back to Greece (following the previous encounter with Immigration), again entered as a tourist, rather than coming with the necessary work permit,

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Photographs
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No photographs.
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## Illegal Working - Employee

### Details

Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED] - GRC Greece
[REDACTED]	[REDACTED]
Subject name	[REDACTED]
Subject DOB	[REDACTED]
Subject nationality	GRC Greece
Subject gender	Female
Time	18:20
Created at geolocation	<div>Easting 288090</div> <div>Northing 97984</div>
Creation date	09-12-2022 18:20:00


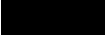
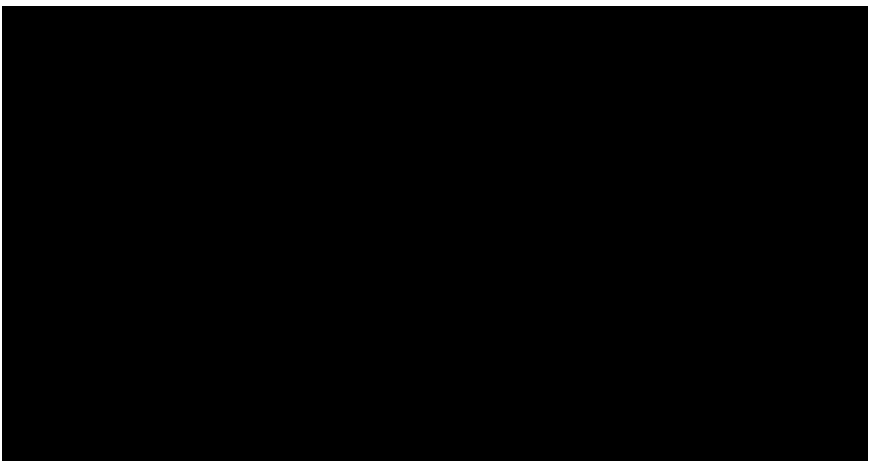
### Language of Interview

What language is the interview carried out in?	Greek
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

### Obligation

what do you do here at this restaurant	I am a waitress
How long have you been working here?	Since about June
Did you return to Greece after you last spoke to Immigration officers	Yes
when did you last enter the UK	About 1 week
Do you have a contract of employment here	Yes
What days do you work	It depends

<b>what days have you worked this week</b>	Every day Monday lunchtime service Tuesday lunchtime service Wednesday same Today I start about 6pm I just helping today not set hours I had stuff to do today so didn't know what time I could be starting
<b>Who gave you the job</b>	The manager when I gave him the national insurance number he say I can work They call him Sal
<b>how much are you paid an hour</b>	£9.50
<b>when are you paid</b>	Every Sunday
<b>How are you paid</b>	Straight to my bank
<b>Are you paid on the week or before you work</b>	I am paid for the week I have worked
<b>Why have you come back to the UK</b>	My 5 year application is current and when they throw me out last time they make a mistake The first time I was refused because I could not give correct proofs This time I give them the proof my case is open
<b>when did you first come to the UK</b>	2020 Summer June or earlier I left because of family emergency in around Christmas time back to Greece. I stay in Greece until November 2021 This is when return,I make the applications.
<b>When you entered the UK last what did you come to do</b>	I have not come for bad purpose I like it here I come to live & work and get my papers through solicitor
<b>Did you tell this to Immigration when you arrived</b>	I come in, in Birmingham They did not ask I used the gate.
<b>Do you get a payslip</b>	Yes
<b>do you pay tax and national insurance</b>	Yes
<b>Is there anything else you want to tell me</b>	Either I want to stay here and get my papers or go home and make application to come back

<b>Control</b>	
No details provided.	
<b>Remuneration</b>	
No details provided.	
<b>Pre-employment Checks</b>	
No details provided.	
<b>Additional Questions</b>	
No details provided.	
<b>Photographs</b>	
No photographs.	
<b>Declaration</b>	
I confirm that I have understood all the questions and that the details are true and correct.	
<b>Interviewee signature</b>  	 09-12-2022 19:01:55
<b>Observations</b>	
<b>Observations</b>	Was hidden behind bar seen by Officers Apron hidden amongst bottles on shelf with her phone wrapped in it
<b>Do you suspect this person of illegal working?</b>	Yes



LICENSING ACT 2003

APPLICATION FOR REVIEW OF A PREMISES LICENCE

SUBMISSIONS ON BEHALF OF RESPONDENTS TO THE REVIEW

Licensing authority

Mid Devon District Council

Licence details

Licence no MDV PR0088

Belluno Italian Restaurant

Newton St Cyres

EX5 5DA

Applicant for review

Home Office

Respondents to review

Licence holder – Kirton Ventures Limited

Designated Premises Supervisor – Mr Haqif Derti

Suggested reading

Licensing Act 2003, especially sections 4 and 51 – 52

Home Office revised guidance issued under section 182 Licensing Act 2003 (April 2018 revision) – in particular part 11 pp 89 – 95 *Reviews*

Local Authority guidance on licence reviews from Dacorum Borough Council

## 1. Background

- 1.1. This is an application by the Home Office to review the licence of this popular Italian restaurant. It is accepted the Home Office is a *responsible authority* and entitled to request this review. The basis of the review request is an unproved allegation of employment of illegal workers at the premises.
- 1.2. Belluno's is an Italian restaurant fronting onto the main Exeter – Barnstaple A377 road in the centre of Newton St Cyres. It has been operating in its present guise since July 2018. Prior to then it was the Crown & Sceptre pub, operated by Heavitree Brewery. Belluno's was established as a replacement business when the pub use ceased.
- 1.3. The freehold of the premises is owned by Kirton Ventures Limited (company number 03013312) who is also the licence holder. Kirton has no direct involvement in the operation and management of Belluno's.
- 1.4. The premises and business are let on a lease to Belluno Bar & Grill Limited (registered company number 12211240). Mr Haqif Derti, who is a director of this company, is the Designated Premises Supervisor. Mr Derti is an experienced restaurateur and of good character. He has worked in the hospitality industry since 2004 and run and managed restaurant businesses on his own account since 2017.
- 1.5. Belluno's is in an area with an otherwise limited restaurant offering. It is popular with couples and families and as a venue for business entertainment and staff hospitality.
- 1.6. It should be noted that Kirton does not *trade as* Belluno as claimed in the application notice displayed outside the Premises. Kirton and Belluno are two separately owned and managed businesses.

## 2. Events of and following raid on 9 December 2022

- 2.1. The Immigration Enforcement attended the Premises on 9 December 2022 (the "Raid") by a large number of agents dressed in fatigues, the exact number of whom is

not known. There had been no prior inquiries or complaints received from the Home Office and was no pre-warning of the raid.

- 2.2. The timing and conduct of the raid at the beginning of service on a Friday evening appeared to have been aimed to cause as much disruption to the business and to spoil the experience of as many of the restaurant's customers as possible, a large number of whom were workers attending Christmas functions. Although Belluno did nothing to impede the entry of Immigration Enforcement, it cannot be said they entered the Premises with the *fully informed consent of the occupier* as claimed in the Applicant's Case Summary.
- 2.3. Following the Raid on the Premises, Belluno received a Request for Right to Work information from the Applicant's Civil Penalty Compliance Team ("CPCT") dated 29 December 2022 (the "Request"). Information relating to 5 individuals encountered on the Premises during the Raid was requested.
- 2.4. The Request stated that Immigration Enforcement "[were] currently considering the evidence in your case to determine if you are liable for a civil penalty and if so for what amount".
- 2.5. On our client's behalf we submitted an initial response to the CPCT on behalf of Belluno on 9 January 2023 (the "Initial Response") and a more detailed response with supporting evidence on 16 January 2023 (the "Response"). Copies of which with appropriate redactions have been appended to these representations.
- 2.6. Save for receiving an automated response to both the Initial Response and the Response at the time of sending, neither we nor Belluno have received any further correspondence from the CPCT since the date of the Request. Notably, the CPCT have not made any finding against Belluno or made any recommendations to them.
- 2.7. For a period of nearly 6 months now following the Request, Immigration Enforcement have taken no further action against Belluno.

- 2.8. The committee will no doubt find it surprising that the Applicant has made no reference to the Respondents' responses in its application.
- 2.9. Prior to the raid the Respondents maintained immigration status records at the premises by retaining copies of employees' passports, share codes (the record of right-to-work status) and national insurance numbers. Since the raid and as an additional precaution the Respondents have contracted this function to their accountants as an add-on to the payroll function.

### 3. The Application

- 3.1. The application is essentially made in reference to alleged but unproven illegal activity and disorder at the licensed premises. This ground has historically been mainly applied to instances of criminal activity such as drug misuse in licensed premises and where late-night disorder has occurred. As a matter of policy the Home Office has from time to time sought to introduce illegal working as a ground of criminality but there is as yet no authoritative judicial precedent to support this extension. Thus the present application is made on the basis of policy and not law.
- 3.2. The Applicant's Case Summary states that, '*A referral **has been made** to the Civil Penalty Compliance Team in relation to the illegal working*'.<sup>1</sup> The clear implication is that the referral to the CPCT is a recent development in the matter and not (as is the case) an event that occurred in December 2022. The Application was dated 14 June 2023 and it appears that this may be a deliberate attempt to misrepresent the facts or urgency of the case.
- 3.3. The principal criminality alleged in the Application relates to supposedly illegal working by non-UK nationals who are alleged not to have the right to work in the UK.

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<sup>1</sup> Emphasis added

- 3.4. The Application also alleges a breach of obligations with regard to the sale of alcohol and the supervision of the premises. The Application also makes indirect reference to failures to pay workers properly and to tax evasion. No evidence is presented in support of any of these allegations and they are neither recognised nor understood by the Respondents.
- 3.5. No other criminality is alleged and no disorder.
- 3.6. The allegations are not accepted by the Respondents and have not been proved. The Respondents have provided a detailed response to the Home Office to refute the allegations in their entirety, in the form of their responses dated 9 and 16 January 2023. The Applicant's failure to make any reference to the Respondent's position is blatant.
- 3.7. With the exception of the employment status of the five identified individuals whom the Applicant alleged to have been employees, none of the matters highlighted in the Application have any bearing on or application to the subject premises. The application does not even attempt to make any evidential link to the present Application.
- 3.8. The Application fails to indicate that any proper consideration has been given in the context of this specific matter to alternatives to the revocation remedy it seeks.

#### 4. Law

- 4.1. The source legislation is the Licensing Act 2003. It is common ground that licensing matters must be determined in accordance with the principles laid down in the Act and that the only relevant principle in this case is section 4(2)(a) – the prevention of crime and disorder.
- 4.2. The committee is being asked to review the licence under section 51 and, if appropriate, apply the requirements of sections 52 and in particular subsections (3) and (4) which are set out below.

s.52(3)The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers [**F1**appropriate] for the promotion of the licensing objectives.

s.52(4)The steps are—

- (a)to modify the conditions of the licence;
- (b)to exclude a licensable activity from the scope of the licence;
- (c)to remove the designated premises supervisor;
- (d)to suspend the licence for a period not exceeding three months;
- (e)to revoke the licence.

4.3. It will be noted that these provisions do not of themselves identify the standard of evidence or of proof required:

4.3.1. First, to enable the committee properly to conclude any action is required; and

4.3.2. Secondly, if it does so conclude, what that action should be.

4.4. Partial guidance on these issues is provided by Home Office Revised Guidance April 2018 revision, part 11 and of particular note are the following provisions:

4.4.1. Paragraph 11.10 – it is considered good practice to give licensees early warning and advice of any problems. Reviews should not be used to undermine local cooperation.

4.4.2. Paragraph 11.17 – it is open to committees to decide that no formal action is required at the conclusion of a review.

4.4.3. Paragraph 11.20 – authorities should look to identify the causes of any problems identified and take no more than appropriate and proportionate action to address the causes.

4.4.4. Paragraph 11.23 – revocation of a licence should be a last resort.

- 4.5. In addition the committee is referred to the Dacorum Borough Council guidance on licence reviews from which it is clear evidence as opposed to supposition is required to justify a licence review.
- 4.6. Whilst the committee is not a Court, it must nevertheless act by reference to evidence and reach decisions within a range of reasonableness *per* the well-established *Wednesbury*<sup>2</sup> principles.

## 5. Submissions

- 5.1. Although neither the statute nor the published guidance addresses the level of proof required to establish the licensing objective of the prevention of crime and disorder, the standard of proof would normally be higher where a specific allegation of criminality is made against the operator of the premises than might be needed to establish criminal conduct by third persons (*eg* drug dealing) from the premises. The Applicant's evidence singularly fails to meet the required standard.
- 5.2. The failure of the Applicant to disclose the Respondents' responses to its inquiries is a serious omission and something that should put the committee on inquiry as to the reliability of the Applicant's submissions as a whole.
- 5.3. Other than the illegal worker allegations no evidence of any kind is offered to support the Applicant's allegations including but not limited to those of under-paying staff or tax evasion. It is assumed these allegations have been made purely in the hope of prejudicing the committee against the Respondents and must be disregarded. Such unsupported allegations also put in question the reliability and motives underpinning the Applicant's action in requesting this review.
- 5.4. The committee is asked to accept that no Immigration offences have been proved to have been committed. As no other criminality has been evidenced, let alone proved,

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<sup>2</sup> *Associated Picture Houses v Wednesbury Corporation* [1948] 1KB223

the committee is urged to conclude that no ground for a review of the licence has been established.

- 5.5. Even if circumstances justifying a review are found to have arisen, it is still open to the committee to decide to deal with the matters identified by other means such as guidance or additional supervision.
- 5.6. Insofar as the committee may nevertheless decide upon a review, it is asked to note that any modifications to the licence should be considered on a sliding scale by reference to the matters identified in section 52(4) Licensing Act and Home Office guidance.
- 5.7. The objective of the review should be to address the causes of the problems identified and should be appropriate and proportionate. The objective is to address the causes identified and not to punish.
- 5.8. Insofar as any weaknesses in the Respondents' conduct may be identified, it is considered the procedural changes already made by the Respondent are a reasonable response. No further complaints have been made.
- 5.9. It is clear from the tenor of the Application that Applicant's real motive is to pursue a policy objective by seeking to hold up the Respondents as an example to discourage others. That is not a proper licensing objective and it would not be reasonable for the committee to attach any weight to such considerations.
- 5.10. If the committee were to accede to the Applicant's demand for the revocation of the licence this would inevitably result in the closure of the Respondents' business to the detriment of its customers, suppliers, staff and the wider local economy.

## 6. Testimonials





10<sup>th</sup> July, 2023.

Mid Devon District Council  
Phoenix House  
Phoenix Lane  
Tiverton  
EX16 6PP

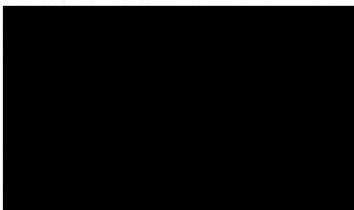
Dear Sir

I understand you are currently reviewing the licence for Bellunos in Newton St Cyres.

I have been to this restaurant on numerous occasions both with friends and family and find both the service and food to be excellent. It is the only restaurant in the area and provides a comprehensive menu of quality food coupled with a friendly efficient service. The atmosphere is very relaxing and gives the vibe of a small family run business where they actually enjoy having you as a customer and go above and beyond to make you feel welcome.

I feel it would be a great shame to lose this local eatery as the only other restaurant alternative, is to travel into Exeter which is obviously much further. I feel as a council you should be trying to support these small local businesses as not everyone wants to frequent national chains.

Yours faithfully



10 July 2023

The Licensing Department  
Mid Devon District Council Offices  
Phoenix House  
Phoenix Lane  
TIVERTON EX16 6PP

Dear Sirs

I am writing to you regarding the application for review of the premises' licence occupied by Kirton Ventures Limited t/a Belluno, Newton St Cyres, EXETER EX5 5DA.

I am local to the area and have visited "Bellunos" on a number of occasions for evening meals with both friends and family. The restaurant is popular, often with only ever a few tables spare and has a bustling atmosphere even on weekdays. The restaurant offers good quality Italian cuisine at a reasonable price and is the only Italian restaurant in the area. The restaurant offers a refreshing alternative to a traditional pub grub for locals which can be enjoyed without the need to travel into Exeter. It is also in a good location with good public transport links with a bus stop immediately outside and Newton St Cyres train station a short walk away. This, alongside its good reputation, helps to draw all types of people to the restaurant.

As a coeliac I find it difficult to find restaurants in the area which offer a range of gluten free dishes to choose from. Bellunos offer a number of options on their menu as gluten free including pasta dishes, risotto and salads. The staff have always been extremely accommodating and are regularly willing to adapt a dish at my request, for example not adding croutons to a salad. This is extremely useful as many restaurants today do not make their dishes from scratch and so cannot be so flexible. This is the case with a number of Bellunos' neighbouring restaurants.

The staff always offer exemplarily customer service which is rare today. The waiters and waitresses are familiar with the menu and are happy to offer recommendations. They are attentive without being too disturbing or pressurising and always seem incredibly pleased to see you. They are always helpful even near closing time!

Bellunos is the only Italian restaurant in the area and it is useful to be able to enjoy quality Italian food so close by without having to travel far into the city. I, like many locals enjoy supporting an independent business and it would be a real loss to the area if Bellunos was forced to close.

Yours faithfully



**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Belluno Restaurant, Newton St Cyres.  
**Date:** 09 July 2023 19:50:20

---

Good Evening [REDACTED]

I would like to voice my support for Belluno Restaurant, I understand that their licence is under review and being dealt with by your firm.

This restaurant provides a valuable service in a rural village, the service and Italian based menu is excellent. It is an ideal venue to meet friends from the surrounding rural area for a lunch or evening meal, without the need to travel into Exeter to find a similar venue.

The only other venue in the village only serves food on limited days during the week. It would be a great loss to the local community if the licence is not renewed. The staff have always been friendly and helpful to ensure that your visit is a happy one. They are willing to work to provide a good service in a rural area, where similar venues are few and far between.

Yours Sincerely

[REDACTED]

Isca Legal LLP

11 July 2023

LICENSING ACT 2003

APPLICATION FOR REVIEW OF A PREMISES LICENCE

SUBMISSIONS ON BEHALF OF RESPONDENTS TO THE REVIEW

Isca Legal LLP  
Highland House  
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Solicitors to the Respondents



**LICENSING ACT 2003**

**APPLICATION FOR REVIEW OF A PREMISES LICENCE**

**SUBMISSIONS ON BEHALF OF RESPONDENTS TO THE REVIEW**

**SUPPORTING DOCUMENTS**

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# Licensing Act 2003

## 2003 CHAPTER 17

### PART 2

#### LICENSING AUTHORITIES

*Functions of licensing authorities etc.*

#### **4 General duties of licensing authorities**

- (1) A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives.
- (2) The licensing objectives are—
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- (3) In carrying out its licensing functions, a licensing authority must also have regard to—
  - (a) its licensing statement published under section 5, and
  - (b) any guidance issued by the Secretary of State under section 182.



**Changes to legislation:**

Licensing Act 2003, Section 4 is up to date with all changes known to be in force on or before 07 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5A inserted by 2015 c. 20 s. 67(2)Sch. 17
- s. 2(1A) inserted by 2015 c. 20 s. 67(1)
- s. 10(4)(e) and word inserted by 2011 c. 13 s. 121(3)(b)
- s. 140(2)(e) inserted by 2015 c. 20 s. 67(4)(b)
- s. 141(2)(e) inserted by 2015 c. 20 s. 67(5)(b)
- s. 143(2)(e) inserted by 2015 c. 20 s. 67(6)(b)
- s. 144(2)(e) inserted by 2015 c. 20 s. 67(7)(b)
- s. 147A(4)(c) inserted by 2015 c. 20 s. 67(8)(b)
- s. 153(4)(d) inserted by 2015 c. 20 s. 67(9)(b)
- s. 197(3)(cza) inserted by 2015 c. 20 s. 67(12)(a)
- s. 197A197B inserted by 2011 c. 13 s. 121(2)



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 3

#### PREMISES LICENCES

##### *Review of licences*

#### **51 Application for review of premises licence**

- (1) Where a premises licence has effect, [<sup>F1</sup>a responsible authority or any other person] may apply to the relevant licensing authority for a review of the licence.
- (2) Subsection (1) is subject to regulations under section 54 (form etc. of applications etc.).
- (3) The Secretary of State must by regulations under this section—
  - (a) require the applicant to give a notice containing details of the application to the holder of the premises licence and each responsible authority within such period as may be prescribed;
  - (b) require the authority to advertise the application and invite representations about it to be made to the authority by [<sup>F2</sup>responsible authorities and other persons] ;
  - (c) prescribe the period during which representations may be made by the holder of the premises licence, any responsible authority or any [<sup>F3</sup>other person] ;
  - (d) require any notice under paragraph (a) or advertisement under paragraph (b) to specify that period.
- (4) The relevant licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied—
  - (a) that the ground is not relevant to one or more of the licensing objectives, or
  - (b) in the case of an application made by a person other than a responsible authority, that—
    - (i) the ground is frivolous or vexatious, or
    - (ii) the ground is a repetition.



*Changes to legislation: Licensing Act 2003, Section 51 is up to date with all changes known to be in force on or before 11 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) For this purpose a ground for review is a repetition if—
- (a) it is identical or substantially similar to—
    - (i) a ground for review specified in an earlier application for review made in respect of the same premises licence and determined under section 52, or
    - (ii) representations considered by the relevant licensing authority in accordance with section 18, before it determined the application for the premises licence under that section, or
    - (iii) representations which would have been so considered but for the fact that they were excluded representations by virtue of section 32, and
  - (b) a reasonable interval has not elapsed since that earlier application for review or the grant of the licence (as the case may be).
- (6) Where the authority rejects a ground for review under subsection (4)(b), it must notify the applicant of its decision and, if the ground was rejected because it was frivolous or vexatious, the authority must notify him of its reasons for making that decision.
- (7) The application is to be treated as rejected to the extent that any of the grounds for review are rejected under subsection (4).

Accordingly the requirements imposed under subsection (3)(a) and (b) and by section 52 (so far as not already met) apply only to so much (if any) of the application as has not been rejected.

#### Textual Amendments

- F1** Words in s. 51(1) substituted (22.3.2012 for specified purposes, 25.4.2012 in so far as not already in force) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 106(2)(a), 157(1) (with s. 106(7)); S.I. 2012/896, art. 2(b); S.I. 2012/1129, art. 2(d)
- F2** Words in s. 51(3)(b) substituted (22.3.2012 for specified purposes, 25.4.2012 in so far as not already in force) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 106(2)(b)(i), 157(1) (with s. 106(7)); S.I. 2012/896, art. 2(b); S.I. 2012/1129, art. 2(d)
- F3** Words in s. 51(3)(c) substituted (22.3.2012 for specified purposes, 25.4.2012 in so far as not already in force) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 106(2)(b)(ii), 157(1) (with s. 106(7)); S.I. 2012/896, art. 2(b); S.I. 2012/1129, art. 2(d)

#### Commencement Information

- I1** S. 51(3) in force at 16.12.2003 by S.I. 2003/3222, art. 2, Sch.; s. 51(1)(2)(4)-(7) in force at 24.11.2005 by S.I. 2005/3056, art. 2 (with Sch.)



**Changes to legislation:**

Licensing Act 2003, Section 51 is up to date with all changes known to be in force on or before 11 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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Whole provisions yet to be inserted into this Act (including any effects on those provisions):

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- s. 144(2)(e) inserted by 2015 c. 20 s. 67(7)(b)
- s. 147A(4)(c) inserted by 2015 c. 20 s. 67(8)(b)
- s. 153(4)(d) inserted by 2015 c. 20 s. 67(9)(b)
- s. 197(3)(cza) inserted by 2015 c. 20 s. 67(12)(a)
- s. 197A197B inserted by 2011 c. 13 s. 121(2)



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 3

#### PREMISES LICENCES

##### *Review of licences*

#### **52 Determination of application for review**

- (1) This section applies where—
- (a) the relevant licensing authority receives an application made in accordance with section 51,
  - (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
  - (c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section.
- (2) Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
- (3) The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers [F1 appropriate] for the promotion of the licensing objectives.
- (4) The steps are—
- (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding three months;
  - (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.



*Changes to legislation: Licensing Act 2003, Section 52 is up to date with all changes known to be in force on or before 11 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) Subsection (3) is subject to sections [F2 19 to 21](requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step mentioned in subsection (4)(a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- (7) In this section “relevant representations” means representations which—
  - (a) are relevant to one or more of the licensing objectives, and
  - (b) meet the requirements of subsection (8).
- (8) The requirements are—
  - (a) that the representations are made—
    - (i) by the holder of the premises licence, a responsible authority or [F3 any other person] , and
    - (ii) within the period prescribed under section 51(3)(c),
  - (b) that they have not been withdrawn, and
  - (c) if they are made by [F4 a person who is not a responsible authority] , that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (9) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (10) Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to—
  - (a) the holder of the licence,
  - (b) the applicant,
  - (c) any person who made relevant representations, and
  - (d) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (11) A determination under this section does not have effect—
  - (a) until the end of the period given for appealing against the decision, or
  - (b) if the decision is appealed against, until the appeal is disposed of.

#### Textual Amendments

- F1** Word in s. 52(3) substituted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 109(11), 157(1) (with s. 109(15)); S.I. 2012/1129, art. 2(d)
- F2** Words in s. 52(5) substituted (29.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112, 116, Sch. 7 Pt. 5 para. 34; S.I. 2010/125, art. 2(t)
- F3** Words in s. 52(8)(a)(i) substituted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 106(3)(a), 157(1) (with s. 106(7)); S.I. 2012/1129, art. 2(d)
- F4** Words in s. 52(8)(c) substituted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 106(3)(b), 157(1) (with s. 106(7)); S.I. 2012/1129, art. 2(d)



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- s. 197(3)(cza) inserted by 2015 c. 20 s. 67(12)(a)
- s. 197A197B inserted by 2011 c. 13 s. 121(2)



# 11. Reviews

## The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.



- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders 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. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises



licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

### **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:



- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. 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. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.



## Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 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. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;



- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 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.

### **Review of a premises licence following closure order or illegal working compliance order**

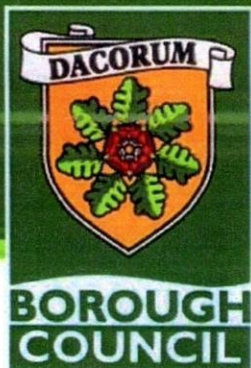
11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

### **Review of a premises licence following persistent sales of alcohol to children**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.





# Reviewing a Premises Licence

## Licensing Act 2003

There may be occasions when concerns exist over the operation of a licensed premises which cannot be resolved either through mediation or enforcement action. In those situations, a responsible authority or another affected person may request that the applicable licence is reviewed.

An application for the review of a premises licence must be given in writing, and the grounds upon which a review is requested must relate to one or more of the licensing objectives (preventing crime & disorder; public safety; preventing public nuisance; or protecting children from harm). Anybody requesting a review will be expected to demonstrate the extent of the problem that forms the grounds for review. It is also worth noting that the review process is intended to be used as a last resort, and that attempts to resolve the problem should have been made through other avenues (e.g. informal approaches and intervention by other council services such as the council's noise enforcement service) before a request for a review is submitted.

The licensing authority may reject any ground for a review it considers to be frivolous, vexatious or repetitious, or if the grounds cannot be attributed to the operation of the premises concerned. Additionally, an application may not be made anonymously, as we must be able to verify that the applicant is legally entitled to make such an application.

### **Making an application for review**

Please refer to the enclosed guidance notes before completing the application form.

**Send the completed form, with any supporting evidence, to:**

Licensing  
Dacorum Borough Council  
The Forum  
Marlowes  
Hemel Hempstead  
HP1 1DN

**You must also send a copy of your application form, and any supporting evidence, to:**

- the holder of the licence you are requesting a review of,  
and
- each of the Responsible Authorities  
(addresses are given on the next page).

The licensing authority will advertise the review of the certificate and invite representations from responsible authorities and other persons.

### **What happens next?**

Once your application has been received, representations may be made in the next 28 days by the Responsible Authorities and other local residents, businesses and bodies in respect of the licensed premises in question. The licensing authority will advertise the application at our offices, at or near the premises and on our website, [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

After this period has finished, the licence will be reviewed by the Licensing of Alcohol & Gambling Sub-Committee at a hearing. The person who made the initial application, the licence-holder, and any other person or body who has made representation will be invited to the hearing to put their case forward.

After considering the representations from all parties, the Sub-Committee can leave the licence as it is, reduce the times/activities, impose conditions, or even suspend or revoke it.

### **Contact us**

For further information or assistance in making an application, please contact us:

Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)

Phone: **01442 228000** (ask for Licensing)



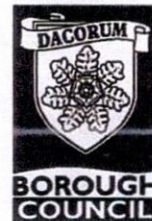
# Contact details for Responsible Authorities

## Licensing Act 2003



1.	<b>Hertfordshire Constabulary</b> Licensing, Dacorum Division, Combe Street, Hemel Hempstead, Hertfordshire, HP1 1HL Tel: 01442 271601 Email: <a href="mailto:Dacorumlicensing@herts.pnn.police.uk">Dacorumlicensing@herts.pnn.police.uk</a>
2.	<b>Hertfordshire Fire &amp; Rescue Service</b> Fire Protection Manager, MU103, Mundells, Welwyn Garden City, Hertfordshire, AL7 1FT Tel: 01707 292310 Email: <a href="mailto:administration.cfs@hertfordshire.gov.uk">administration.cfs@hertfordshire.gov.uk</a>
3.	<b>Home Office</b> Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY Email: <a href="mailto:alcohol@homeoffice.gsi.gov.uk">alcohol@homeoffice.gsi.gov.uk</a>
4.	<b>Public Health</b> Hertfordshire County Council, SFAR232, Farnham House, Six Hills Way, Stevenage, SG1 2ST Email: <a href="mailto:publichealth@hertfordshire.gov.uk">publichealth@hertfordshire.gov.uk</a>
5.	<b>Environmental &amp; Community Protection</b> Dacorum Borough Council, The Forum, Marlowes, Hemel Hempstead, Hertfordshire, HP1 1DN Tel: 01442 228000 Email: <a href="mailto:ecp@dacorum.gov.uk">ecp@dacorum.gov.uk</a>
6.	<b>Planning</b> Dacorum Borough Council, The Forum, Marlowes, Hemel Hempstead, Hertfordshire, HP1 1DN Tel: 01442 228000 Email: <a href="mailto:planning@dacorum.gov.uk">planning@dacorum.gov.uk</a>
7.	<b>Trading Standards</b> Hertfordshire County Council, Mundells, Welwyn Garden City, Hertfordshire, AL7 1FT Tel: 01707 292429 Email: <a href="mailto:tradingstandards@hertfordshire.gov.uk">tradingstandards@hertfordshire.gov.uk</a>
8.	<b>Hertfordshire Safeguarding Children Board</b> Room 127, County Hall, Pegs Lane, Hertford, Hertfordshire, SG13 8DF Tel: 01992 588757 Email: <a href="mailto:admin.lscb@hertfordshire.gov.uk">admin.lscb@hertfordshire.gov.uk</a>
<b>Additional authority for Council premises only</b>	<b>Health &amp; Safety Executive</b> Woodlands, Manton Lane, Manton Lane Industrial Estate, Bedford, MK41 7PA Tel: 0151 951 4000 (HSE switchboard)
<b>Additional authorities for vessels only</b>	<b>Canal &amp; River Trust (South East Waterways)</b> 1 <sup>st</sup> floor North, Station House, 500 Elder Gate, Milton Keynes, MK9 1BB <b>Environment Agency</b> National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY <b>The Home Secretary</b> Home Office, 2 Marsham Street, London, SW1P 4DF
<b>Licensing authority details</b>	<b>Licensing, Dacorum Borough Council,</b> The Forum, Marlowes, Hemel Hempstead, Hertfordshire, HP1 1DN Tel: 01442 228000 Email: <a href="mailto:licensing@dacorum.gov.uk">licensing@dacorum.gov.uk</a> Web: <a href="http://www.dacorum.gov.uk/licensing">www.dacorum.gov.uk/licensing</a>





Revised April 2017

## 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

(insert name of applicant)

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

### Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description			
Post town		Post code (if known)	
Name of premises licence holder or club holding club premises certificate (if known)			
Number of premises licence or club premises certificate (if known)			

### Part 2 – Applicant Details

I am

Please tick ✓ yes

- |   |                          |
|---|--------------------------|
| 1) an individual, body or business which is not a responsible authority<br>(please read guidance note 1, and complete (A) or (B) below) | <input type="checkbox"/> |
| 2) a responsible authority (please complete (C) below)  | <input type="checkbox"/> |
| 3) a member of the club to which this application relates (please complete (A) below)   | <input type="checkbox"/> |



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

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title (for example, Rev.)			
<b>Surname</b>			
<b>First names</b>			
<b>I am 18 years old or over</b>		<input type="checkbox"/> Please tick ✓ yes	
<b>Current postal address</b>			
<b>Post town</b>		<b>Post code</b>	
<b>Daytime contact telephone number</b>			
<b>Email address (optional)</b>			

**(B) DETAILS OF OTHER APPLICANT**

<b>Name</b>	
<b>Address</b>	
<b>Telephone number (if any)</b>	
<b>Email address (optional)</b>	

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

<b>Name</b>	
<b>Address</b>	
<b>Telephone number (if any)</b>	
<b>Email address (optional)</b>	

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

*Please tick one or more boxes ✓*

- 1) the prevention of crime and disorder
- 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)*



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

*Please use additional pages if needed*



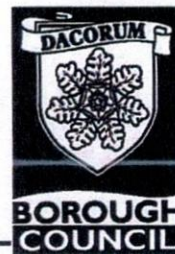


<b>Contact name (where not previously given) and postal address for correspondence associated with this application. (please read guidance note 6)</b>			
<b>Post town</b>		<b>Postcode</b>	
<b>Telephone number (if any)</b>			
<b>If you would prefer us to correspond with you by email your email address (optional)</b>			

#### 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.





## Guidance for Applicants: Applying to review a Premises Licence or Club Premises Certificate

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This guidance relates to the application form for a review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003 ("the Act"). It also contains information about the consultation and hearings process that will result from a valid application.

Applications must be made to the local licensing authority within whose area the premises is situated – this will be Dacorum Borough Council for all premises situated within the borough of Dacorum, which includes Hemel Hempstead, Tring, Berkhamsted, Kings Langley, and the surrounding towns and villages. Application forms can be obtained from Dacorum's Licensing team, or via our website at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

### NEED MORE HELP?

This guidance is intended to help applicants complete the application form. Dacorum's Licensing team may be able to help you with any further queries in respect of making an application. You may also wish to consider engaging professional assistance, such as a legal advisor or licensing agent, or contacting other relevant organisations such as a residents group, or the Citizens Advice Bureau.

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### WHAT IS THE REVIEW PROCESS?

All businesses and organisations who wish to carry on 'licensable activities' (which include the supply of alcohol, the provision of regulated entertainment, and the sale of late night refreshment) on a regular basis are required to be licensed by the licensing authority (the local council) for that area. The licence permitting these activities is called a Premises Licence. A small number of social members' clubs may instead hold an alternate type of authorisation known as a Club Premises Certificate – however, both are very similar, and the processes for reviewing either are identical. Throughout these guidance notes, the term 'licence' will mean either a Premises Licence or a Club Premises Certificate.

If the operation of a specific premises which is covered by a licence is causing issues, then any person affected by that premises may apply to the licensing authority to have the licence reviewed. The grounds for review must relate to one or more of the 'licensing objectives', which are:

- ❖ the prevention of crime and disorder
- ❖ public safety
- ❖ the prevention of public nuisance
- ❖ the protection of children from harm.

Applications for reviews of licences must be made in writing, setting out the full grounds on which the review is requested. The licensing authority will assess the review application when it receives it, and can reject applications for review if the grounds are considered to be frivolous, vexatious or repetitious.

If the application is accepted, the licensing authority will accept other representations (for example, from other people affected by the premises, or from statutory bodies including the police, fire brigade, planning, noise, trading standards, etc) for a 28-day period. Statutory notices with details of the application will be displayed at or near the premises during this period.

After the end of the period for representations, the review application will be considered by the council's Licensing Sub-Committee at a public hearing, to decide what action to take in respect of the licence.



**What does “frivolous, vexatious or repetitious” mean, and why will review grounds be refused?**

*Processing a review application can take up a lot of time and cost the council a lot of money. We have a duty to ensure that we use our resources wisely to tackle the most serious issues, and as such frivolous or vexatious grounds for review will be rejected. We will follow the dictionary definitions of both of these terms – frivolous meaning grounds without any serious or substantial purpose, and vexatious meaning grounds that are intended solely to annoy, irritate, frustrate or aggravate another party. For example, the licensing authority might find certain grounds for review to be vexatious if they arise because of commercial disputes between rival businesses.*

*Repetitious grounds are those that are identical or substantially similar to grounds for recent review applications in respect of the same licence, or of representations made against an application for the grant of the licence, where a reasonable interval has not passed since that application was made. The reason for this is that the review process is not intended to be used simply as a second bite of the cherry following a failure to persuade the licensing authority on earlier occasions. The licensing authority will decide what constitutes a ‘reasonable interval’ in each case – however, the Government’s Guidance to Licensing Authorities suggests a period of twelve months will usually be appropriate, unless there are exceptional circumstances (e.g. where new problems have arisen).*

**Can I apply for a review anonymously?**

*All review applications must be made by a specific person or body, whose details must be given in the application form. It is not possible to apply for a review anonymously, as the licensing authority needs to know who is requesting the review in order to determine the relevance of the grounds, and to ensure that the grounds are not frivolous, vexatious or repetitious. In addition, applications for review are treated as a ‘quasi-judicial’ process, and to ensure fairness we must allow the operator of the premises concerned the right to reply to the review application and the grounds contained within it.*

*If persons wishing to apply for a review have genuine concerns about the possibility of intimidation, they could consider asking another person, such as an elected representative (e.g. a Councillor or MP), a representative body (a residents association or business forum), or a responsible authority (such as the police, trading standards, noise, planning, etc) if they have grounds to initiate a review of the licence themselves.*

Before applying for a review, you may want to consider whether your concerns could be dealt with outside of the formal review process. This could involve, for example:

- ❖ Talking or writing to the licence or certificate holder to determine whether there are any steps they may be willing to take to rectify the situation;
- ❖ If the premises are owned by a larger chain, talking to their head office or a regional manager about your concerns;
- ❖ Asking the council’s licensing section to talk to the licensee on your behalf;
- ❖ Asking your local MP or Councillors to speak to the licence or certificate holder on your behalf;
- ❖ Talking to a “responsible authority” (e.g. the police, fire brigade, noise, trading standards, planning) to determine whether there is other legislation that could help resolve the issue.

If the above steps have not resolved the issue, then before submitting your review application you may wish to consider the following matters:

- ❖ It may be helpful to get the backing of other local people, local businesses, elected members or responsible authorities – they will be able to make their own representations if your application is accepted. Although petitions will be considered by the licensing authority when it determines the review, individual representations setting out each person’s experiences with the premises will generally have more weight;



- ❖ If you do want to arrange a petition, it is important to ensure that the grounds for people signing it are clearly stated, and that each signatory also gives their full name and address. It would also help if a spokesperson could volunteer to receive details about the hearings etc. from the licensing authority and may be willing to speak on behalf of the petitioners at the hearing.
- ❖ Look at your licensing authority's official records about the premises, kept in their 'licensing register'. This will show you if other people have made representations, or asked for a review of a premises in the past;
- ❖ If you want to ask another person such as an MP or local councillor to represent you at the public hearing, it is advisable to make such a request in writing so that they can demonstrate they were asked. It will be a matter for the MP or Councillor to decide whether they should agree to your request. They are not obliged to do so; however, most elected representatives are happy to help residents with this sort of issue. Councillors on the Licensing Sub-Committee that will hear the application will not be able to discuss the application with you outside the formal hearing, so it is suggested that you do not approach them to try to.
- ❖ For individual incidents, try to get as much information as possible about any official response (e.g. – police being called out). You may also be able to back up your application with data such as crime statistics. However, it should be noted that conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents, but can directly impact on the behaviour of those under the licensee's direction when on his premises or in the immediate vicinity of the premises as they seek to enter or leave.
- ❖ If there is general noise nuisance or anti-social behaviour on streets because of licensed premises, you will probably need to show how it relates to the specific premises.
- ❖ It is important to be able to back up your claims. You could do this by keeping a diary over a period of time, for example. Sound or video recordings may also be helpful. It may also be a while before any hearing, so it is good to keep a clear record.
- ❖ Persons applying for a review following a particular incident should be cautious, as a licensee may argue that this was a one off problem that can be rectified without a review.
- ❖ Have a good idea how you'd like the situation to be reasonably resolved. The Licensing Sub-Committee will be trying to achieve a balance between your rights to peaceful enjoyment of your home, or the ability to run your business without interference, against the council's duty to promote and support responsible economic activity in the area. If you think that the issues could be controlled through a number of additional conditions, then the Committee will take these into account when making their decision. Revoking a licence is the most serious power available, and will only be used in the most serious cases where there are no other suitable steps.

## COMPLETING THE FORM

If the application form is not attached to these notes, it can be obtained from our website, [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing), or by contacting us.

All review applications must be made in writing, and on the prescribed form. It is not possible to apply for the review of a licence online, as reviews were specifically excluded from the scope of the EU Services Directive.

In the opening statement, you should give the name of the person or body applying for the review – e.g. 'Fred Smith' or 'Example House Residents Association'.

You should also indicate whether you are applying for the review of a 'premises licence' or a 'club premises certificate', by deleting the appropriate part of the statement.



## **PART 1 – Premises Details**

This section asks for the address and some other details of the premises to which the review relates. Please include the trading name of the premises and as much of the postal address as possible, including the post code if you know it. It may not always be appropriate to use a postal address – licences can be granted to a wide range of premises, including event sites on open land, parks, vessels, vehicles/movable structures and buildings that may not have a formal postal address:

- ❖ If the premises has no postal address, please describe the location of the premises and/or give the Ordnance Survey map reference.
- ❖ If the application relates to a vessel, please give the name of the vessel and describe the location at which it is usually moored or berthed (if you know this).
- ❖ If the application relates to a vehicle or other movable structure, please give details of the vehicle or structure, and the place in which it is situated while carrying on licensable activities.

You are also asked to give the name of the holder of the licence, and the licence number. This information should be available on the 'Summary' of the licence or certificate, which will be displayed at the premises. If you do not know these details, you can either leave the boxes blank, or contact the Licensing team for confirmation of the details.

## **PART 2 – Applicant Details**

This section asks you to state the capacity in which you are applying for a review of the licence. Unless you represent a statutory responsible authority, most applicants will need to tick the first box (an individual, body or business), unless they are a member of a club seeking to review that club's licence.

After ticking the appropriate box, the applicant's details should be given in the appropriate section – either in section (A) if applying as an individual, or section (B) if applying as a body or business. Section (C) should only be used by responsible authority applicants. Please ensure that all contact details given are correct, to avoid any delays should we need to speak with you about your application.

### **Grounds for review**

An application for a review of a licence must relate to the effect the licence is having on at least one of the four licensing objectives. You should indicate which licensing objective(s) the application relates to by ticking the appropriate box(es).

In the following box, please set out the grounds for your review application in as much detail as you consider necessary. This information will form the basis of the public hearing at which the review application will be determined, so it is important to ensure that you have referred to all matters you wish to be taken into account. If the grounds relate to specific incidents, please give details of those incidents including dates/times, and the effect of those incidents on you. You can use this and the following box to provide as much information as possible to support the application, using extra sheets if necessary.

If you also wish to include any supporting documents or other evidence (e.g. letters you have sent to or received from the premises, diary sheets listing incidents, photos, video or audio files that are relevant to your review request) as part of the review, please submit these with your application. You may wish to list or otherwise refer to these documents within the details of your grounds.

You are asked to confirm whether you have made an application for a review relating to this premises before, and to give further details of any representations you have previously made in respect of this premises. This information will be used in determining whether the review application is repetitious.



## Checklist and declaration

The checklist asks you to confirm that you have (or will) satisfied the notification requirements that relate to review applications. By completing the checklist, you are making a declaration that you have carried out the listed actions.

The person or body making the application must give a copy of the application form and any supporting documents to the holder of the licence, and to each of the responsible authorities, on the same day that they give it to the licensing authority. Contact details for all of the responsible authorities are contained towards the front of this application pack (or are also available as a single document from our website, [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)). The address of the licence-holder can be confirmed by contacting the licensing section, using the details at the start of this document.

If you post the application to any of these parties, we strongly recommend either using a tracked delivery service, or obtaining a 'certificate of posting' from your local Post Office, as these will be useful in order to demonstrate when applications were served upon that party, if challenged.

This section ends with a statement that it is a criminal offence to make a false statement in connection with the application. By submitting the application, you are declaring that the information you provide is, to the best of your knowledge, factually correct in all regards. Review applicants may be prosecuted if found to have knowingly or recklessly given false or misleading information, and if convicted could be fined up to £5,000.

## PART 3 – Signatures and contact details

The application form must be signed. If you have obtained legal or professional assistance in making your review application, for example, from a solicitor or licensing agent, they may sign the form on your behalf, providing you have authorised them to do so.

If the application has been made jointly by more than one person or body, each applicant must sign the application.

If there is a particular address or set of contact details you wish us to use for correspondence relating to this application, these details can be entered in the section after the signatures. If this section is left blank, we will correspond with you via the details provided in Part 2 of the form.

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## WHAT HAPPENS AFTER A REVIEW APPLICATION IS MADE?

Upon receiving a review application, the licensing authority will firstly check the application to ensure that it has been correctly completed, that the grounds are relevant and not frivolous, vexatious or repetitious, and that copies have been served on all of the parties required by law.

Once satisfied that the application is valid, the licensing authority must advertise the application, by displaying a notice at or near the premises to which the application relates, for 28 consecutive days starting the day after the day on which the application is given to them. Details of the application will also be displayed at our offices, and on our website. The purpose of the notices is to alert other residents and bodies to the application, and advise them that they may make representations in respect of the review within the 28 day period. These representations may be made either in support of your application, or in support of the premises, or from a more neutral point of view.

If the application has been deemed valid, then, following the period for representations, a public hearing will be arranged, to take place at the council's offices, so that the Licensing Sub-Committee can hear from all parties and consider the review application and any representations made. The licensing



authority will write to all parties to formally invite them to the hearing, and will provide details of the procedures that the hearing will follow.

You may wish to engage with the licence-holder and attempt mediation after making your application, and if you agree a mutually acceptable resolution, this may be accepted by the licensing authority without the need for a hearing. However, for the application to be determined without a hearing, all parties, including anyone who has made representations, will need to agree that the hearing is not necessary. You are under no obligation to engage in mediation – you will need to decide if this is appropriate for you and you can, of course, insist upon the hearing.

## Hearings

Notice of the hearing will be sent at least 10 working days before the date of the hearing. You will be asked to confirm whether you intend to attend the hearing, or if you have asked someone to represent you and speak on your behalf at the hearing (or if you have mediated a resolution, when you believe the hearing to be unnecessary).

Hearings will generally be held in public, unless the licensing authority decides it is in the public interest to hold all or part of the hearing in private. A record will be kept of the hearing, in order for minutes to be published after the hearing.

All committee reports and minutes relating to Licensing Sub-Committee hearings can be viewed online, at [www.dacorum.gov.uk/home/council-democracy/committee-meetings/](http://www.dacorum.gov.uk/home/council-democracy/committee-meetings/)

The Licensing Sub-Committee is made up of three of the authority's elected councillors, who have received specialist training in licensing matters. One of these councillors will be selected as the Chairperson. Hearings will normally take the form of a discussion and will be led by the Chairperson, who will start by explaining the procedure to be followed. A licensing officer will then present the application to the hearing, outlining the grounds on which the review has been requested, and any representations received. The review applicant will then be given an opportunity to address the hearing, and to answer any questions that the Sub-Committee may have, before the holder of the licence is given the same opportunity. Any persons who submitted representations may also address the hearing.

The Sub-Committee will consider any evidence submitted in advance of the hearing. New evidence may only be introduced at the hearing with the consent of all parties, or if it has been specifically requested by the licensing authority. Cross-examination of another party during a hearing is not generally permitted, unless the licensing authority thinks it necessary. A hearing may go ahead in the absence of any party, in which case the Sub-Committee will consider any written material previously submitted by that party. The authority will disregard any information it considers to be irrelevant.

It is important that you consider what you are going to say at the hearing, as the Sub-Committee and the licence-holder will have seen your application for review, and may have questions about your submissions.

## What happens after a hearing?

The Sub-Committee will usually announce their decision at the end of the hearing, but in some cases where further deliberation is required the decision may be communicated within 5 days from the end of the hearing. The steps open to the Sub-Committee include:

- ❖ Decide that no action is necessary to promote the licensing objectives
- ❖ Modify or add conditions to the licence
- ❖ Exclude a licensable activity from the licence
- ❖ Remove the designated premises supervisor
- ❖ Suspend the licence for a period (not exceeding 3 months)
- ❖ Revoke the licence





Home Office

# Referral Notice

## Illegal Working Civil Penalty

To: H. DELTI

Visited address:

BELLUNO ITALIAN RESTAURANT  
NEWTON ST. CYRES  
EXETER  
EX5 5DA

Tasking Reference: EV19-857,079

Notice given date: 9/12/22

Issued to: H. DELTI

Position: OWNER

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

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

### We have encountered suspected illegal working

We encountered (a) suspected breach(es) of section 15 on at the visited address shown above.

### Who we suspect of working illegally

	Names of suspected illegal workers	DOB	Reason
1	[REDACTED] D [REDACTED] ✓ ✓	[REDACTED]	No right to work/Working in breach
2	[REDACTED] B [REDACTED] ✓ ✓	[REDACTED]	No right to work /Working in breach
3	[REDACTED] C [REDACTED] ✓	[REDACTED]	No right to work/Working in breach
4	[REDACTED] K [REDACTED] ✓	[REDACTED]	No right to work/Working in breach
5	[REDACTED] N [REDACTED]	[REDACTED]	No right to work /Working in breach
6			No right to work/Working in breach
7			No right to work/Working in breach
8			No right to work/Working in breach



**What you do if you receive a penalty**

If you receive a Civil Penalty Notice you must either pay the penalty or object or appeal within 28 days.

If you do not either pay your penalty or object or appeal by the due dates, enforcement action will be taken against you to recover the debt through the courts. This may have an adverse impact on your ability to obtain credit in the future and act in the capacity of a director in a company.

The **Civil Penalty Notice** will set out why you are liable to pay a penalty and the amount. It will also set out how you should pay and by when or, if you wish to object or appeal, how you should do this and by when.

**What amount might you have to pay**

The maximum penalty amount you could receive is **£20,000 per illegal worker**. Where you have been found to be employing illegal workers within the previous three years (under section 15 or 21 of the Immigration, Asylum and Nationality Act 2006 or regulation 11(1) of the Accession of Croatia Regulations 2013) then the maximum penalty amount is **£15,000 per worker**. We will take into account a number of factors which may reduce the amount you are required to pay. These are set out in our **Code of practice on preventing illegal working**.

**If you need more information**

You can call our Employer Enquiry helpline on **0300 790 6268** if you have any questions.

You can visit our website on **www.GOV.UK** to view our **Code of practice** on preventing illegal working and guidance for employers, including guidance which sets out how we administer illegal working civil penalties.

You can use our online employers' toolkit to help you understand your responsibilities and how to carry out the correct right to work checks on your employees.





Immigration  
Enforcement

NOD REF: EV19-857, 316

## Notice to Occupier

Address of Premises BELLUNO ITALIAN RESTAURANT, NEWTON ST CYRES  
EX 5 5JA

### \* Informed consent

I hereby consent to Immigration Officers (and Police Officers ~~and~~) entering and searching the above-named premises for immigration offences on 9/12/22

I am aware of the extent of the proposed search and if, in the course of conducting the above search, criminal activity is found or a breach of immigration law is suspected, enforcement action may be taken. Enforcement action may include the seizure of property which may be used as evidence of an offence and may include the arrest of any person suspected of committing offences or breaching immigration law. (If illegal workers are found on the premises are let to tenants without leave to remain, evidence obtained during the course of this visit may lead to the issue of a civil penalty and/or the issue of an illegal working closure notice). I am also aware that, once lawfully on the premises, immigration officers may exercise statutory powers of search in connection with the removal of persons in breach of immigration law or the imposition of a civil penalty.

I understand that I am not obliged to provide consent and that my consent can be withdrawn at any time.

Signature [Redacted] Date 9 DEC 22  
Name MRS. D. BORTH Over 18 ☒ Yes ☐ No  
Status relative to premises owner

### \* STATUTORY POWER UNDER WHICH SEARCH WAS MADE With Warrant

Warrant (copy attached) issued under section ..... of .....  
Date granted ...../...../..... by .....

### \* Without Warrant POWER UNDER WHICH SEARCH MADE

Section ..... of .....  
Some of these powers require written authority of a Chief Immigration Officer or above, which will normally be recorded at 1 below. This notice will show at 2 if authority has been recorded elsewhere.

#### 1. Recording on this notice

I hereby authorise the search of the above-named premises.

Signature ..... Date/Time .....  
Name ..... Rank .....

#### 2. Recorded elsewhere

Where authority recorded .....  
By whom (name/rank) .....  
Date/Time recorded .....

Entry forced:- Yes ☐ No ☒

Authorised by: .....

Damage:- Yes ☐ No ☒ If Yes, record full details in Pocket Note Book and take photographs

Premises Secured Yes ☒ No ☐

### Officer in Charge of Search

Name [Redacted]  
Office plymouth ICE  
Address westpoint  
Date 9/12/22  
Time of entry 13:00 Hrs Departure .....

\* Delete as applicable





## Immigration Enforcement

Belluno Bar & Grill Limited  
Belluno Bar & Grill  
Newton St. Cyres  
Exeter  
EX5 5DA

# Information Request Right to Work

This is an important request. Please do not ignore it.

You should provide a response by **09/01/2023**

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

Reference: 322026

Request issue date: 29/12/2022

### You may be liable for a civil penalty

We encountered (a) suspected breach(es) of section 15 on **09/12/2022** at the following business address: **Belluno Italian Restaurant, Newton St Cyres, Exeter, EX5 5DA**

### Who we suspect of working illegally

	Name(s) of suspected illegal workers	Date of Birth
1.	[REDACTED]	[REDACTED]
2.	[REDACTED]	[REDACTED]
3.	[REDACTED]	[REDACTED]
4.	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]

We are currently considering the evidence in your case to determine if you are liable for a civil penalty and if so for what amount. You can assist us in making an early, fully informed decision by promptly providing us with relevant information and evidence.

You should respond to this request accurately and no later than **09/01/2023** to be deemed to be actively co-operating with us in our investigations. Any penalty for which you may then be liable may be reduced by £5,000 per illegal worker.

### IMPORTANT - Compliance with Data Protection legislation

Please only provide personal data and information regarding the individuals named above

### How to respond

Please complete the sections in the enclosed **Response Form**, accurately and with as much detail as you can. Where possible, please return a scanned, signed and completed copy of the form, together with any supporting evidence to: [CPCTenquiries@homeoffice.gov.uk](mailto:CPCTenquiries@homeoffice.gov.uk). This will ensure we receive your response promptly.





**IMPORTANT - PLEASE READ**

**Compliance with Data Protection Legislation**

**Data Protection Compliance**

The inappropriate sharing of personal data can result in a data breach under the Data Protection Act 2018. To ensure **you** comply with Data Protection Legislation, it is important you only respond to requests for information with personal data regarding the individual(s) relating to the specific immigration activity outlined within this correspondence.

**What is personal data?**

Personal data includes information related to any identifiable living individual, (including yourself) and includes some of the following attributes:

- Name/s and date/s of birth
- Addresses, contact details and Next of Kin information
- National Insurance number
- Bank account/payment details/medical information
- Passport/BRP

**What do I need to do?**

You must **only** provide personal data/evidence regarding the individual(s) named in the information request to evidence a statutory excuse for employment.

**What happens if I inappropriately share personal data?**

All breaches are reported to the Home Office's Office of the Data Protection Officer. Serious incidents may be referred to the Information Commissioner's Office (ICO) for investigation. The ICO has the power to issue a range of sanctions including reprimands and financial penalties.



If you are unable to email the Response Form to us, you can send your signed and completed form, together with any supporting evidence to: Civil Penalty Compliance Team, PO Box 665, Salford, M5 0LY or fax it to us at 0870 336 9287.

To enable us to take your information and evidence into consideration at the initial case decision stage we must receive it by **09/01/2023**. If you wish to allow a third party (e.g. a legal representative) to respond on your behalf you must ensure you send us a signed letter of authority

### More information about preventing illegal working

You can call our employer enquiry helpline on 0300 790 6268 if you have any questions. You can visit our website on <https://www.gov.uk/government/collections/illegal-working-penalties-codes-of-practice-for-employers> to view our Code of practice on preventing illegal working and guidance for employers, including guidance which sets out how we administer illegal working civil penalties.

You can use our online employers' toolkit to help you understand your responsibilities and how to carry out the correct right to work checks on your employees. You can conduct an online check on your employee or prospective employee if they give you permission to do so. You can access the service here <https://www.gov.uk/view-right-to-work>. The Home Office offers training packages to increase your understanding of the immigration system which includes courses on immigration awareness, right to work and document fraud. For further information please contact [IE-CAS@homeoffice.gov.uk](mailto:IE-CAS@homeoffice.gov.uk)

The Data Protection Act 2018 governs how we use personal data. For details of how we will use your personal information and who we may share it with please see our Privacy Notice for the Border, Immigration and Citizenship system at <https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship>. This also explains your key rights under the Act, how you can access your personal information and how to complain if you have concerns.



# Response Form

You should provide a response by 09/01/2023

## Confirm your business details

We have evidence which indicates that you are the owner of the business where we have encountered suspected illegal workers and therefore believe that you are the employer of the workers identified.

If this is correct, and you are the employer, you should complete the fields below in **section 1** to confirm your details and then complete **sections 2, 3 and 4**. If, however, you are **not** the employer of these workers then you should only complete **section 1** with the details of the correct employer, if this information is known by you.

Your business type is: ☐ Sole Trader ☐ Limited Company ☐ Franchise

☐ Other:

Your trading name is:

Your trading address is:

Your registered company name is:

Your registered address is:

Your correspondence address is (the address where we will write to you), If you wish to nominate a representative you will need to provide a letter of authority authorising them to act on your behalf:

Your Companies House number is (if you are a limited company):

**Your VAT number is (if you are registered to pay VAT):**

---

---

**Date you commenced trading/company incorporated on:**

---

---

**Your business owner's name is:**

---

---

**Your business owner's National Insurance number and/or PAYE reference number is:**

---

---

**Your business owner's date of birth is:**

---

---

**Your business owner's address is:**

---

---

---

---

**Your company director(s)/partners names are:**

---

---

---

**Your contact telephone numbers are:**

**Landline:**

---

---

**Mobile:**

---

---

**Your email address is:**

---

---



**Your VAT number is (if you are registered to pay VAT):**

---

---

**Date you commenced trading/company incorporated on:**

---

---

**Your business owner's name is:**

---

---

**Your business owner's National Insurance number and/or PAYE reference number is:**

---

**Your business owner's date of birth is:**

---

**Your business owner's address is:**

---

---

---

---

**Your company director(s)/partners names are:**

---

---

---

**Your contact telephone numbers are:**

**Landline:**

**Mobile:**

---

**Your email address is:**

---

---

Confirm if you  
have employed  
the worker(s)

For each of the suspected illegal workers below please indicate when you have employed them.

Employee(s) name	Date employment commenced	Dates employment ended (if applicable)
██████████ B ██████████		
██████████ D ██████████		
██████████ C ██████████		
██████████ N ██████████		
██████████ K ██████████		

3. Confirm if you carried out right to work checks

For each of the suspected illegal workers below please indicate whether you correctly carried out right to work checks for them and provide the dates on which all checks were conducted. You should enclose clear copies of the documents you checked and the record showing the date on which you conducted your checks e.g. dated declaration on the document. It is not sufficient just to complete this box.



Employee(s) name	Checks conducted and document copies enclosed?	Dates <u>all</u> right to work checks conducted
[REDACTED] B [REDACTED]		
[REDACTED] D [REDACTED]		
[REDACTED] C [REDACTED]		
[REDACTED] N [REDACTED]		
[REDACTED] K [REDACTED]		

To show you have carried out the checks correctly you must have checked original acceptable documents and retained a clear copy of each. Where a person is a student with restrictions on the hours they can work, you must also have checked and retained a clear copy of their term and vacation dates covering their period of employment with you. Please submit a clear copy of the term and vacation dates for each student employee. If you have already provided this information to us you do not need to do so again.

**COMMENTS:**

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.



Confirm if you reported suspicions of illegal working

For each suspected illegal worker below please indicate whether you reported your suspicions about them before we encountered the suspected breach(es) of section 15, and provide the Home Office unique reference you were given by the Sponsorship, Employers and Education helpline. If you suspected one or more of the named employees were working illegally and you reported this to the Sponsorship, Employers and Education helpline before we encountered the suspected breaches of section 15, then any penalty for which you may be liable may be reduced by £5,000 per illegal worker

Employee(s) name	Suspected illegal working reported to us?	Home Office unique reference number
██████ E ██████		
██████ D ██████		
██████ C ██████		
██████ N ██████		
██████ K ██████		

Sign here



I confirm that the above information is correct to the best of my knowledge and I understand that the Home Office may routinely share this information with other government departments and other agencies as required.

Signed: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print name: \_\_\_\_\_

Position in business: \_\_\_\_\_

**From:** [Philippa Rees](#)  
**To:** [CPTenquiries@homeoffice.gov.uk](mailto:CPTenquiries@homeoffice.gov.uk)  
**Cc:** [Peter Rees](#)  
**Subject:** Ref: 322026 - Belluno Bar & Grill Limited - Request for Information  
**Date:** 09 January 2023 15:06:00  
**Attachments:** [230109 let Immigration Enforcement.pdf](#)  
[230109 Information required about Belluno Bar.pdf](#)  
[image003.jpg](#)

---

Dear Sirs,

Please see the attached correspondence.

Yours faithfully,

Philippa Rees  
**Isca Legal LLP**

T: [REDACTED]  
E: [REDACTED]

Correspondence address: PO Box 952, EXETER EX3 9DH



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All correspondence to  
PO Box 952  
EXETER  
EX3 9DH  
Tel: 020 7096 9650  
Fax: 0845 564 0451

9 January 2023

**Private & Confidential**

Civil Penalty Compliance Team

PO Box 665

SALFORD

M5 0LY

by email to [CPCTenquiries@homeoffice.gov.uk](mailto:CPCTenquiries@homeoffice.gov.uk)

our ref: EX1/AC1.25

your ref: 322026

Dear Sirs

**Our Client: Belluno Bar & Grill Limited (the Company)**

**Information Request – Right to Work**

We act for Belluno Bar & Grill Limited who have instructed us to assist them in responding to your Information Request dated 29 December 2022 (Request) following a raid of the Company's Newton St Cyres restaurant at 18.00h on 9 December 2022 (the Raid).

We enclose an Authority to Act signed by the Company's director for your records.

The Request states that the following individuals are suspected of working illegally for the Company in breach of section 15 of the Immigration, Asylum and Nationality Act 2006 (the Act):

1. [REDACTED] B [REDACTED]
2. [REDACTED] D [REDACTED]
3. [REDACTED] C [REDACTED]
4. [REDACTED] N [REDACTED]
5. [REDACTED] K [REDACTED]

Our client denies that they are in breach of section 15 of the Act and is in the process of collating the information that you have requested relating to the above-named individuals. In the meantime, we enclose the requested details of our client's business.

In brief we are instructed that [REDACTED] D [REDACTED] and [REDACTED] K [REDACTED] were not employed by the Company therefore, there will be no breach of section 15. In relation to the others, [REDACTED] B [REDACTED] has a national insurance number [REDACTED] and provided a share code to the Company. [REDACTED] C [REDACTED] was able to provide a share code. [REDACTED] N [REDACTED] worked for 2 days and was asked to leave

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Isca Legal LLP is a limited liability partnership registered in England & Wales (registered no OC381371)  
A list of members (also described as partners) may be inspected at our registered address at Highland House Cadbury EXETER EX5 5LA  
Isca Legal LLP is authorised and regulated by the Solicitors' Regulation Authority (registered no 633619)



when she was not able to provide a share code. She received no payment for her work for this time.

As we say, we have only just been instructed and will supply further information to evidence the above and we will endeavour to respond in full by 6pm on Monday 16 January 2023.

Yours faithfully



Philipppa Rees  
for Isca Legal

E.  
T.



enc. Signed authority to act

7 January 2023

The Director  
Belluno Bar & Grill Limited  
Newton St Cyres  
EXETER EX5 5DA

To whom it may concern

Dear Sirs

**Belluno Bar & Grill Limited (Company No 12211240)**

I, Haqif Derti, a director of Belluno Bar & Grill Limited (Company), authorise you to liaise with and provide Isca Legal LLP of Highland House, Cadbury, Exeter EX5 5LA reference EX1/AC1.25 with any information or documents that they may require.

I confirm that Isca Legal LLP has full authority to act on the Company's behalf in respect of any action brought against it by Immigration Enforcement.

Yours faithfully



**Haqif Derti**  
**Director**  
**For and on behalf of Belluno Bar & Grill Limited**

**From:** [CPCT Enquiries Inbox](#)  
**To:** [Phillippa Rees](#)  
**Subject:** CPCT Enquiries automated acknowledgement  
**Date:** 09 January 2023 15:07:43

---

Thank you for your email.

This response confirms that your correspondence has been successfully received by the Civil Penalty Compliance Team.

Kind regards

Workflow Team  
Civil Penalty Compliance Team  
Immigration Enforcement

Email: [CPCTEnquiries@homeoffice.gov.uk](mailto:CPCTEnquiries@homeoffice.gov.uk)

\*\*\*\*\*  
This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system. This email message has been swept for computer viruses.  
\*\*\*\*\*



**From:** [Philippa Rees](#)  
**To:** ["CPCTenquiries@homeoffice.gov.uk"](mailto:CPCTenquiries@homeoffice.gov.uk)  
**Cc:** [Peter Rees](#)  
**Subject:** RE: Ref: 322026 - Belluno Bar & Grill Limited - Request for Information  
**Date:** 16 January 2023 15:30:00  
**Attachments:** [230116 let Immigration Enforcement.pdf](#)  
[230116 Completed Information Request - Belluno.pdf](#)  
[230116 Enclosures for Let to Immigration Enforcement.pdf](#)  
[230116 Law Report.pdf](#)  
[image002.jpg](#)  
[image004.jpg](#)

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Dear Sirs,

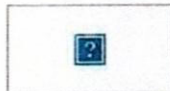
Please see the attached correspondence and enclosures.

Yours faithfully,

Philippa Rees  
**Isca Legal LLP**

T: [REDACTED]  
E: [REDACTED]

Correspondence address: PO Box 952, EXETER EX3 9DH



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**Warning** – please be aware fraudsters are increasingly targeting law firms and their clients, often requesting funds to be transferred to a different bank account or seeking to obtain confidential information. If you receive a suspicious or unexpected email apparently sent from us, or purporting to be have been sent on our behalf, please do not reply to the email, click on any links, open any attachments, or comply with any instructions contained within it. Instead, please telephone your Isca Legal contact to verify the email. Isca Legal LLP cannot take responsibility for any losses arising from your transfer of funds or disclosure of confidential information.

---

**From:** Philippa Rees



16 January 2023

**Private & Confidential**  
Civil Penalty Compliance Team  
PO Box 665  
SALFORD  
M5 0LY  
by email to [CPCTenquiries@homeoffice.gov.uk](mailto:CPCTenquiries@homeoffice.gov.uk)

our ref: EX1/AC1.25  
your ref: 322026

Dear Sirs

**Our Client: Belluno Bar & Grill Limited (the Company)**  
**Information Request – Right to Work**

We write further to our letter dated 9 January 2023 transmitted by an email timed at 15:07h in initial response to your Information Request (Request). Save for an automated e-mail response no acknowledgement of our letter has been received.

We have spoken with our client's director Mr Haqif Derti who has provided us with the following additional information and instructions regarding the Company's hiring policy generally and process adopted in relation to the five individuals cited in the Request.

We enclose the completed Request which should be read in conjunction with this letter.

1. [REDACTED]

Ms B [REDACTED] had worked for the Company since 9 May 2022. Prior to the employment of Ms B [REDACTED] our client checked and retained a copy of her passport on 4 May 2022 understanding her to have made an application to the Home Office for leave to remain.

In addition, Ms [REDACTED] provided the Company with a *share code* and was able to provide a National Insurance number as per the enclosed New Starter Form.

2. [REDACTED]

As indicated in our initial response of 9 January 2023. Mr [REDACTED] was not, and never has been, employed by the Company. Mr K [REDACTED] is Mr Haqif Derti's cousin. Mr K [REDACTED] entered the UK seeking asylum and was initially housed in a hostel at the Home Office's expense.

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Since 20 September 2022, Mr Haqif Derti has provided accommodation and support to Mr K [REDACTED] in premises above the Belluno's restaurant in Newton-St-Cyres.

At the time of your raid, Mr K [REDACTED] was downstairs in the restaurant but he was not working. Mr K [REDACTED] was waiting for some food for his personal consumption at the time as we understand that there are no kitchen facilities in the upper flat. He was not in fact working.

Accordingly as Mr K [REDACTED] had neither applied for a position with the Company, nor did the Company intend to offer him employment, no right to work checks were carried out in respect of Mr K [REDACTED] or were required.

It is our client's opinion that no further action should be taken in respect of Mr K [REDACTED] since he was not working for the Company. Similarly, since Ms B [REDACTED] was able to provide the Company with a share code and a National Insurance number, reasonable steps were taken to ascertain her right to work status.

3. [REDACTED]

[REDACTED] C [REDACTED] worked on two trial shifts for the Company; on the weekend of 25/26 November 2022 and on 9 December 2022. She provided her passport and a copy was taken. Ms C [REDACTED] also provided the Company with a share code although our client is now unable to trace the copy.

Ms C [REDACTED] was not an employee at these times. She was free to leave at any time of her choosing, including in mid-shift if she had chosen to do so. There was no obligation on either party. Had the trial shifts proved successful from the perspective of both parties, the Company would have conducted right to work checks prior to offering her formal employment.

4. [REDACTED]

[REDACTED] N [REDACTED] position is essentially identical to that of Ms C [REDACTED] explained above. She also worked two trial shifts for the Company; on the weekend of 25/26 November 2022 and on 9 December 2022. She was not remunerated for either shift.

She provided the Company with her passport which was checked on 21 November 2022 and a copy was taken.

5. [REDACTED]

Mr [REDACTED] D [REDACTED] was also not employed by our client, although in other respects his situation is not fully identical to Ms C [REDACTED] Ms N [REDACTED]



Mr D [REDACTED] is or was understood to be in a relationship with Ms B [REDACTED]. On her introduction we understand he sought employment by the Company but was told he first needed to demonstrate his right to work status. Mr D [REDACTED] produced his passport to the Company which was checked on 2 December 2022 but was unable to provide any further information to confirm his right to work status. An offer of employment was deferred pending the appropriate checks.

We are told the circumstances that led to Mr D [REDACTED] working at the restaurant at the time of your raid are as follows. On the afternoon of Friday 9 December, a very busy time for our client's business, another member of staff failed to attend for work. On Ms B [REDACTED] suggestion our client called Mr D [REDACTED] and asked if he would be prepared to work a trial shift as a form of interview/probationary exercise which, if successful and subject to his right to work status being confirmed, would lead to immediate employment.

He received no payment and, as with Ms G [REDACTED] or Ms N [REDACTED] he was free to leave at any time of his choosing, including in mid-shift if he had chosen to do so. There was no obligation on either party.

#### Compliance history

Our client has no previous history of default in connection with Right to Work restrictions.

Our client has cooperated with your inquiry, even to the extent of tolerating your raid at an extremely busy time in the build-up to Christmas that resulted in the ruin of the Christmas celebrations of many hard working customers who had made bookings for the evening of 9 December.

Examination of our client's payroll and PAYE records will confirm that none of the individuals other than Ms B [REDACTED] were employed by our client.

#### The law

We respectfully draw your attention to the unreported case by Goldsmith Chambers and we attach a copy in case unfamiliar to you.

In particular and notwithstanding the broader definition of *employment* that was drawn to the Court's attention as applied in Immigration law, the Court concluded, following earlier authorities, that the work must still have been undertaken pursuant to an *obligation*<sup>1</sup> and that work as a favour or at times of the individual's choosing does not amount to employment, not even in an Immigration context<sup>2</sup>.

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<sup>1</sup> Paragraph 23

<sup>2</sup> Paragraph 24





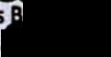

Conclusion

It is clear from the foregoing that no transgressions have occurred in this instance.

Yours faithfully

  
**Philippa Rees**  
**for Isca Legal**

E  
T.

Encs.   Copies of passports: Ms B  Ms C  Mr D  and Ms N   
Share code provided by Ms B   
New Starter Form for Ms B   
Copy of law report





## Immigration Enforcement

Belluno Bar & Grill Limited  
Belluno Bar & Grill  
Newton St. Cyres  
Exeter  
EX5 5DA

# Information Request

## Right to Work

This is an important request. Please do not ignore it.

You should provide a response by 09/01/2023

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

Request issue date: 29/12/2022

Reference: 322026

### You may be liable for a civil penalty

We encountered (a) suspected breach(es) of section 15 on 09/12/2022 at the following business address: **Belluno Italian Restaurant, Newton St Cyres, Exeter, EX5 5DA**

### Who we suspect of working illegally

	Name(s) of suspected illegal workers	Date of Birth
1.	[REDACTED]	[REDACTED]
2.	[REDACTED]	[REDACTED]
3.	[REDACTED]	[REDACTED]
4.	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]

We are currently considering the evidence in your case to determine if you are liable for a civil penalty and if so for what amount. You can assist us in making an early, fully informed decision by promptly providing us with relevant information and evidence.

You should respond to this request accurately and no later than 09/01/2023. to be deemed to be actively co-operating with us in our investigations. Any penalty for which you may then be liable may be reduced by £5,000 per illegal worker.

### IMPORTANT - Compliance with Data Protection legislation

Please only provide personal data and information regarding the individuals named above

### How to respond

Please complete the sections in the enclosed **Response Form**, accurately and with as much detail as you can. Where possible, please return a scanned, signed and completed copy of the form, together with any supporting evidence to: [CPCTenquiries@homeoffice.gov.uk](mailto:CPCTenquiries@homeoffice.gov.uk). This will ensure we receive your response promptly.



Reference:  
322026

# Response Form

You should provide a response by 09/01/2023

## 1. Confirm your business details

We have evidence which indicates that you are the owner of the business where we have encountered suspected illegal workers and therefore believe that you are the employer of the workers identified.

If this is correct, and you are the employer, you should complete the fields below in section 1 to confirm your details and then complete sections 2, 3 and 4. If, however, you are **not** the employer of these workers then you should only complete section 1 with the details of the correct employer, if this information is known by you.

Your business type is: ☐ Sole Trader ☒ Limited Company ☐ Franchise

☐ Other:

Your trading name is: BELLUND NEWTON

Your trading address is: BELLUND NEWTON, NEWTON ST CYRES,  
EXETER EX5 5DA

Your registered company name is: BELLUND BAR & GRILL LIMITED

Your registered address is: BELLUND BAR & GRILL, NEWTON-ST-CYRES,  
EXETER EX5 5DA

Your correspondence address is (the address where we will write to you), If you wish to nominate a representative you will need to provide a letter of authority authorising them to act on your behalf: C/O ISCA LEGAL LLP, PO BOX 952, EXETER EX3 9DH

Your Companies House number is (if you are a limited company): 12211240



Your VAT number is (if you are registered to pay VAT):

[REDACTED]

Date you commenced trading/company incorporated on:

17 SEPTEMBER 2019

Your business owner's name is:

HAQIF DERTI

Your business owner's National Insurance number and/or PAYE reference number is:

Your business owner's date of birth is:

[REDACTED]

Your business owner's address is:

[REDACTED]

Your company director(s)/partners names are:

HAQIF DERTI

Your contact telephone numbers are:

Landline:

[REDACTED]

Mobile:

[REDACTED]

Your email address is:

[REDACTED]



2.  
Confirm if you  
have employed  
the worker(s)

For each of the suspected illegal workers below please indicate when you have employed them.

Employee(s) name	Date employment commenced	Dates employment ended (if applicable)
[REDACTED] B [REDACTED]	9 MAY 2022	9 DECEMBER 2022
[REDACTED] D [REDACTED]	NA	NA
[REDACTED] C [REDACTED]	NA	NA
[REDACTED] N [REDACTED]	NA	NA
[REDACTED] K [REDACTED]	NA	NA

PLEASE REFER TO LETTER.

3.  
Confirm if you  
carried out right  
to work checks

For each of the suspected illegal workers below please indicate whether you correctly carried out right to work checks for them and provide the dates on which all checks were conducted. You should enclose clear copies of the documents you checked and the record showing the date on which you conducted your checks e.g. dated declaration on the document. It is not sufficient just to complete this box.



Employee(s) name	Checks conducted and document copies enclosed?	Dates <u>all</u> right to work checks conducted
██████ B ██████	PASSPORT CHECKED, SHARE CODE PROVIDED	4 MAY 2022
██████ D ██████	PASSPORT CHECKED 2 DECEMBER 2022	
██████ C ██████	PASSPORT CHECKED 28 NOVEMBER 2022, SHARE CODE PROVIDED	
██████ N ██████	PASSPORT CHECKED 21 NOVEMBER 2022	
██████ K ██████	NA.	

To show you have carried out the checks correctly you must have checked original acceptable documents and retained a clear copy of each. Where a person is a student with restrictions on the hours they can work, you must also have checked and retained a clear copy of their term and vacation dates covering their period of employment with you. Please submit a clear copy of the term and vacation dates for each student employee. If you have already provided this information to us you do not need to do so again.

COMMENTS: PLEASE REFER TO LETTER



Confirm if you  
reported  
suspicions of  
illegal working

For each suspected illegal worker below please indicate whether you reported your suspicions about them before we encountered the suspected breach(es) of section 15, and provide the Home Office unique reference you were given by the Sponsorship, Employers and Education helpline. If you suspected one or more of the named employees were working illegally and you reported this to the Sponsorship, Employers and Education helpline before we encountered the suspected breaches of section 15, then any penalty for which you may be liable may be reduced by £5,000 per illegal work

Employee(s) name	Suspected illegal working reported to us?	Home Office unique reference number
B [REDACTED]	NO	N/A
D [REDACTED]	NO	N/A
C [REDACTED]	NO	N/A
N [REDACTED]	NO	N/A
K [REDACTED]	NO	N/A.

Sign here



I confirm that the above information is correct to the best of my knowledge and I understand that the Home Office may routinely share this information with other government departments and other agencies as required.

Signed: Isca Legal LLP Date: 16/01/23  
 Print name: ISCA LEGAL LLP  
 Position in business: SOLICITOR TO BUSINESS



If you are unable to email the Response Form to us, you can send your signed and completed form, together with any supporting evidence to: Civil Penalty Compliance Team, PO Box 665, Salford, M5 0LY or fax it to us at 0870 336 9287.

To enable us to take your information and evidence into consideration at the initial case decision stage we must receive it by 09/01/2023. If you wish to allow a third party (e.g. a legal representative) to respond on your behalf you must ensure you send us a signed letter of authority

### More information about preventing illegal working

You can call our employer enquiry helpline on 0300 790 6268 if you have any questions. You can visit our website on <https://www.gov.uk/government/collections/illegal-working-penalties-codes-of-practice-for-employers> to view our Code of practice on preventing illegal working and guidance for employers, including guidance which sets out how we administer illegal working civil penalties.

You can use our online employers' toolkit to help you understand your responsibilities and how to carry out the correct right to work checks on your employees. You can conduct an online check on your employee or prospective employee if they give you permission to do so. You can access the service here <https://www.gov.uk/view-right-to-work>. The Home Office offers training packages to increase your understanding of the immigration system which includes courses on immigration awareness, right to work and document fraud. For further information please contact [IE-CAS@homeoffice.gov.uk](mailto:IE-CAS@homeoffice.gov.uk)

The Data Protection Act 2018 governs how we use personal data. For details of how we will use your personal information and who we may share it with please see our Privacy Notice for the Border, Immigration and Citizenship system at <https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship>. This also explains your key rights under the Act, how you can access your personal information and how to complain if you have concerns.





1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

HELLAS

Αρ. Διαβατηρίου/Passport No. [REDACTED]

# PASSPORT

Τύπος/Type **P** Χώρα/Country **ΕΛΛΓΡC**

1. Επώνυμο/Sumame

2. Όνομα/Name

3. Ιθαγένεια/Nationality: ΕΛΛΗΝΙΚΗ / HELLENIC

4. Φύλο/Sex: [redacted]

5. Ημ. γέννησης/Date of birth:

6. Τόπος γέννησης:

Place of birth:

7. Ημ. έκδοσης/Iss. date:

8. Ημ. λήξης/Date of expiry:

8. Ημ. λήξης/Date of exp  
9. Εκδ. Αρχή/Iss. office

**BEPOIA**

**GRC**

**VEROIA**

11 Nov 21

10 Nov 26

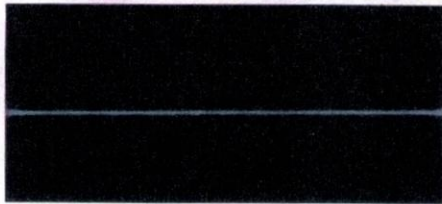
A. - N.P.C.

AF A / A A - N.P.C

10. Ύψος/Height:

<<<<<<<<<<<<<<<<





21-11-22

03



ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ  
ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ  
ΓΕΝΙΚΗ ΔΙΕΥΘΥΝΣΗ ΑΣΦΑΛΕΙΑΣ ΚΑΙ ΚΥΒΕΡΝΗΣΙΑΣ  
ΔΙΕΥΘΥΝΣΗ ΑΣΦΑΛΕΙΑΣ ΚΥΒΕΡΝΗΣΙΑΣ  
Τμήμα Ασφάλειας Κυβερνήσεως  
Αθήνα, 21-11-2022  
Αρ. Πρωτ. 1234567  
ΠΡΟΣ: ΥΠΟΥΡΓΟ  
ΑΠΟ: ΔΙΕΥΘΥΝΤΗ  
ΘΕΜΑ: ΑΣΦΑΛΕΙΑ ΚΥΒΕΡΝΗΣΙΑΣ

① ΥΠΟΓΡΑΦΗ ΚΑΤΟΧΥ - SIGNATURE OF BEARER - SIGNATURE DU TITULAIRE

PASSPORT

Τύπος/Type: P  
Χώρα/County: EAWGRC  
Αρ. Διαβατηρίου/Passport No.: [REDACTED]

1. Επώνυμο/Surname: [REDACTED]

2. Ονομα/Name: [REDACTED]

3. Ημερομηνία/Date of birth: [REDACTED]

4. Φύλο/Sex: [REDACTED]

5. Ημερομηνία/Date of birth: [REDACTED]

6. Τόπος γέννησης: [REDACTED]

7. Ημερομηνία/Date of birth: [REDACTED]

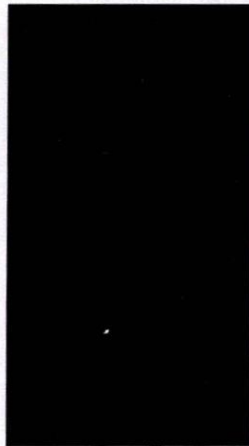
8. Ημερομηνία/Date of expiry: 14 Oct 22

9. Εξδ. Αρμότ. office: A.E.A./A.A.- N.P.C. 10. Ύψος/Height: [REDACTED]

NTOMIKION  
DOMKION  
ALB







checkul  
28-11-22

12. Înălțimea  
Height  
Taille

13. Culoarea ochilor  
Colour of eyes  
Couleur des yeux

14. Domiciliul  
Residence  
Domicile

BUCUREȘTI

ROMÂNIA / ROMANIA / ROUMANIE

PAȘAPORT  
PASSPORT / PASSEPORT

PE ROU

1. Numele/Surname/Nom

2. Prenumele/First name/Prénoms

3. Categorie/Categorie/Catégorie

ROMÂNĂ

4. Data nașterii/Date of birth/Data de naștere

5. Cod Numeric Personal/Personal No./N. personal

6. Data expirării documentului/Date of expiry/Data de expirare

7. Locul nașterii/Place of birth/Lieu de naissance

BUCUREȘTI

8. Autoritatea emitentă/Authority/Autorité

MEHEDINTI

10. Data expirării/Date of expiry/Data de expirare

15 IUL/JUL 22

11. Semnătura titularului/Holder's signature/Signature du titulaire

15 IUL/JUL 32









LIVE

BETA

This is a new service - your feedback will help us to improve it.

Back

## Details to give your employer

Share code



This code is valid until 20 February 2023

### What to do next

- 1 Give the share code and your date of birth to the person you want to prove your right to work to
- 2 To see your right to work, they must enter the share code and your date of birth at [www.gov.uk/view-right-to-work](https://www.gov.uk/view-right-to-work)
- 3 Contact them to make sure they have all the information they need

Print this page

Send code by email



# New Starter Form

Company Name: BELLUNO

Date: 09/5/2022

## Employee's personal details

1 Last name

B

5 Home address

2 First names

Do not enter initials or shortened names such as Jim for James or Liz for Elizabeth

EXETER, DEVON

3 Title — please circle?

Mr /Mrs Miss /Ms /Other (please state)

6 National Insurance number if known

7 Employment start date DD MM YYYY

09 05 2022

4 Date of birth DD MM YYYY

email

## Employee statement

8 Choose the statement that applies to you, either A, B or C, and tick the appropriate box.

### Statement A

Do not choose this statement if you're in receipt of a State, Works or Private Pension.

Choose this statement if the following applies.

This is my first job since 6 April and since the 6 April I've not received payments from any of the following:

- Jobseeker's Allowance
- Employment and Support Allowance
- Incapacity Benefit

### Statement B

Do not choose this statement if you're in receipt of a State, Works or Private Pension.

Choose this statement if the following applies.

Since 6 April I have had another job but I do not have a P45. And/or since the 6 April I have received payments from any of the following:

- Jobseeker's Allowance
- Employment and Support Allowance
- Incapacity Benefit

### Statement C

Choose this statement if:

- you have another job and/or
- you're in receipt of a State, Works or Private Pension

Statement A applies to me

X

Statement B applies to me

Statement C applies to me



## Student loans

9 Tell us if any of the following statements apply to you:

- you do not have any Student or Postgraduate Loans
- you're still studying full-time on a course that your Student Loan relates to
- you completed or left your full-time course after the start of the current tax year, which started on 6 April
- you're already making regular direct debit repayments from your bank, as agreed with the Student Loans Company

If No, tick this box and go to question 10 ☒

If Yes, tick this box and go straight to the Declaration

10 To avoid repaying more than you need to, tick the correct Student Loans that you have - use the guidance on the right to help you.

Please tick all that apply

Plan 1 ☐

Plan 2 ☐

Plan 4 ☐

Postgraduate Loan (England and Wales only) ☐

### Types of Student Loan

You have Plan 1 if any of the following apply:

- you lived in Northern Ireland when you started your course
- you lived in England or Wales and started your course before 1 September 2012

You have a Plan 2 if:

You lived in England or Wales and started your course on or after 1 September 2012.

You have a Plan 4 if:

You lived in Scotland and applied through the Students Award Agency Scotland (SAAS) when you started your course.

You have a Postgraduate Loan if any of the following apply:

- you lived in England and started your Postgraduate Master's course on or after 1 August 2016
- you lived in Wales and started your Postgraduate Master's course on or after 1 August 2017
- you lived in England or Wales and started your Postgraduate Doctoral course on or after 1 August 2018

## Pay Details (to be completed by the employer)

Pay Period (weekly/ monthly):

Weekly

Work Hours:

Hourly Rate or Annual Salary:

£9.50

P45 Provided (please tick): ☐

## Declaration

I confirm that the information I've given on this form is correct.

Signature (employee)

[Redacted Signature]

Date

09 05 2022

Signature (employer)

[Redacted Signature]

Date

09 05 2022



## CIVIL PENALTY NOTICE APPEALS – ILLEGAL WORKING VS ILLEGAL EMPLOYMENT

### CIVIL WATCH – PRACTICE NOTE

*As part of Goldsmith Chambers' Civil Watch series, Emma Harris, a Civil, Immigration and Public law practitioner, provides useful insights for businesses on appealing against civil penalty notices for employing illegal workers.*



### INTRODUCTION

1. In what may amount to good news for small businesses, our client's civil penalty was cancelled after a recent successful appeal on the basis that the illegal worker was not an employee despite engaging in work and receiving remuneration. Though the decision is unreported, it brings the definition of "employee" under the Immigration, Asylum and Nationality Act 2006 ("the 2006 Act") in line with the definition in section 230 of the Employment Rights Act 1996 and rejects a proposed definition by the Secretary of State that was far broader in scope.
2. Section 15 of the 2006 Act requires employers to step into the shoes of border officials by conducting right-to-work checks on prospective employees. Failure by the employer to carry out these checks can have severe financial and reputational consequences.
3. A single first offence for employing an illegal worker carries a starting penalty of £15,000, increasing to £20,000 per worker for a second offence. Self-reporting to the Secretary of State reduces the fines; a £5,000 reduction if an employer self-reports the illegal worker to the Secretary of State and a further £5,000 if the employer "actively co-operates" with the Secretary of State's investigation.
4. If an employer has qualified for both of these reductions and can demonstrate that they have effective right-to-work checking practices and procedures then they can also qualify for a further £5,000 reduction.
5. Employers risk reputational damage from civil penalty notices as Immigration Enforcement routinely publishes lists of businesses that have been issued with penalties, to include the amount of penalty imposed.
6. When a civil penalty notice is issued, a business must be informed of the payment deadline and accepted payment methods. It is usually possible for businesses to pay in instalments. The notice will also usually offer a discount of 30% for payment within 21 days under the "Fast Payment Option".



7. It is important for business to understand that payment of the penalty does not constitute an admission that the penalty has been properly imposed; an employer is perfectly entitled to pay and take advantage of the discount and, at the same time, to object and appeal against the penalty.

#### CHALLENGING A CIVIL PENALTY NOTICE

8. A business that disagrees with a penalty must first submit an objection to the Secretary of State if it<sup>1</sup>:

- denies that it is liable to the imposition of a penalty at all;
- has a statutory excuse under section 15(3) of the 2006 Act because it can show that it complied with the prescribed requirements; and/or
- considers that the penalty imposed is too high because it qualified for one or more of the reductions.

9. If the Secretary of State does not concede to the objections, then the business has a right of appeal under section 17 of the 2006 Act.

10. Section 17(3) of the 2006 Act provides that:

“An appeal shall be a rehearing of the Secretary of State’s decision to impose a penalty and shall be determined having regard to

- The code of practice under section 19 that has effect at the time of the appeal (in so far as the appeal relates to the amount of the penalty) and
- Any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware);

And this subsection has effect despite any provision of rules of court.”

11. An appeal against a civil penalty notice is usually heard in the County Court. The business does not require permission to bring the appeal. The Court is not limited to considering errors of law or public law grounds of challenge; appeals under these provisions are like trials where the judge may make findings of fact on the evidence presented (which will normally include live evidence from witnesses).

12. To date there have been very few reported cases on this relatively new area of law and to some extent the Courts handling such cases are still grappling with the appropriate tests to apply.

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<sup>1</sup> Section 16(1) IANA 2006



13. The persuasive Scottish case of *Mohammed v AG for Scotland* [2017] SC LIV 23 addressed the factors that a Court may consider and in *SSHD v Akbar* [2017] 1 WLR 1055, in addition to confirming that the Court of Appeal does have the jurisdiction to hear second appeals from the County Court in these cases, it also established that the burden of proof is on the business to show that it is not liable to pay all or part of a penalty.
14. There is, however, no clear guidance from the courts on the type of work that must be carried out by someone without the right to work in the UK to attract liability for a civil penalty notice. This was one of the issues in our appeal.

#### ILLEGAL WORKING VS ILLEGAL EMPLOYMENT

15. We argued, successfully, that the legislation does not give the Secretary of State free license to impose a civil penalty notice for all kinds of work, and specifically, that a penalty should not be imposed where there is no employer/employee relationship.
16. Under section 15(1) of the 2006 Act:

"(1) It is contrary to this section to employ an adult subject to immigration control if—

(a) he has not been granted leave to enter or remain in the United Kingdom, or

(b) his leave to enter or remain in the United Kingdom—

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing him from accepting the employment."

17. In accordance with section 25(b) of the 2006 Act:

"(b) a reference to employment is to employment under a contract of service or apprenticeship, whether express or implied and whether oral or written."

18. It was my submission that this wording was carefully chosen to mirror the definition of "employee" contained within section 230 of the Employment Rights Act 1996 which provides as follows:



"(1) In this Act "employee" means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.

(2) In this Act "contract of employment" means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing."

19. Aikens LJ in the case of Autoclenz Ltd v Belcher [2009] EWCA Civ 1046 at [74] (as later endorsed by the Supreme Court) described the factors that must be met in order for an employer/employee relationship to be established:

"In essence there are four basic requirements that must be fulfilled before it can be said that there is a contract of employment and so a relationship of employer and employee. First, the employer must have undertaken to provide the employee with work for pay. Secondly, the employee must have undertaken to perform work for pay. Those obligations are mutual. The third requirement is that the employee must have undertaken to perform the work personally; he is not entitled to sub-contract the work to another. Fourthly, it is also generally accepted that there is a further requirement before a court will hold that there is a contract of employment between employer and employee, i.e. that the employee agrees that he will be subject to the control of the employer to a certain minimum degree. These obligations have been described as the "irreducible minimum" to produce a contract of employment: *Nethermere (St Neots) Ltd v Gardiner* [1984] ICR 612 at 623 per Stephenson LJ."

20. In our client's case, Immigration Enforcement attended their office and found Mr Q sat behind the front desk. It was accepted that he had no right to work in the UK. Our client's case was that Mr Q was a friend of one of the employees of the business and that he had only been helping out in the office which was a very sociable environment where family and friends would often congregate and eat together. The client's evidence showed that even people who were unconnected with the business would answer the office phones if staff were busy or on a lunch break. It was admitted that Mr Q would answer the phones and that his friend would give him some food or some money out of his own pocket when Mr Q was in the office and helping out.
21. It was clear that Mr Q had engaged in some work activity in the office. It was also clear that he had, on most of those occasions, been remunerated in some way.
22. The Secretary of State argued that the definition of employment within the 2006 Act was far broader than the definition within employment law and that its ultimate intention was to catch in its net all those who were illegally working and, by extension, all of those businesses that they were illegally working for.
23. The Judge in our case agreed that something more was required than mere evidence of work and remuneration for a civil penalty to apply. An



employer/employee relationship including a mutuality of obligation, i.e. an obligation on an individual to work and an obligation on the employer to provide or pay for that work, must be present.

24. The Judge particularly noted that:

“where an individual is working but doing so as a favour to the other party and is doing so on days and times which the individual chooses, and where the individual has no obligation to work or to follow requests or orders, it would not be employment.”

25. As a result of this finding, the appeal was allowed and the penalty was cancelled.

## CONCLUSION

26. Although this was not a reported case, it follows from this that a business should only be liable for a civil penalty notice if they have employed an illegal worker as an employee. It appears to be open to a business to challenge a civil penalty where an illegal worker has worked for the business voluntarily, on a casual ad hoc basis (even where they have been remunerated), or on a self-employed basis.

27. Whilst the worker may be working unlawfully in most of these scenarios, the outcome in our client's case aligns with overarching policy considerations. It would be far too onerous to require businesses to carry out right-to-work checks on every person that the business has dealings with or obtains a service from without an established employer/employee relationship defined by an offer of formal or informal employment.

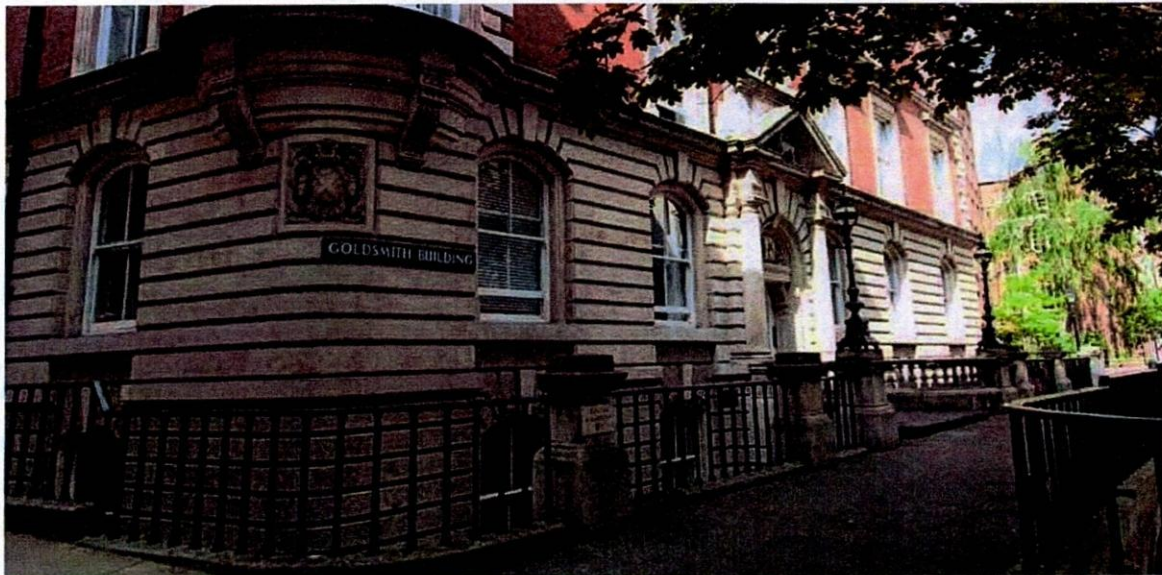
EMMA HARRIS  
GOLDSMITH CHAMBERS  
23/03/2021



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## TREK ACCOUNTANTS LTD

Trek Accountants Ltd  
The Barbican Centre  
Lustleigh Close  
Matford Business Park  
EXETER EX2 8PW

28th July 2023

**Private & Confidential**

The Licensing Department  
Mid Devon District Council

Phoenix House

Phoenix Lane

TIVERTON EX16 6PP

by email to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

our ref: BE1731

your ref: MDV PR0088

Dear Sirs

**Our Client: Belluno Bar & Grill Limited (Belluno)**  
**Provision of Right to Work Checks service.**

We are an Exeter based accountancy firm and we are writing to confirm we are retained to provide accountancy and payroll services to Belluno on the instructions of its director Mr Haqif Derti.

In addition to accountancy and payroll services, we offer ancillary services to our clients including right to work checks. Since 6 January 2023 we have provided this service to Belluno for new members of staff of Belluno. To date we have assisted Belluno to perform right to work checks on 11 individuals.

We conduct manual right to work checks for Belluno. All checks are conducted in accordance with guidance issued by the Home Office on how to conduct right to work checks. The process followed is that

1. First, Bellunos find and interview an individual for a position within their business. If Belluno wish to extend an offer of employment to the individual, they will ask to see the individual's identity documents.
2. Belluno themselves will check that the documents presented to them appear to be genuine and will check the share code (where provided). Belluno will check:

Registered in England & Wales – Company number 14592258

- a. That the individual presenting the documents appears to be the same person who is presenting the documents to them by reference to the photographs on the documents.
  - b. That the documents appear to be genuine.
  - c. That the expiry dates for any required permission to be in the UK have not passed.
  - d. Any right to work restrictions that have been imposed on the individual to identify any conflicts between the restrictions and their proposed employment; and
  - e. If an individual's right to work in the UK is time limited, take note of this and diarise to re-confirm the individual's right to work status on an appropriate date.
3. Belluno then takes copies of the documents and sends them to us to conduct verification by a manual check on their apparent genuineness and (where necessary) the right of the individual to work in the hospitality sector. We do this by checking:
  - a. That the photos and dates of birth are consistent across the documents.
4. The copy documents are retained by us and kept on file. We advise our client of the result and the offer of employment is then able to be confirmed.

As an example, we have attached one of the manual right to work checks that we carried out for Belluno with appropriate redactions.

Yours faithfully



**Trek Accountants Ltd**



Encs. Worked example of right to work checks.



<u>ORDER OF PLAY</u>	<u>NOTES</u>
1. <b>Chairman:</b> Introduction to meeting	
2. <b>Chairman:</b> State the reason for the meeting: <ul style="list-style-type: none"> <li>• This is a meeting to determine the application for the review of a premises/club licence.</li> </ul>	
3. <b>Introductions of:</b> <ul style="list-style-type: none"> <li>• The Chairman of the Sub-Committee</li> <li>• Members of the Sub-Committee</li> <li>• Legal advisor(s)</li> <li>• Member Services Officer (if not already introduced at start)</li> <li>• Licensing Officer</li> <li>• Other Mid Devon District Council Officers</li> </ul>	
4. <b>Chairman:</b> Are there any member interests to declare?	
5. <b>Chairman:</b> <ul style="list-style-type: none"> <li>• To make a decision as to whether the hearing is to be held in public or private session.</li> <li>• Licensing hearings are public hearings unless anyone wishes to make any representations that the meeting should not be public?</li> </ul>	

<p><b>6. Chairman:</b> in relation to time limits for speakers.</p> <ul style="list-style-type: none"> <li>• No time limits set for this hearing.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• The following time limits are set ...</li> </ul>	
<p><b>7. Introductions of:</b></p> <ul style="list-style-type: none"> <li>• The applicant and any person representing or assisting them.</li> <li>• The holder of the premises licence and any person representing or assisting them.</li> <li>• Representatives of other Responsible Authorities that have made a relevant representation.</li> <li>• Other Parties who have made a relevant representation. (If a spokesperson has been appointed/nominated for a group they should be identified.)</li> </ul>	
<p><b>8. Sub-Committee to consider, if relevant:</b></p> <ul style="list-style-type: none"> <li>• Any requests by a party for any other person to appear at the Hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of the Hearing.</li> </ul>	
<p><b>9. Chairman:</b></p> <ul style="list-style-type: none"> <li>• Confirm that the members have received and read the paperwork circulated in advance of the meeting.</li> </ul>	
<p><b>10. Licencing Officer:</b></p> <p>To summarise the matter under consideration and present the salient points of the report.</p>	



<p><b>11. Questions from those present? In order of:-</b></p> <ul style="list-style-type: none"> <li>a) Applicant for review</li> <li>b) Holder of premises licence</li> <li>c) Other Responsible Authorities</li> <li>d) Other Parties</li> <li>e) Sub-Committee</li> </ul>	
<p><b>12. Applicant (or representative):</b></p> <ul style="list-style-type: none"> <li>• To present case in support of the application</li> </ul>	
<p><b>13. Questions from those present? In order of:-</b></p> <ul style="list-style-type: none"> <li>a) Holder of the premises licence</li> <li>b) Licencing Officer</li> <li>c) Other Responsible Authorities</li> <li>d) Other Parties</li> <li>e) Sub-Committee</li> </ul>	
<p><b>14. Premises Licence Holder (or representative):</b></p> <ul style="list-style-type: none"> <li>• To present case in relation to the application</li> </ul>	

<p><b>15. Questions from those present? In order of:</b></p> <ul style="list-style-type: none"> <li>a) Applicant for review</li> <li>b) Licensing Officer</li> <li>c) Other Responsible Authorities</li> <li>d) Other Parties</li> <li>e) Sub-Committee</li> </ul>	
<p><b>16. Responsible Authorities:</b></p> <ul style="list-style-type: none"> <li>• To present the views of their organisation.</li> </ul>	
<p><b>17. Questions from those present? In order of:</b></p> <ul style="list-style-type: none"> <li>a) Applicant for review</li> <li>b) Premises licence holder</li> <li>c) Licensing Officer</li> <li>d) Other Parties</li> <li>e) Sub-Committee</li> </ul>	
<p><b>18. Other Parties:</b></p> <ul style="list-style-type: none"> <li>• To present their views /Spokesperson to speak on behalf of those they are representing.</li> </ul>	



<p><b>19. Questions from those present?</b> In order of:</p> <ul style="list-style-type: none"> <li>a) Applicant for review</li> <li>b) Premises licence holder</li> <li>c) Licensing Officer</li> <li>d) Other Parties</li> <li>e) Sub-Committee</li> </ul>	
<p><b>20. Chairman:</b></p> <ul style="list-style-type: none"> <li>• Discussion about suggested conditions – if relevant.</li> </ul>	
<p><b>21. Chairman:</b></p> <ul style="list-style-type: none"> <li>• Invite party to summarise in order of: <ul style="list-style-type: none"> <li>a) Applicant for review</li> <li>b) Premises licence holder</li> <li>c) Licensing Officer</li> <li>d) Other Responsible Authorities</li> <li>e) Other Parties</li> </ul> </li> </ul>	
<p><b>22. Chairman</b></p> <ul style="list-style-type: none"> <li>• Sub-Committee will now retire to reach a decision in private accompanied by the Council's representatives from Legal and Member Services.</li> </ul>	

<b>23. Chairman one return</b> <ul style="list-style-type: none"> <li>• Members of the Sub-Committee return.</li> <li>• Announce the Sub-Committee's decision and the reasons for the decision.</li> </ul>	
<b>24. Legal Officer:</b> <ul style="list-style-type: none"> <li>• Outline the rights of appeal and the fact that formal notification of the decision will be sent in the post.</li> </ul>	
<b>25. Chairman:</b> <ul style="list-style-type: none"> <li>• Close meeting.</li> </ul>	
<b>Additional notes:</b>	