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# NOTICE OF MEETING

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## LICENSING SUB-COMMITTEE

**THURSDAY, 31 MARCH 2022 AT 12.00 PM**

**COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH**

Telephone enquiries to Democratic Services 023 9284 1704

Email: [Democratic@Portsmouthcc.gov.uk](mailto:Democratic@Portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

### **Information with regard to public access due to Covid precautions**

- Following the government announcement 'Living with COVID-19' made on 21 February, attendees will still be requested to undertake an asymptomatic/ lateral flow test within 48 hours of the meeting until the end of March (This guidance will be updated at that point). Around one in three people who are infected with COVID-19 have no symptoms so could be spreading the virus without knowing it. Asymptomatic testing – getting tested when you don't have symptoms - helps protect people most at risk by helping to drive down transmission rates.
- We strongly recommend that attendees should be double vaccinated and have received a booster.
- If symptomatic we encourage you not to attend the meeting but to stay at home, avoid contact with other people and to take a PCR test in line with current UKHSA advice.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Licensing Committee Members: Councillors Claire Udy (Chair), Scott Payter-Harris (Vice Chair), Dave Ashmore, Kimberly Barrett, Hannah Brent, Stuart Brown, Tom Coles, Jason Fazackarley, Charlotte Gerada, Ian Holder, George Madgwick, Lee Mason, Robert New, Benedict Swann, and Daniel Wemyss.

The Licensing Sub-Committee today comprises: Councillors Scott Payter-Harris, Tom Coles, and George Madgwick.

The reserve member is Councillor Benedict Swann.

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(NB This agenda should be retained for future reference with the minutes of this meeting).

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Licensing Sub Committee meetings are digitally recorded.**

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

### **Risk assessment: Council Chamber**

- 1 Appointment of Chair**
- 2 Apologies**
- 3 Declarations of Members' Interests**
- 4 Licensing Act 2003 - Review Application - Noble House Restaurant, 43 Osborne Road, Southsea, PO5 3LS (Pages 3 - 92)**

To consider and determine a review application pursuant to section 52 of the Licensing Act 2003 ("the Act") and in respect of the following premises: Noble House Restaurant, 43 Osborne Road, Southsea, PO5 3LS.

The Licensing Sub-Committee is requested to determine the matter.

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

# Agenda Item 4

REPORT TO: LICENSING SUB-COMMITTEE

31<sup>st</sup> March 2022

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: DEREK STONE

**Licensing Act 2003 - Review Application - Noble House Restaurant, 43 Osborne Road, Southsea, PO5 3LS**

## 1. PURPOSE OF REPORT

The purpose of this report is for the committee to consider and determine a review application pursuant to section 52 of the Licensing Act 2003 ("the Act") and in respect of the following premises:

**Noble House Restaurant, 43 Osborne Road, Southsea, PO5 3LS.**

The holder of the premises licence is Mr Albert Ion-Chun Choi.

## 2. THE REVIEW APPLICANT

The application and grounds for the review are attached as **Appendix A** and has been submitted by Home Office Immigration Enforcement and relates to the following licensing objective:

- Prevention of crime and disorder

## 3. BACKGROUND INFORMATION

At 20:30 hours on Saturday 23<sup>rd</sup> October 2021, Home Office Immigration officers attended the Noble House Restaurant where they found three illegal workers working and living on the premises. On entry to the premises the Premises Licence holder Mr Albert Ion-Chun Choi was obstructive towards the officers. Statements submitted as part of this review detail Mr Choi's behaviour and how obstructive he was not only physically trying to prevent access but giving verbal directions in his foreign tongue to staff present who initially refused to engage with the immigration officers. Mr Choi is described as being aggressive and hostile towards the officers.

Attached as **Appendix B** is the Home Office Premises Licence Review pack together with four statements provided by the Immigration Officers who attended the premises giving full details of the visit and the subsequent discovery of three illegal workers.

A copy of the current premises licence is attached as **Appendix C**.

In accordance with the act and prescribed regulations, public notice of the review application was given both at the premises and also at the Civic Offices. In addition, a notice of the review application was also posted on the council website.

The review application was also served on the responsible authorities.

#### 4. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES AND OTHER PERSONS

A further representation has been received from PC P Vincent on behalf of the Chief Officer of Police for Hampshire Constabulary. This representation supports the review on the grounds of the prevention of crime and disorder and seeks the revocation of the Premises Licence based on the seriousness of this offence and previous history.

Ten support representations have been received. All these representations are attached at **Appendix D**

At **Appendix E** is an email clarifying the first date in the Home Office review bundle at paragraph 2.9 which should read 23/09/2011 and not 2012 as stated.

#### 5. POLICY AND STATUTORY CONSIDERATIONS

When determining the review application, the committee must have regard to:

- Promotion of the licensing objectives which are;
  - Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
- The Licensing Act 2003;
- The adopted Statement of Licensing Policy;
- Judgments of the High Court, (your legal adviser will give you guidance should this become necessary);
- The current statutory guidance issued by the Home Secretary in accordance with section 182 of the Act;
- The representations, including supporting information, presented by all the parties; and
- The human rights of all the parties concerned to ensure both a fair and balanced hearing and to consider the Equality Act 2010 public sector equality duty requiring public bodies to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are as follows:
  - i) age, ii) disability, iii) gender reassignment, iv) pregnancy and maternity v) race - this includes ethnic or national origins, colour or nationality, vi) religion or

belief - this includes lack of belief, vii) sex and viii) sexual orientation.

The Statutory Guidance provides advice in relation to the consideration of review applications. In particular, members should have regard to the following advice:

**Paragraph 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."*

**Paragraph 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."*

**Paragraph 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."*

**Paragraph 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."*

In reaching a decision upon a review application, the guidance offers assistance to the licensing authority as follows:

**Paragraph 11.17** - *"The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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 11.18** - *"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."*

**Paragraph 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);*
- 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 11.20** - *"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."*

**Paragraph 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."*

**Paragraph 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."*

**Paragraph 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."*

**Paragraph 11.26** - *"Where a 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 objections and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.**"

**Paragraph 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 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.

**Paragraph 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".**

A copy of the Statement of Licensing Policy, current statutory guidance and the Act has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

In addition members will be aware of Portsmouth City Councils Modern Slavery and Human Trafficking Statement which is also available for reference,

## **6. APPEALS**

An appeal may be made to a Magistrates' court within 21 days of the premises licence holder being notified of the licensing authority's decision. An appeal may be made by:

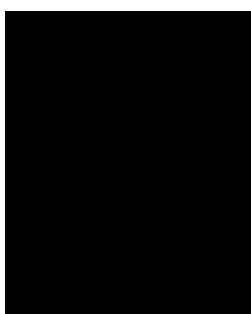
- The applicant for the review;
- the holder of the premises licence; or
- any other person who made relevant representations in relation to the application.

***The decision of the committee, following the review hearing, will not have effect until the end of the period allowed for appeal, or until any submitted appeal is disposed of.***

## **7. APPENDICES**

- A.** Copy of the redacted review application.
- B.** Copy of Home Office Review Pack and 4 x Statements of Immigration officers attending.
- C.** Copy of the current authorisation.
- D.** Copies of representations from Hampshire Constabulary and support representations received.
- E.** Email from Home Office re clarification of visit dates

**THE COMMITTEE IS REQUESTED TO DETERMINE THE REVIEW APPLICATION**



For Licensing Manager  
And on behalf of Head of Service





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

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed 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**

.....  
*(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			
Noble House Restaurant 43 Osbourne Road			
<b>Post town</b>	Portsmouth	<b>Post code</b>	PO5 3LS

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
Mr Albert Ion-Chun Choi

<b>Number of premises licence or club premises certificate (if known)</b>

--

**Part 2 – Applicant details**

I am	<b>Please tick ✓</b>
<b>yes</b>	
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)	
2) a responsible authority (please complete (C) below)	X
3) a member of the club to which this application relates (please complete (A) below)	

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Please tick ✓ yes

Mr		Mrs		Miss		Ms		Other title (for example, Rev)			
<b>Surname</b>					<b>First names</b>						
<b>I am 18 years old or over</b>								(Please tick ✓ yes)			
<b>Current postal address if different from premises address</b>											
<b>Post town</b>						<b>Post code</b>					
<b>Daytime contact telephone number</b>											
<b>Email address (optional)</b>											
<b>Post Town</b>						<b>Post Code</b>					

<b>(B) DETAILS OF OTHER APPLICANT</b>
Name and address
Telephone number (if any)
Email address (optional)

<b>(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT</b>
Name and address:  Home Office Immigration Enforcement, Alcohol Licensing and Late-Night Refreshments Team, 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional)

<b>This application to review relates to the following licensing objective(s)</b>	
	Please tick one or more boxes <input checked="" type="checkbox"/>
1) the prevention of crime and disorder	<b>X</b>
2) public safety	
3) the prevention of public nuisance	
4) the protection of children from harm	

<b>Please state the ground(s) for review</b> (please read guidance note 2)
This restaurant was recently visited by immigration enforcement officers in October 2021 where 3 illegal workers were encountered. There was also a visited back in 2012 where two illegal workers were also encountered.

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

On Saturday 23/10/2021 officers visited Noble House Restaurant, 43 Osborne Road, Portsmouth PO5 3LS as part of an Immigration Enforcement visit.

An officer entered through the front door holding his Warrant card in his hands. At the briefing, he directed three other officers to make their way directly into the kitchen on entry. A male who I identified to be Mr Albert CHOI immediately started shouting at us as we entered that we could not come in. I tried to explain that we were immigration Officers, the purpose of our visit and our power of entry but Mr CHOI was beside himself with rage and could not hear me such was his aggression and hostility towards us. He attempted to block one of the officers as he made his way to the kitchen and he followed me and my colleagues through the busy restaurant, shouting and haranguing us as we moved to the kitchen which was accessed via a doorway in the far right hand corner of a dining area. CHOI then started shouting at his kitchen staff in a foreign language and shortly after I learned that the staff were not engaging with our telephone interpreters. I continued to identify myself to CHOI as the Officer in Charge and serve the Notice to Occupier to him. CHOI made various threats about how much trouble I was going to be in, stating that he had powerful friends at Portsmouth City Council and also making comment regarding his lawyer who was going to take me to court. I also observed him mocking my colleague. At one-point CHOI got out his mobile phone and started videoing our Collar numbers. I invited CHOI to call the Police if he felt that we were illegally present on his premises. There were three kitchen workers present and waiting staff who were coming in and out of the kitchen. Eventually Home Office checks revealed that all three of the kitchen staff were illegally present in the United Kingdom and had no permission to work in the UK. At this point I asked Mr CHOI to consider telling his customers that there would be no food that evening as his chefs were all under arrest. Only at this time did Mr CHOI begin to calm himself and I instructed one of my officers to conduct an illegal working interview with CHOI. It was by now around forty minutes after our arrival and the customers had all begun to leave. Officers began conducting Interviews with my team but still refused to give a place of abode. Over an hour went by before CHOI admitted that they all lived in a flat above the restaurant. At around 22.55, all Officers departed the restaurant and as I left, I provided Mr Choi with a leaflet explaining the Home Office complaints procedure. I have had no further dealings with Mr CHOI.

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

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

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Please tick <input checked="" type="checkbox"/> yes	
<ul style="list-style-type: none"> <li>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.</li> </ul>	x
<ul style="list-style-type: none"> <li>I understand that if I do not comply with the above requirements my application will be rejected.</li> </ul>	x

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

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

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

Signature	Home Office Immigration Enforcement
Date	08/02/2022
Capacity	Responsible Authority

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

<b>Post town</b>		<b>Post code</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.



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## APPENDIX B



Home Office

# Premises Licence Review

**Noble House Restaurant  
Mr Albert Ion-Chun Choi  
43 Osborne Road  
Portsmouth  
PO5 3LS**

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# Outline of the Circumstances leading to the Review Application

## 1. Summary

1.1. An Immigration enforcement visit by the [REDACTED] team was conducted on Saturday 23/10/2021 at approx. 20.30, to Noble House Restaurant, 43 Osborne Road, Portsmouth PO5 3LS. Entry was conducted under Section 179 of the Licensing Act 2003.

1.2. The premises had been visited before (following previous intelligence reporting) and three illegal workers had been found.

1.3. During the visit on 23/10/2021 a further three illegal workers were encountered. Mr Albert Ion-Chun Choi, who has held his licence since 8th November 2005, confirmed in a later interview with an Immigration officer that all three of the illegal workers encountered on 23/10/2021 lived in the upstairs flat.

1.4. Following the visit to the premises, a civil penalty notice was issued to Mr Albert Ion-Chun Choi.

## 2. Occurrence

2.1. On Saturday 23/10/2021 at approx. 20.30, [REDACTED] (an Immigration Officer based at the [REDACTED]) was joined by other Enforcement Officers in an Immigration Enforcement visit to Noble House Restaurant, 43 Osborne Road, Portsmouth PO5 3LS. [REDACTED] was the Officer in Charge of the visit and was accompanied by [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Entry was conducted under Sec 179 Licensing Act 2003.

2.2. [REDACTED] entered through the front door holding his warrant card in his hand. [REDACTED], [REDACTED] and [REDACTED] made their way directly into the kitchen on entry. A male, now know by [REDACTED] to be Mr Albert CHOI immediately started shouting that the IOs could not come in. [REDACTED] tried to explain that they were immigration Officers, the purpose of the visit and the power of entry but, Mr CHOI appeared not to hear, such was his aggression and hostility towards the IOs.

2.3. He attempted to block [REDACTED] as he made his way to the kitchen and he followed [REDACTED] and his colleagues through the busy restaurant, shouting and haranguing them as they moved to the kitchen, which was accessed via a doorway in the far right hand corner of a dining area.

2.4. CHOI then started shouting at his kitchen staff in a foreign language and shortly after [REDACTED] learned that the staff were not engaging with Immigration Enforcement's telephone interpreters. [REDACTED] continued to identify himself to CHOI as the Officer in Charge and serve the Notice to Occupier.

2.5. CHOI made various threats about how much trouble [REDACTED] was going to be in, stating that he had powerful friends at Portsmouth City Council and also making comment regarding his lawyer who was going to take [REDACTED] to court. [REDACTED] observed CHOI mocking [REDACTED]. At one-point CHOI got out his mobile phone and started videoing the officers Collar numbers. [REDACTED] invited CHOI to call the Police if he felt that Immigration Enforcement were illegally present on his premises.

2.6. There were three kitchen workers present and waiting staff who were coming in and out of the kitchen. Eventually Home Office checks revealed that all three of the kitchen staff were illegally present in the United Kingdom and had no permission to work in the UK.

- [REDACTED] national born on [REDACTED].
- [REDACTED] national born on [REDACTED]
- [REDACTED] national born on [REDACTED].

2.7. At this point [REDACTED] asked Mr CHOI to consider telling his customers that there would be no food that evening as his chefs were all under arrest. Only at this time did Mr CHOI begin to calm himself and [REDACTED] instructed [REDACTED] to conduct an illegal working interview with CHOI.

2.8. It was by now around forty minutes after the arrival of the Immigration Officers and the customers had all begun to leave. Officers began conducting interviews with the illegal workers but they still refused to give a place of abode. Over an hour went by before CHOI admitted that they all lived in a flat above the restaurant. Subsequently, all three gave a key back to Mr Choi for their room in the flat above the restaurant. At around 22.55, all Officers departed the restaurant and as [REDACTED] left, he provided Mr Choi with a leaflet explaining the Home Office complaints procedure.

2.9. Previous visits had been conducted by Immigration officers to this premises The first, on 29/03/2012 led to one arrest and a visit on 21/06/2012 led to two arrests. On both visits there was clear indication that Mr Albert Ion-Chun Choi was the premises licence holder and would have been fully aware that these persons had no permission to work in the UK.

[REDACTED]

2.10. At 23:22, with the help of a [REDACTED] interpreter on the phone, the illegal working interview with [REDACTED] was conducted by [REDACTED] as follows:

[REDACTED]: How long have you been working at the Noble House Chinese Restaurant?

██████████: Because of Covid I went to help two and a half weeks ago.  
██████████: What is your job role/ what are your duties?  
██████████: I just helped to wash the dishes when busy.  
██████████: What days/ hours do you work each week at the Noble House?  
██████████: I only worked Friday and Saturdays  
██████████: How many hours did you work Friday and Saturdays?  
██████████: 3 hours  
██████████: Who supplies the uniform you were wearing when officers entered the kitchen?  
██████████: Mr ██████████  
██████████: Who gave you this job at the Noble House?  
██████████: I asked Mr ██████████ the boss if I could work for food and accommodation  
██████████: Who tells you what days/ hours to work?  
██████████: I was just asked to work when busy by Mr ██████████  
██████████: Who tells you what tasks/ duties to do each day?  
██████████: Mr ██████████  
██████████: How are you paid (money, accommodation, food)?  
██████████: I do not get paid any money, but I get food and accommodation for which I do not pay.  
██████████: What name does the employer know you as?  
██████████: ██████████.  
██████████: Did you show documents before being offered the job? If so, what?  
██████████: No, I do not have a Passport, it was stolen  
██████████: Does your employer know you're not allowed to work in the UK?  
██████████: I do not think he knew that I could not work  
██████████: Did Mr ██████████ ask for if you were allowed to work in the UK?  
██████████: No.  
██████████: When I entered the kitchen, you were dressed in a white chef's jackets, if you only wash dishes why do you wear a chef's uniform?  
██████████: For food safety  
██████████: Who supplies the uniform?  
██████████: Mr ██████████ the boss

The interview with ██████████ concluded at: 23:53

## Albert CHOI

2.11. At 21:24 without the help of a ██████████ interpreter the illegal working interview with ALBERT CHOI was conducted by ██████████ as follows:

██████████: What is the name of the business?  
**ALBERT CHOI:** Noble House Restaurant.

██████████: What are the Companies House and VAT numbers of the business?

**ALBERT CHOI:** VAT reg number ██████████

██████████: What is your position at Noble House Restaurant?

**ALBERT CHOI:** Director of the company.

██████████: How long have you been working here?

**ALBERT CHOI:** Only recently, the company and staff have just started.

██████████: 3 subjects encountered working in the kitchen are suspected of Working illegally in The United Kingdom. Did you check the status of the 3 subjects, regarding their right to work in The United kingdom.

**ALBERT CHOI:** Yes. I asked for copies of their papers, and passports

██████████: did you keep copies of the papers presented?

**ALBERT CHOI:** I am waiting for copies from the 3 subjects, they don't live local.

██████████: would you understand what papers, that would be presented to you to confirm the status to work in the United Kingdom.

**ALBERT CHOI:** Yes, I suspect so, it would be stamped in the passport.

██████████: of the 3 subjects. Mr ██████ is being interviewed by ██████████, How long has he worked here at Noble House restaurant?

**ALBERT CHOI:** 2 weeks approximately.

██████████: what are Mr ██████ duties in the Noble House restaurant?

**ALBERT CHOI:** He is a chef.

██████████: how much would you pay Mr ██████ for his work here at Noble House Restaurant?

**ALBERT CHOI:** £9 per hour times the hours worked.

██████████: does Mr ██████ get paid weekly for his duties at Noble House Restaurant?

**ALBERT CHOI:** He will get paid monthly.

██████████: How many hours does Mr ██████ work here at Noble House Restaurant?

**ALBERT CHOI:** 30 hours a week.

██████████: these questions are pertinent to the subject being interviewed by ██████████ subject is Mr ██████.

**ALBERT CHOI:** Ok.

██████████: How long has Mr ██████ worked here at Noble House restaurant?

**ALBERT CHOI:** They all arrived together about 2 weeks ago.

██████████: what duties are Mr ██████ here at Noble house restaurant?

**ALBERT CHOI:** They are all chefs; they work in the kitchen.

██████████: how much will Mr ██████ be paid here at Noble house restaurant?

**ALBERT CHOI:** The same, all £9.00 an hour.

██████████: How many hours will Mr ██████ work here at Noble House Restaurant?

**ALBERT CHOI:** The same ...30 hours.

██████████: these questions are pertinent to the subject being interviewed by ██████████. Mrs ██████████.

**ALBERT CHOI:** Ok, I understand.

██████████: How long has Mrs ██████████ been working here at Noble house

Restaurant?

**ALBERT CHOI:** As I said, 2 weeks, they all arrived together.

██████████: As before, what are the duties of Mrs ██████████?

**ALBERT CHOI:** She is a washer up in the kitchen, she is still employed.

██████████: how much is Mrs ██████████ paid to work here at Noble house Restaurant?

**ALBERT CHOI:** All the same, £9.00 an hour.

██████████: how many hours working would you expect to pay Mrs ██████████ Per week?

**ALBERT CHOI:** The same, about 30 hours a week.

██████████: who would tell each of the staff being interviewed what their duties at the Noble House restaurant?

**ALBERT CHOI:** I employ them as kitchen workers, they work in the kitchen only.

Interview concluded with Mr Albert Choi at: 22:18.

██████████

2.12. At 23:11 with the help of a ██████████ interpreter the illegal working interview with ██████████ was conducted by ██████████ as follows:

██████████: Mr A CHOI was interviewed earlier and has told me you and the other 2 subjects arrested at Noble House restaurant have been employed for 2 weeks, what do you have to say about that?

██████████: I only came to the noble house restaurant yesterday with my husband.

██████████: How long have you worked at the Noble house restaurant?

██████████: I only came here yesterday with my husband to help out.

██████████: What are your duties at the noble house restaurant?

██████████: I give them a hand, whatever they want, wash dishes, clean the floor whatever.

██████████: how many hours do you work at the Noble house restaurant per week?

██████████: 10 hours a week.

██████████: how many weeks have you been working at the Noble house Restaurant?

██████████: I only came yesterday.

██████████: Mr A CHOI, the director of the company, was present all-night while you were being interviewed at the Noble house restaurant, do you know this man?

██████████: I have never spoken to him, my husband deals with him, I know the bald-headed man (Mr A CHOI) is the boss people say he is the boss, but I'm not sure.

██████████: how much was you paid to 'help out' at Noble house restaurant?

██████████: Whatever they paid me, £10, £20

██████████: who tells her what to do at the restaurant?

██████████: No one particularly. I just do what needs doing.

██████████: can you confirm the amount of money you are paid for working at the Noble house restaurant?

██████████: I have no idea, my husband deals with that.

██████████: Did you show documents before being offered the job? at the noble house restaurant If so, what?

██████████: I do not know, ask my husband.

██████████: do you have a passport?

██████████: Lost it, I don't know where.

██████████

2.13. At 21:28 with the help of a ██████████ interpreter, the illegal working interview with ██████████ was conducted by ██████████ as follows:

██████████: What is your job role/ what are your duties?

██████████: I work in the kitchen; I help with everything.

██████████: Do you choose to work here, are you here of your own free will?

██████████: I work here for free, voluntary work.

I have to work to get food and accommodation. I do not have a salary.

██████████: So, what do you receive for working?

██████████: The only thing I received today was food.

██████████: What days/ hours do you work each week?

██████████: I am not working here; I only help. For this I receive food. Today is my first day.

██████████: When officers walked in was, he cooking on the range at Noble House?

██████████: Yes, I was helping on the range.

██████████: Who gives him the tasks, who tells him what to do?

██████████: No one told him what to do.

██████████: Who told him he could come and help?

██████████: ██████████. He was here, they left earlier.

██████████: During the visit we have been speaking to Mr Choi, do you know Mr CHOI?

██████████: Not answering the question. I can't understand. (Mr Choi is sat at the table listening to question).

██████████: What is your full address?

██████████: It is in London; I cannot say the full address it is an English word.

██████████: How were you planning on getting home tonight?

██████████: My friend was going to pick me up and take me home.

██████████: If you don't know your address, where do you receive letters and post?

██████████: It is in the UK; I do not know the address.

██████████: Did you show ██████████ any documents?

██████████: No, we are friends, why would I let him see.

██████████: Do you have any proof of your address on your mobile?



██████████: No.

██████████: Who provided the uniform you are wearing?

██████████: These are my own clothes, no one gave them to me.

██████████: Did the man I am pointing at (Albert CHOI) give him access to the kitchen or tell you your duties?

██████████: No.

██████████: Who told you that you would only receive food for your work?

██████████: ██████████ told me before I came it would be for food.

Interview concluded with ██████████ at 11:17

### 3. Reasons for Review

3.1. Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person is allowed to work. It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ an illegal worker where there is reason to believe this is the case.

3.2 The case of East Lindsey District Council v Hanif (see Annex B) determined that in such circumstances, even without a prosecution, the crime prevention objective is engaged. The statutory Guidance issued under the Licensing Act provides that certain criminal activity (in particular employing illegal workers) should be treated particularly seriously and it is envisaged that the police will use the review procedures effectively to deter such activities and crime.

3.3. Home Office (Immigration Enforcement) submits that for commercial reasons, those engaged in the management of the premises employed illegal workers and a warning or other activity falling short of a review is inappropriate; this is why Home Office (Immigration Enforcement) has proceeded straight to review.

### 4. Outcome Sought

4.0. Home Office (Immigration Enforcement) asks that the premises licence is revoked. 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.

4.1. 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.

4.2. It is in such circumstances as this review application that a respondent may suggest that conditions are imposed which would prevent a reoccurrence of the employment of illegal workers in the future; an argument that the subcommittee should take remedial and not punitive action.

4.3. However, since 2006 (with the introduction of the Immigration, Asylum and Nationality Act 2006) employers have had a duty to conduct checks to ensure employees and potential employees are not disqualified from working. Only by completing the required checks and maintaining records of such checks can an employer demonstrate a 'statutory excuse' and evade liability for a civil penalty issued by Home Office (Immigration Enforcement). In order to protect themselves, reputable employers have been conducting these checks since 1996 when it first became a criminal offence to employ illegal workers.

4.4. The 2006 Act already imposes duties and responsibilities on a company or individual seeking to employ a person—whether in the licensed trade or otherwise - to conduct right to work checks.

4.5. In seeking revocation, Home Office (Immigration Enforcement) has considered and rejected conditions as an alternative, in part because this is specifically addressed paragraph 1.16 of the Guidance, viz: "(...) Licence conditions should not duplicate other statutory requirements or other duties, or responsibilities placed on the employer (my emphasis) by other legislation".

4.6. Conditions requiring an employer (or its agent) to undertake checks that are already mandated and where advice is readily available and clearly set out for employers, keep copies of documentation and to restrict employment until these checks are made etc. replicate the requirements of the 2006 Act and should be discounted.

4.7. Home Office (Immigration Enforcement) contends that a licence holder who has himself or through his agents negligently or deliberately failed to conduct right to work checks which have been a requirement since 2006 should not be afforded an opportunity to do so until caught and then merely be asked to do what they should have been doing already. Deterrence and not mere remedy is appropriate and is supported by case law (as set out within Annex B of this submission).

4.8. Respondents who fail to convince a subcommittee that the imposition of conditions to undertake proper right to work checks is a suitable alternative to a deterrent outcome often point to the option of suspension of a licence; pointing out that this may be a suitable punitive response instead which will deter others.

4.9. Often this will include claims that the business has 'learnt its lesson' and that since its criminal activity has been discovered it has reconsidered its position, brought in new procedures, 'parachuted in' consultants and new managers etc. On occasion it is hinted that the respondent will 'accept' a suspension as an alternative to revocation, assuaging an authority's concern that an appeal may otherwise be launched. This is not a deterrent - a suspension merely warns other

potential perpetrators that they may trade illegally until caught and then suffer only a brief hiatus in carrying out licensable activity before continuing with it. The risk of being caught is low so the consequence of being caught must be stiff in order to qualify as deterrence.

4.10. Home Office (Immigration Enforcement) would counter such claims and point to the continuing changes made to both immigration law and the Guidance (paragraphs 11 .26 — 11 .28) which point to a requirement to send a clear message to potential illegal immigrants that UK authorities will do all they can to prevent them finding illegal employment and a similar message to employers that those employing illegal workers will face severe disruption and penalties. There are simple processes (set out in section 6 of this submission) to avoid the hire of illegal workers and the legislative thrust is in avoiding the occurrence in the first place—not remedying the situation once discovered.

4.11. If it were not for criminally minded or complicit employers; illegal workers would not be able to obtain a settled lifestyle and deprive legitimate workers of employment. The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are often paid below the minimum wage (itself an offence) and National Insurance payments are not paid. The main draw for illegal immigration is work and low-skilled migrants are increasingly vulnerable to exploitation by criminal enterprises; finding themselves in appalling accommodation and toiling in poor working conditions for long hours for little remuneration.

4.12. 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.

## 5. Immigration Offences

5.1. 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 vocation/suspension of their premises licence.

5.2. 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.

5.3. 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”*.

5.4. 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.

5.5. 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.

5.6. In this context, under section 3(1)(C)(i) Immigration Act 1971 (as amended by the 2016 Act) restrictions are not limited simply to employment (i.e. paid work) but now includes all work.

5.7. Thus, an individual with no right to work in the UK commits offences if they undertake paid or unpaid work, paid or unpaid work placements undertaken as part of a course etc. are self-employed or engage in business or professional activity. For instance, undertaking an unpaid work trial or working in exchange for a nonmonetary reward (such as board and lodging) is working illegally and is a criminal offence committed by the worker and facilitated by the ‘employer’.

## **6. Steps to Avoid the Employment of an Illegal Worker**

6.1. It is a straightforward process for any employer, no matter how small, to prevent themselves employing an illegal worker. If an employer has failed to take even the most basic steps then Home Office (Immigration Enforcement) contends they have chosen to remain ignorant of the immigration status of their workforce and no amount of potential imposed conditions is sufficient, in our opinion, to avoid the legitimacy of revocation in proving a deterrent to others to the employment of illegal workers.

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

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

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

6.5. The first link (<https://www.gov.uk/check-job-applicant-right-to-work>) details general advice, checking the documents, taking a copy of the documents, what if the job applicant can't show their documents and provides details of an employers' telephone helpline. This page has a direct link to what documents are acceptable proofs of a right to work in the UK and also allows an employer to fill out an online enquiry about a named individual they are considering offering employment to. Appendix A sets the above out in some detail.

## 7. Relevance/irrelevance of a Civil Penalty or Prosecution

7.1. An employer found to have 'employed' an illegal worker may, dependent on culpability and the evidence available, be issued with a civil penalty or prosecuted or indeed neither.

7.2. Where an illegal worker is detected a civil penalty maybe issued against the employer in accordance with the Home Office Code of Practice on Preventing Illegal Working (May 2014). In the case of a civil penalty the balance of probabilities test applies whereas a prosecution requires a higher burden of proof.

7.3. However, to issue a civil penalty under section 15 Immigration, Asylum and Nationality Act 2006 the Home Office Code of Practice requires some proof that not only was an illegal worker working at the premises, but they were 'employed'. Usually this is taken as meaning the illegal worker was under a contract of service or apprenticeship, whether express or implied and whether oral or written.

7.4. But where an employee has not bothered with the basics of return to work checks, placed an employee on 'the books', paid the minimum wage or paid employer national insurance contributions - it becomes difficult to 'prove' the employment statement where the only evidence maybe the word of an illegal worker who has since been detained or who has 'moved on'.

7.5. In such cases where paid employment cannot be demonstrated, a civil penalty may not be issued even where the premises licence holder or his agent has facilitated a disqualified person committing an offence under section 24B Immigration Act 1971 (as amended by Immigration Act 2016) of working illegally.

7.6. This does not however prevent the crime prevention objective being engaged with as the premises licence holder has none the less facilitated a criminal offence taking place and the lack of checks suggests that in the past (and is likely in the future) has employed illegal workers. In drawing its conclusion, the subcommittee is entitled to exercise common sense and its own judgment based on the life experience so fits members. The East Lindsey case (see Annex B) provides that action (revocation) to prevent what is likely to happen in the future is legitimate.



# Appendix A – Right to Work checks

The first 4 ‘hits’ on a Google search for “right to work” are links to employer check lists and information on the GOV.UK website.

The second link is to the Home Office document; “An Employer’s Guide to Right to Work Checks” (published 16<sup>th</sup> May 2014 last updated 16<sup>th</sup> August 2017).

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

Specifically, the first link (<https://www.gov.uk/check-job-applicant-right-to-work>) provides as follows:

## General Advice

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

## Checking the Documents

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

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

## Taking a copy of the documents

When you copy the documents:

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

### **If the job applicant can't show their documents**

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

- you're reasonably satisfied that they can't show you their documents because of an outstanding appeal, administrative review or application with the Home Office;
- they have an Application Registration Card; or
- they have a Certificate of Application that is less than 6 months old  
Application registration cards and certificates of application must state that the work the employer is offering is permitted. Many of these documents don't allow the person to work.

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

### **Acceptable Documents**

A list of acceptable documents can be found via the link to

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441957/employers\\_guide\\_to\\_acceptable\\_right\\_to\\_work\\_documents\\_v5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441957/employers_guide_to_acceptable_right_to_work_documents_v5.pdf)



# Appendix B – Statutory Guidance & Caselaw

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

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

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

Home Office (Immigration Enforcement) submits that in the particular circumstances of cases where Immigration Compliance and Enforcement receive intelligence concerning the employment of illegal workers and act upon it; such warnings are inappropriate.

Not only would advance warning of enforcement activity prevent the detention of persons committing crimes and the securing of evidence; a warning after the event to comply with immigration legislation serves as no deterrent.

In particular; Home Office (Immigration Enforcement) submits that paragraph 11.10 of the Guidance must be read in conjunction with the more specific paragraphs relating to reviews arising in connection with crime (paras. 11.24 — 11.29).

Paragraph 77.26

*Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. (...). The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.*

Thus the financial hardship occasioned by the suspension or revocation of the premises licence should not sway the sub-committee but instead it should look at what is appropriate to promote the objective within the wider business and local community given “illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages” (Rt. Hon James Brokenshire, Immigration Minister on the introduction of the 2016 Act).

In particular; the sub-committee are asked to consider (below) the cases of R (Bassetlaw District Council) v Worksop Magistrates’ Court; [2008] WLR (D)

*350 and East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway), [2076] EWHC1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.*

Paragraph 11.27 of the Guidance states:

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

Home Office (Immigration Enforcement) would draw the sub-committee’s attention to the change in wording of this paragraph following the April 2017 revision of the guidance, where the previous reference to ‘knowingly employing’ was removed.

Paragraph 11.28 of the Guidance states:

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

Home Office (Immigration Enforcement) considers this paragraph self-explanatory; where an enterprise employs illegal workers, it is the duty of Home Office (Immigration Enforcement) to bring forward reviews and for the authority to consider revocation in the first instance.

In support of this statement; Home Office (Immigration Enforcement) would draw the subcommittee's attention to the "Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales" (Home Office) [April2017] where at section 4.1 it states;

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

Since the main draw for illegal migration is work, and since low-skilled migrants are increasingly vulnerable to exploitation at the hand of criminal enterprises, the government has strengthened enforcement measures and the statutory Guidance to deter illegal workers and those that employ them.

Deterrence is a key element of the UK government's strategy to reduce illegal working and is supported by both the Guidance and Case Law.

## Case Law

Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.

R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350.

*This was a case where a premises had sold alcohol to under age persons and subsequently the licensing authority suspended the licence. This was overturned on appeal to the Magistrates' Court and subsequently appealed to the High Court by the authority. The premises licence holder argued that they had a policy in place for checking the age of customers, but this was not a perfect policy and had not been adhered to and that rather than revoke the licence, instead stringent conditions on proof of age should instead be imposed on the licence.*

Issues relevant to the case before today's sub-committee which were considered in the *Bassetlaw* judgement included whether a licensing authority was restricted to remedial action (as opposed to punitive action such as revocation); and the precedence of wider considerations than those relating to an individual holder of a premises licence when certain criminal activities (as specified in the Guidance) took place.

It specifically examined (and set aside in the case of 'certain activities') those parts of the Guidance now contained within paragraph 11 .20 and 11 .23, viz:

*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. 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.*

In her judgement, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

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

Having confirmed the legitimacy of punitive measures (suspension/revocation) for offences listed in what is now contained within paragraph 11.27 of the Guidance, Mrs Justice Slade concerned herself with another aspect of the appeal—namely the imposition of conditions which were already present but not properly implemented (paragraph 34.1). In this case the appellant was suggesting that proof of age conditions (rather than revocation) could be imposed to ensure that the legal requirement not to sell alcohol to those under 18 years of age was met by him and his staff.

This has some similarity with any argument that may be put forward in the case before the subcommittee today that the imposition of conditions to check immigration status either directly or through an agency (*essentially a requirement since 2006 under the Immigration, Asylum and Immigration Act 2006*) would serve as sufficient remedy for the employment of illegal workers and negate a deterrent (suspension/revocation) being imposed by the subcommittee despite the wording of the Guidance at paragraph 11.28.

Mrs Justice Slade stated: *"The sixth new provision was acceptable identification to establish the age of a purchaser shall be a driving licence with photographs, passport or proof of age scheme card recognised by or acceptable by the licensing authority. I am told these provisions were already in place, but not properly implemented. No doubt those are perfectly sensible and appropriate provisions to be included on a licence. However, it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14-year-old girls"*.

Home Office (Immigration Enforcement) contends that in the case before the subcommittee the facts are similar. In the cited case straight forward, sensible enquiries could have been made as to the age of the children and the imposition

of additional conditions as a form of remedy was considered in appropriate by Mrs Justice Slade for 'those serious cases' set out in the Guidance.

In the case before the subcommittee, simple steps (set out at Appendix A) were available to prevent the employment of illegal workers -none were taken; the imposition of conditions to remedy this situation is inconsistent with the section 182 Guidance and this case citation. A negligent employer should expect revocation in the first instance.

*East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway), [2016] EWHC 7265 (Admin)*

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

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

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

Mr Justice Jay stated: *"The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required."* (Paragraph 18)

Mr Justice Jay added: *"Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked."* (Paragraph 23)

# Appendix C – Supporting Evidence

Witness Statement [REDACTED]	23
Witness Statement [REDACTED]	24
Witness Statement [REDACTED]	25

**OFFICIAL SENSITIVE (when completed)**

### WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9

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

--	--	--	--

Age if under 18    Over 18 .....    (if over 18 insert 'over 18')    Occupation:    Immigration Officer [REDACTED] .....

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

**Signature:** .....    **Date:**    15/11/2021 .....

I am an Immigration Officer based at the [REDACTED]. On Saturday 23/10/2021 I was on duty dressed in uniform when I went to Noble House Restaurant, 43 Osborne Road, Portsmouth PO5 3LS as part of an Immigration Enforcement visit. Our team arrived at the premises at approx. 20.40

The Officer in Charge of the visit was myself. Also present, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

I entered through the front door holding my Warrant card in my hand. At the briefing, I had directed [REDACTED], [REDACTED] & [REDACTED] to make their way directly into the kitchen on entry. A male who I now know to be Mr Albert CHOI immediately started shouting at us as we entered that we could not come in. I tried to explain that we were immigration Officers, the purpose of our visit and our power of entry but Mr CHOI was beside himself with rage and could not hear me such was his aggression and hostility towards us. He attempted to block [REDACTED] as he made his way to the kitchen and he followed me and my colleagues through the busy restaurant, shouting and haranguing us as we moved to the kitchen which was accessed via a doorway in the far right hand corner of a dining area. CHOI then started shouting at his kitchen staff in a foreign language and shortly after I learned that the staff were not engaging with our telephone interpreters. I continued to identify myself to CHOI as the Officer in Charge and serve the Notice to Occupier to him. CHOI made various threats about how much trouble I was going to be in, stating that he had powerful friends at Portsmouth City Council and also making comment regarding his lawyer who was going to take me to court. I also observed him mocking my colleague, [REDACTED]. At one-point CHOI got out his mobile phone and started videoing our Collar numbers. I invited CHOI to call the Police if he felt that we were illegally present on his premises. There were three kitchen workers present and waiting staff who were coming in and out of the kitchen. Eventually Home Office checks revealed that all three of the kitchen staff were illegally present in the United Kingdom and had no permission to work in the UK. At this point I asked Mr CHOI to consider telling his customers that there would be no food that evening as his chefs were all under arrest. Only at this time did Mr CHOI begin to calm himself and I instructed [REDACTED] to conduct an illegal working interview with CHOI. It was by now around forty minutes after our arrival and the customers had all begun to leave. Officers began conducting Interviews with my team but still refused to give a place of abode. Over an hour went by before CHOI admitted that they all lived in a flat above the restaurant. At around 22.55, all Officers departed the restaurant and as I left, I provided Mr Choi with a leaflet explaining the Home Office complaints procedure. I have had no further dealings with Mr CHOI.. IO 9080

**Signature:** .....    **Signature witnessed by:** .....

Continuation of Statement of .....

[Empty rectangular box for content]

Signature: ..... Signature witnessed by: .....



Continuation of Statement of .....

[Empty rectangular box for statement continuation]

Signature: ..... Signature witnessed by: .....

**Witness contact details**

URN: / / /

Name of witness: .....

Home address: ..... Postcode:.....

Email address:..... Mobile:.....

Home telephone number:..... Work telephone number:.....

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

Gender:..... Date and place of birth:.....

Former name: ..... Ethnicity Code (16 + 1): .....

**DATES OF WITNESS NON-AVAILABILITY:** .....

**Witness care**

- a) Is the witness willing to attend court? Yes  No  If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance? .....
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)  
Yes  No  If 'Yes', submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes  No  If 'Yes', what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the Home Office...." Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A   
I would like the CPS to apply for reporting restrictions on my behalf. Yes  No  N/A

*I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court.*

Signature of witness: ..... PRINT NAME: .....

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

Address and telephone number if different from above:.....

Statement taken by (*print name*): ..... Station:.....

Time and place statement taken: .....

### WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9

Statement of [REDACTED]

URN: [REDACTED]

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

This statement (consisting of: ...2 ..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [REDACTED] ..... Date: 24/10/2021 .....

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

I [REDACTED] have been employed as an Arrest Trained Immigration Officer since May 2006, by the Home Office. I currently serve with the [REDACTED] and Enforcement Team.

On the evening of Saturday 23<sup>rd</sup> October 2021, I was on duty in full uniform.

When with Officers of the [REDACTED] and Enforcement I attended Noble House, 43 Osborne Road, Portsmouth Hampshire PO5 3LS.

I entered the premise at approximately 20:40

I was the second officer through the main door.

I had been tasked with Officer [REDACTED] to proceed directly to the kitchen area.

I was proceeding toward the kitchen when a male I recognised as Mr ALBERT CHOI approached us waving his hands loudly stating 'You cannot be here you have no warrant' I stated I was an Immigration officer and the Officer behind would speak with him, I gestured to the Officer In Charge (OIC)

[REDACTED]. I moved to step past Mr Choi who had now put his hand on my chest. I requested Mr Choi to remove his hand and allow me past. He did not and continued to shout 'You have no right you cannot be here on Saturday night' I tilted round him and continued to the kitchen area.

I reached the kitchen which was full of staff, two waiting staff, one female and one male, three kitchen staff, two males and a female, both males were wearing Kitchen smocks under their aprons. One of the males was cooking on the grill, one was in the far rear corner preparing ingredients the female was

Signature: [REDACTED] ..... Signature witnessed by: .....

Continuation of Statement of [REDACTED]

initially at the sink. I had my warrant card in my right hand and had just shown it to the staff stating loud enough to be heard 'Immigration Officer'

I turned sideways to completely enter the kitchen. A hand came from my left gripping my right wrist, this was Mr CHOI who now shouted 'You cannot speak to them. No one must speak to them they have no right say nothing. You cannot be here' I rotated my right wrist so my palm was now upwards, I extended my left hand engaging Mr CHOI's right upper arm sufficient to break his grip I stated 'Let go do not grab me again'

Officer In Charge [REDACTED] was at this point able to gain Mr CHOI's attention

I began trying to engage with the staff. The male waiter stated he was unsure what he should do because the Boss didn't want anyone speaking to us. I explained we were Immigration Officers and were using a power of entry under the licensing act.

There followed several minutes where the Kitchen staff would not engage with us through [REDACTED] telephone interpreters.

Mr CHOI returned to the kitchen several times insisting he should interpret for the staff as in his view the telephone interpreters were not up to the task. He continued to engage directly with the staff in a language I believe to be [REDACTED]

Once we had ascertained the identities of the kitchen workers, we were able to verify that none had permission to live or work in the United Kingdom.

Signature: .. [REDACTED]

Signature witnessed by: .....

**Witness contact details**

URN:

Name of witness: [REDACTED]  
 Home address: [REDACTED]  
 Email address: [REDACTED] Mobile: [REDACTED]  
 Home telephone number: [REDACTED] Work telephone number: [REDACTED]  
 Preferred means of contact (specify details for vulnerable/intimidated witnesses only):  
 Gender: [REDACTED] Date and place of birth: Manchester [REDACTED]  
 Former name: [REDACTED] Ethnicity Code (16 + 1): [REDACTED]

**DATES OF WITNESS NON-AVAILABILITY:**

**Witness care**

- a) Is the witness willing to attend court? Yes  No  If 'No', include reason(s) on form MG6.
- b) What can be done to ensure attendance? .....
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)  
 Yes  No  If 'Yes', submit MG2 with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes  No  If 'Yes', what are they? (Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?)

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the Home Office..." Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter (obtained in accordance with local practice) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A   
 I would like the CPS to apply for reporting restrictions on my behalf. Yes  No  N/A

*I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court.*

Signature of witness:..... PRINT NAME: [REDACTED]  
 Signature of parent/guardian/appropriate adult:..... PRINT NAME: .....

Statement taken by (print name): [REDACTED] Station: [REDACTED]  
 Time and place statement taken: 0330 24/10/21 [REDACTED]



**RESTRICTED (when completed)**

**WITNESS STATEMENT**

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

Statement of [REDACTED]

Age if under 18      Over 18      (if over 18 insert 'over 18')      Occupation:      Immigration Officer  
Warrant No: [REDACTED]

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

Signature: [REDACTED] ..... Date: 25<sup>th</sup> October 2021

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

I am Arrest Trained Officer and a member of [REDACTED] Arrest Team. On Saturday 23rd October 2021, I attended on an intelligence led enforcement visit, EV19-806,572 to Noble House, 43 Osborne Road, Southsea, PO5 3LS. Power of Entry to the premises was to be gained under the power of Section 179 Licensing Act 2003. My role was as Arrest Officer 3, along with Officer [REDACTED]. On arrival at the premises at 20:38, I was I and Officer [REDACTED] were instructed by [REDACTED] to provide cover to rear of premises accessed by a short alley from Serpentine Road. I took up position at the rear by an open window from the kitchen, from which I could hear at least two voices of persons and the sound of activity associated with food preparation. The remainder of the team gained lawful entry to the premises from the front, Osborne Road Entrance and at this point Officer [REDACTED] and I attempted to gain access to the rear by use of a wooden door, marked as a Fire Exit this door was locked and we were unable to gain access. At this point I heard raised voices, one of the voices I recognised as Officer [REDACTED], the other voice was unknown to me, but was raised and accusing Officer [REDACTED] of not being legally on the premises. At this point I was instructed by [REDACTED] to enter the premises and walked round to front entrance in Osborne Road, entering the premises at 20:40, I made my way to the kitchen at the rear where I observed Officer [REDACTED] engaged in a heated discussion with a male who I identified as the unknown voice heard earlier, who I now know to be the restaurant owner Albert CHOI, [REDACTED]. I also observed two males, both dressed in chefs' whites and a female, wearing an apron all of whom were engaged in food preparation. I attempted to engage with one of the males working at the stove, however Mr CHOI stated shouting at the staff, in a language unknown to me and as such the male was unresponsive. Mr CHOI continued to address me in a raised voice, saying that he could provide me with the names of the three persons, I responded to his request by asking him to write their names in my jotting notepad, which I evidence as

Signature: ..... Signature witnessed by: .....

Continuation of Statement of [REDACTED] .....

[REDACTED]. The names were written as Mr [REDACTED], Mrs [REDACTED], [REDACTED] and Mr [REDACTED], I asked Mr CHOI their nationality and he told me [REDACTED]. I then attempted to search for these names using Home Office systems, whilst I was attempted this Mr CHOI was addressing me in a raised voice telling me that I was not conducting my duties in a legal or efficient manner, I informed Mr CHOI that I was within my legal right to be present on the premises and that I was conducting my search in an efficient manner. I was unable to trace any record of two of the names supplied by Mr CHOI, but I had a positive trace on [REDACTED].

Records showed that he [REDACTED]

[REDACTED]. He has [REDACTED] he is therefore considered an Overstayer an offence under 24(1)(b)(i) Immigration Act 1971 aa. In view of this I contacted a Big Word, [REDACTED] interpreter, No: [REDACTED] and having established that he had made no further applications to extend his required leave in the United Kingdom I arrested [REDACTED] under 17(1) Immigration Act aa as a suspected Overstayer.

At this point I removed [REDACTED] from the kitchen area and further questioned in the restaurant area. After this point I had no further interaction with Mr CHOI

Signature: ..... Signature witnessed by: .....



**RESTRICTED – FOR POLICE AND PROSECUTION ONLY**  
**(When complete)**

Home address: United Kingdom Border Agency, [redacted] .....  
Postcode: [redacted] .....

Home telephone number ..... Work telephone number [redacted] .....

Mobile/pager number ..... Email address: .....

Preferred means of contact: .....

Male ..... Date and place of birth: [redacted] .....

Former name: ..... Height: [redacted] ..... Ethnicity Code: [redacted] .....

Dates of witness non-availability  
**24<sup>th</sup> - 29<sup>th</sup> January, 16<sup>th</sup> -18<sup>th</sup> March & 6<sup>th</sup>- 11<sup>th</sup> June 2011** .....

**Witness care**

- a) Is the witness willing and likely to attend court? Yes. If 'No', include reason(s) on MG6. What can be done to ensure Attendance? .....
- b) Does the witness require 'special measures' as a vulnerable or intimidated witness? No. If 'Yes' submit MG2 with file.
- c) Does the witness have any specific care needs? No. If 'Yes' what are they? (Healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?) .....

**Witness Consent (for witness completion)**

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes  No
- c) I consent to police having access to my medical records in relation to this matter: Yes  No  N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes  No  N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: .....

Statement taken by (print name): [redacted] .....

Station: [redacted] .....

Time and place statement taken: 14:00 11<sup>th</sup> November 2010, [redacted] .....

Signature of witness: .....

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WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9

Statement of [redacted] ..... URN: [ ] [ ] [ ] [ ]

Age if under 18 Over 18 ..... (if over 18 insert 'over 18') Occupation: Immigration Officer [redacted] .....

This statement (consisting of: .... 2..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [redacted] ..... Date: 30/10/2021 .....

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

I, [redacted] Immigration Officer [redacted] am an arrest trained Immigration Officer, currently based with the Home Office [redacted] Enforcement Team.

On the 23rd of October 2021 I attended Noble House, 43 Osborne Road, Portsmouth, PO5 3LS as part of an Enforcement Visit with the view to locate and interview alleged illegal workers. Event reference on the PRONTO application is: EV19-806,572.

- On Duty at the time were the following staff;
Officer in Charge Immigration Officer [redacted]
Arrest 1. Immigration Officer [redacted]
Cover 1. Immigration Officer [redacted]
Arrest 2. Immigration Officer [redacted]
Cover 2. Immigration Officer [redacted]
Arrest 3. Immigration Officer [redacted]

My role as Arrest 1 was to enter the premises and head straight to the kitchen to contain any staff members encountered working in the kitchen. We had the power of entry under Section 179 of the Licensing Act 2003.

I entered the premises at 20:35 [redacted] and myself were instantly confronted by a male who I later learnt to be Albert CHOI the owner of Noble House, he was immediately hostile towards officers including myself where he raised his voice and told us to get out. He used his body to block officers from conducting their duties. There were two routes between the bar and tables to get to the kitchen area of the premises, [redacted] and myself headed down the route not blocked by CHOI to get to the kitchen area. Between the restaurant and the kitchen was a narrow corridor and two doors. As I entered the kitchen through the second door and saw 3 people working in the kitchen I received an airwave transmission from [redacted] warning me that CHOI was on his way to the kitchen area as the transmission ended the first door swung open and CHOI rushed through. It was clear at this moment that CHOI was trying to relay a message to his staff in the kitchen as he shouted to them in [redacted], I am unable to translate what he was saying but the kitchen staff acknowledged the message and carried on as they were barely acknowledging our presence at first. At this time I was stood in the second doorway, the area was very narrow and CHOI was on top of me in his attempts to reach the kitchen, physical contact was made by CHOI, he used his body to try and move me out of the way.

I wished to carry on with my duties and conduct initial examinations of the people in the kitchen, this was made difficult for multiple reasons; firstly it was an industrial kitchen space therefore noisy and cramped conditions, secondly the kitchen workers spoke very little English and finally I believe that the message CHOI had managed to get to his staff had an effect

Signature: [redacted] ..... Signature witnessed by: Self.....

Continuation of Statement of [REDACTED] .....

on how they were acting. At the time of my first initial examination (approx. 20:55hrs) CHOI was now inside the kitchen, CHOI was being extremely disruptive and to me it seemed he was attempting to assert his dominance over the situation, I could hear [REDACTED] explaining the purpose of our visit and the legal basis for our entry to the premises and CHOI was not listening to him, he continued to tell us we were on the premises illegally and trying to make us leave despite the explanations offered to him.

I am unaware if it was requested or presented but CHOI provided officers with a hand-written note of the names and dates of birth of the staff inside the kitchen area for us to conduct our checks, despite this not being ideal it did allow us to begin the process and began the engagement with the staff in the kitchen.

I am unaware of the exact time but I moved my interview to the restaurant as there were now no customers left, I sat my interviewee down at the table closest to the kitchen in the restaurant area and before I had moved around the table CHOI had positioned himself on the opposite side which was within earshot of the majority of interviews that were happening at the time. I do not know if this was deliberate or coincidental but my interviewee was certainly aware of his presence and did not become any more forthcoming or helpful at this time.

As it transpired, we moved our interview location back to the office at [REDACTED], as per [REDACTED] request, we departed Noble House at 22:55.

[REDACTED]

Signature: [REDACTED] Signature witnessed by: Self .....

**Witness contact details**

URN: / / /

Name of witness: .....

Home address: ..... Postcode:.....

Email address:..... Mobile:.....

Home telephone number:..... Work telephone number:.....

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

Gender:..... Date and place of birth:.....

Former name:..... Ethnicity Code (16 + 1): .....

**DATES OF WITNESS NON-AVAILABILITY:** .....

**Witness care**

- a) Is the witness willing to attend court? Yes  No  If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance? .....
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)  
Yes  No  If 'Yes', submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes  No  If 'Yes', what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the Home Office...." Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A   
I would like the CPS to apply for reporting restrictions on my behalf. Yes  No  N/A

*I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court.*

Signature of witness: ..... PRINT NAME: .....

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

Address and telephone number if different from above:.....

Statement taken by (*print name*): ..... Station:.....

Time and place statement taken: .....

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**Portsmouth**  
CITY COUNCIL

# PREMISES LICENCE

## Licensing Act 2003

### Part 1 – Premises Details

#### Postal address of premises, or if none, ordnance survey map reference or description

**Address:** Noble House Restaurant  
43 Osborne Road  
Southsea  
PO5 3LS

**Map Ref (E) :** 464160  
**Map Ref (N):** 98798  
**UPRN:** 001775062201

#### Telephone

#### Where the licence is time limited the dates

This licence is **NOT** time limited

#### Licensable activities authorised by the licence

- ▶ Sale by retail of alcohol
- ▶ Late night refreshment
- ▶ Playing of recorded music

#### The times the licence authorises the carrying out of licensable activities

- ▶ Sale by retail of alcohol  
Monday to Saturday 10:00 until 23:00
- ▶ Playing of recorded music  
Monday to Sunday 00:00 until 23:59
- ▶ Late night refreshment  
Sunday 23:00 until 23:59  
Monday to Saturday 23:00 until 00:30

#### The opening hours of the premises

- ▶ Sunday 12:00 until 23:59
- ▶ Monday to Saturday 10:00 until 00:30

#### Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both **on** and **off** the premises

### Part 2

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

**Name:** Mr Albert Ion-Chun Choi

**Address:** 43 Osborne Road  
Southsea PO5 3LS

**Telephone:**

**Email:**

**Registered number of holder, for example company number, charity number (where applicable)**

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol**

**Name:** Mrs Mei Kan Lucy Choi

**Address:** [REDACTED]

**Telephone:**

**Email:**

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol**

**Personal Licence No:** [REDACTED]

**Issuing Authority:** Portsmouth City Council

Granted by Portsmouth City Council, as licensing authority pursuant to the Licensing Act 2003 as amended and regulations made thereunder

**Date Licence granted:** 8 November 2005

**Date last amended:** 8 November 2005

**Type:**



[REDACTED]  
Signed on behalf of the Head of Service  
(Authorised Officer)

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This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk) and search for 'National Fraud Initiative'.



## Annex 1 – Mandatory Conditions

01 No supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

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

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

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

04 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

05 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) 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 either:

- (a) a holographic mark, or
- (b) an ultraviolet feature.

06 The responsible person must 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: 1/2 pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

07 (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where -

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or  
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**-- END --**

**Annex 2 – Conditions consistent with the operating schedule**

01 Alcohol shall not be sold or supplied on Good Friday and Christmas Day except during permitted hours. In this condition permitted hours means:

Good Friday from 12:00 until 22:30 hours;

Christmas Day from 12:00 until 15:00 and 19:00 until 22:30 hours.

02 The permitted hours for the provision of licensable activities as authorised by this licence are:

on New Year's Eve, except on a Sunday from 10:00 until 23:00 hours or on New Year's Eve on a Sunday from 12:00 until 22:30 hours and;

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day, which would be 10:00 hours if New Year's Day falls on a weekday or 12:00 hours on a Sunday.

03 Alcohol may be sold or supplied for one hour following the hours set out in this Licence and on Christmas Day, between 15:00 hours and 19:00 hours to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply."

04 The permitted hours restrictions do not prohibit during the first thirty minutes after the cessation of the sale or supply of alcohol, the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals.

05 Suitable beverages other than alcohol (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

06 In accordance with paragraphs 6(8) and 18 (5) of Schedule 8 of the Licensing Act 2003, the licence holder shall have regard to the statutory provisions contained within the Children and Young Persons Act 1933 (as amended).

**-- END --**

**Annex 3 – Conditions attached after a hearing by the licensing authority**

-- END --

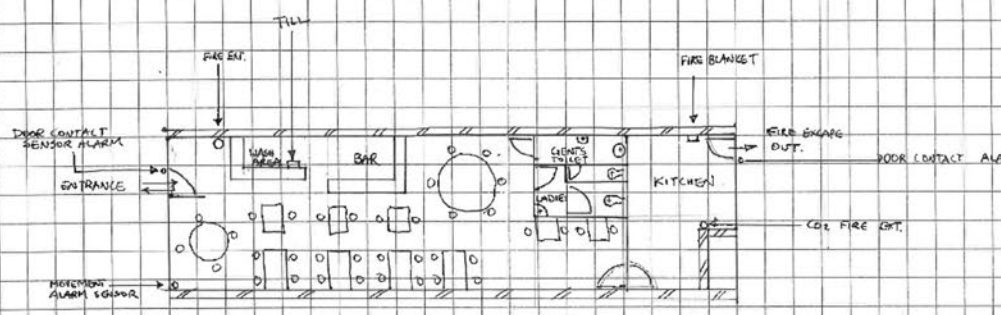


**Annex 4 – Premises and location plan**

**Premises Plan(s)**

These will either be shown below or attached as a separate part of the premises licence authorisation.

**When making an application for a licence you need to provide a floor plan for your premises. You can use this to draw your own.**

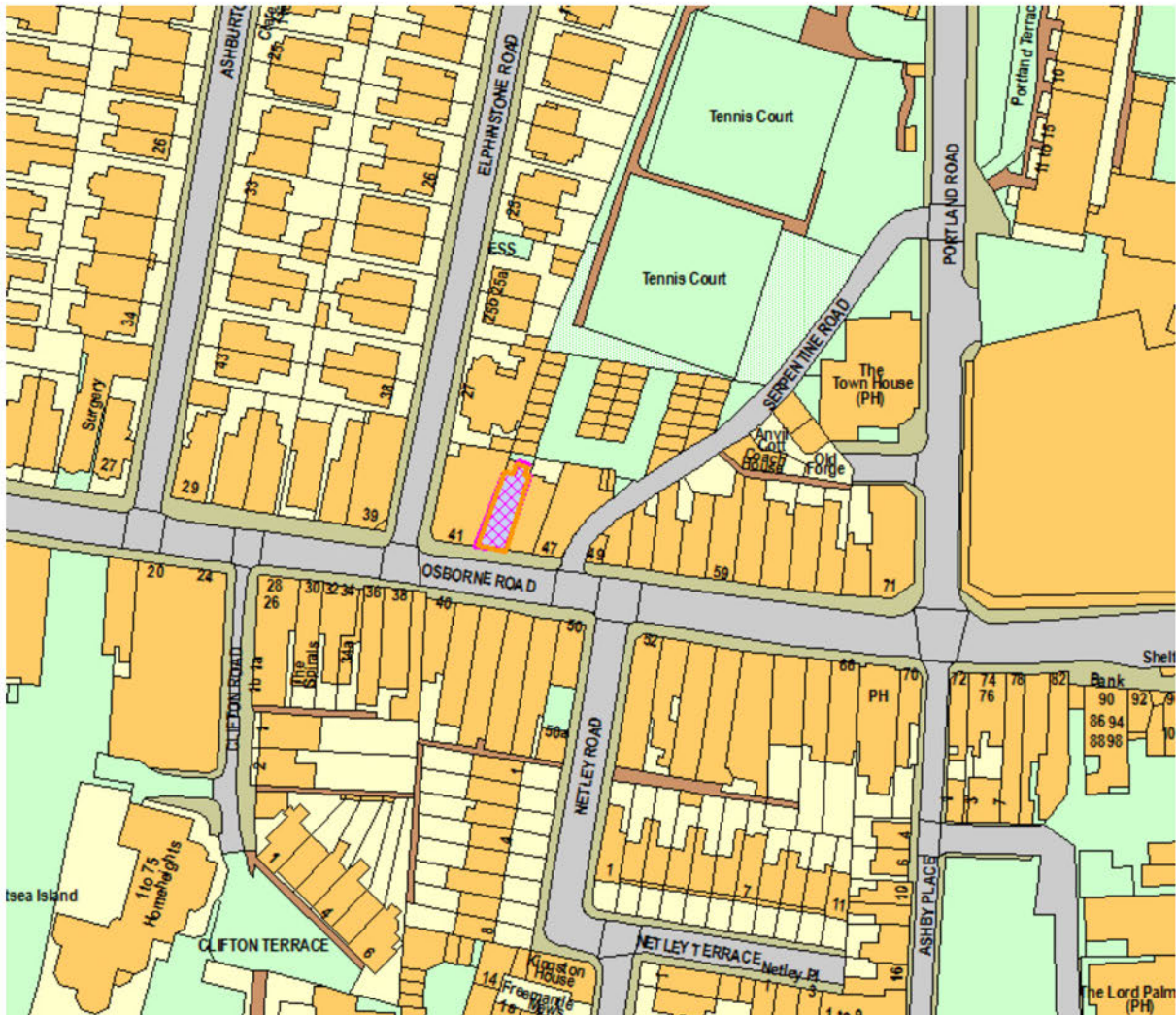


**Use this sheet to draw your own plan of your whole premises:**

- The scale should be 1:1 (1:1000).
- Outline the boundary of your premises.
- Stairways, lifts, exits, exits and escape routes.
- Fire safety equipment: fire extinguishers, signs, blankets, extinguishers and alarm sounding location of push push button etc. including fire excluded by.
- Shop fixtures, counter and location of till.
- Location of toilets and car park if they are open to the public.
- Location of a kitchen or staff room if there is one on the premises.

**Name:** NOBLE HOUSE, 43 OSBORNE ROAD  
**Plan No:** 1/1.000  
**Date:** 6<sup>th</sup> AUG 2005

**Location Plan: 43 Osborne Road Southsea**



REPRODUCED FROM THE ORDNANCE SURVEY MAPPING WITH PERMISSION OF THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © CROWN COPYRIGHT. UNAUTHORISED REPRODUCTION INFRINGES CROWN COPYRIGHT AND MAY LEAD TO PROSECUTION OR CIVIL PROCEEDINGS. LICENCE AGREEMENT NUMBER LA100019671- PORTSMOUTH CITY COUNCIL

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**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I PC 21451 Peter Vincent, on behalf of the Chief Officer of Hampshire Constabulary,  
(*Insert name of applicant*)

- Apply for the review of a premises licence.
- Apply for the review of a club premises certificate.
- (*Select as applicable*)
- Make a representation about a premises licence/club premises certificate

**Premises or Club Premises details**

Postal address of premises:	The Noble House 43 Osborne Rd Southsea Hampshire
Postcode ( <i>if known</i> ):	PO5 3LS

Name of premises licence holder or club holding club premises certificate ( <i>if known</i> ) Mr Albert Ion Chun Choi
--

Number of premises licence or club premises certificate ( <i>if known</i> ) LAPREM/6124
--

**Details of responsible authority applicant**

Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank: PC	
Surname: Vincent First Names: Peter	
Current postal address : Postcode:	Police Licensing Portsmouth City Council Civic Offices Guildhall Square Portsmouth PO1 2AL
Daytime telephone number:	██████████
E-mail address: ( <i>optional</i> )	██



**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

Page 2 of 5

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

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

- Select one or more  
boxes*
- |   |                                     |
|---|-------------------------------------|
| 1) The prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) Public safety                        | <input type="checkbox"/>            |
| 3) The prevention of public nuisance    | <input type="checkbox"/>            |
| 4) The protection of children from harm | <input type="checkbox"/>            |

Please state the grounds for review which must be based on one or more of the licensing objectives together with supporting information:

The Chief Officer of Police is supporting the review application made by Immigration enforcement in relation to The Noble House restaurant 43 Osborne Road Southsea PO5 3LS. This is because both the Premises licence holder and the designated premises supervisor have failed to promote the Licensing objectives. Namely the prevention of Crime and Disorder.

The reason for this representation is to highlight serious concerns regarding the working practices at Noble House involving the employment of illegal workers.

The immigration enforcement team have provided evidence showing the following:

The DPS and premises licence holder employing three kitchen staff who were illegally present in the United Kingdom and had no permission to work in the country.

The same three illegal workers were residing above the restaurant in a flat controlled by the premises licence holder.

The reaction of the premises licence holder to immigration officers lawfully conducting their work at the premises and being obstructive and aggressive. As well as appearing to be controlling and coercive towards the illegal workers identified by immigration officers.

The threats made by the premises licence holder to use his association with people of influence in an attempt to prevent the immigration officers conducting their lawful duties.

A previous immigration visit in 2012 found workers in similar circumstances.

As a result of this incident immigration offences have been committed and immigration colleagues have dealt with this under their policies and process.

The evidence from immigration officers suggests that the premises licence holder had an element of control over the three persons identified by immigration officers to be illegally present and illegally working at the restaurant by trying to influence the workers during interviews taking place.



**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

Page 4 of 5

The interviews with the illegal workers suggest elements of coercive and controlling behaviour by the premises licence holder. This also highlights serious concerns regarding human trafficking and modern day slavery.

The Chief Officer of Police has major concerns in relation to this incident which casts serious doubt on the premises ability to promote the Licensing Objectives, notably the prevention and crime and disorder.

The premises licence holder through his actions has broken the law whilst putting extremely vulnerable people at risk for his own personal gain.

This is completely unacceptable.

The Chief Officer of Police has considered what action the committee could take in relation to this review.

Given the nature and severity of the actions of the premises licence holder which have seriously undermined the licensing objectives the police position is that no measures could be imposed upon the licence which would satisfy us that the premises could promote the licensing objectives. As such we respectfully request that consideration is given to revocation of the premises licence.

Have you made an application for review relating to these premises before:  Yes |  No

If yes please state the date of that  
application:

/      /  
*Day      Month      Year*

If you have made representations before relating to this premises please state what they were

**Please tick**

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 have sent a copy of this representation to the principal licensing officer of Portsmouth City Council

**It is an offence, liable on conviction to a fine up to level 5 on the standard scale, under Section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application**

Signature of Officer Completing



**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

Page 5 of 5

Name	<u>PC Peter Vincent</u>	Collar Number:	<u>21451</u>
Signature:	<u>P J Vincent</u>	Date:	<u>16/02/2022</u>

Signature of Authorising Officer

Name	<u>A/PS Rackham</u>	Collar Number:	<u>21945</u>
Signature:	<u>P.Rackham</u>	Date:	<u>16/02/2022</u>

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## Appendix D

Good Afternoon

I am the Landlord of 43 Osborne Road, Southsea, Portsmouth..

Mr Albert Choi of Noble House has been my tenant at this property for 15 years.

During this time Mr Choi has been an exemplary tenant, completely trustworthy and reliable.

Mr Choi operates a highly regarded restaurant and is well known and regarded throughout the city.

I have no hesitation in supporting the maintenance of his premises licence.

Regards

Mr M H Ahmed

Landlord

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## **Appendix D**

Review Reference 22/01282/LAREVI

Message of Support for Albert Choi

With regard to the Review referenced above, we would like to express our support for Albert Choi. The Choi family have been a continuing influence for good in the social and cultural life of Southsea. They have maintained a high standard establishment for these many years, a notable achievement in a volatile era and sphere of business where 'here today, gone tomorrow' has become an all too frequent occurrence.

We would implore the reviewing committee to take a reasonable stance in respect of Albert Choi's record of public and business service.

Regards

Richard & Gaetana CAREY

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## Appendix D

Review Reference Number 22/01282/LAREVI

In Regards Albert Choi – Noble House Chinese Restaurant, Osborne Road, Southsea, Portsmouth.

In both a personal and professional capacity, me and my family have known Albert Choi for almost 10 years.

In my previous position as CEO of Portsmouth Football Club, Albert was always a strong supporter of various charity events held at Fratton Park, and it was my pleasure to accompany him, along with senior representatives from Portsmouth City Council, on a 2018 business friendship/development trip to Hong Kong, Macao, and China.

Albert has been a strong advocate of assisting UK based individuals and companies based upon his knowledge and connections within China, and more generally, to my knowledge, has always been only too happy in supporting local businesses whenever asked.

I hope this brief insight into my opinions and experiences of knowing Albert over a near 10-year period proves to be of assistance in any decision that you may need to take.

Regards,

Mark Catlin

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## APPENDIX D

**From:** Mason, Hugh (Cllr)  
**Sent:** 06 March 2022 20:01  
**To:** Licensing Shared Email  
**Subject:** 22/01282/LAREVI - Noble House

**Re: Review of the Licence for the Noble House - 22/01282/LAREVI**

I should be grateful if the following observation could be brought to the attention of the Sub-Committee.

I have been a frequent patron of the Noble House for many years.

I have always found that Mr Choi and his family run a very well ordered establishment which meets, so far as I can ascertain, all four licensing objectives. It is certainly a place to which one could safely take young children. It causes neither nuisance nor discord in the neighbourhood. Mr Choi, his family and his staff are always careful when selling alcohol to patrons.

So far as the alleged misdemeanours are concerned, I have long been aware that Mr Choi provides accommodation for legitimate asylum seekers who are prohibited from taking paid employment and have little or no recourse to public funds. While Mr Choi has never sought to hide this fact, he has equally never publicised the assistance which he provides. I understand that the people whom he accommodates have limited knowledge of the English language and thus might not be understood in another environment.

A report has appeared in the press that Mr Choi boasted that he "had friends in high places". This would be totally out of character. I have learned over the years from the local Chinese community that Mr Choi is indeed well respected by the Chinese Embassy and that very senior officials have dined at his restaurant. I have also gathered that leading members of the Hampshire community are amongst his patrons. He, however, has never told me of this and certainly not boasted of the fact.

I trust that these observations will be of assistance to the Sub-Committee.

Hugh Mason  
Councillor for Saint Jude Ward

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## Appendix D

Review Reference 22/01282/LAREVI

Letter of support,

To whom it may concern,

Albert Choi has been a pillar of the local community for many many years. He has served as Chairman of the Portsmouth Chinese Association, Helped the city with its twinning links with Zhuhai and Zhanjiang in China, actively involved himself in helping with fundraising for the Lord Mayors appeals each year raising many thousands for good causes and has been a very kind donator to many local Charities both in hosting events at Noble House and in financial contributions. He is well known for volunteering as a translator to help with members of the Chinese community in dealing with a myriad of issues and also to help Asylum seekers with their paperwork and interviews. He has led official council and business community events to China and recently was involved in promoting the take up of vaccinations amongst the Chinese community.

His restaurant has long been a popular cultural feature in the city and is renowned for its cultural celebrations and has also acted as a cultural hub for the local Chinese population hosting the Chinese Dancing Ladies and various groups of Chinese elders. He has frequently organised Chinese new year shows and other large scale cultural events in the Guildhall and the Kings Theatre and has treated the performers to hospitality at his restaurant. It is a key anchor in the cities dynamic offering.

I have full faith and trust in Albert Choi and his running of the Noble House restaurant and I am in full support of him retaining his premises licence and it continuing to serve the residents of this city.

Regards

Cllr Lee Mason

c/o Civic Offices

Guildhall Square

Portsmouth

PO1 2AL

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## Appendix D

22/01282/LAREVI

To Whom it May Concern

I would like to submit my support for Albert Choi and submit a character reference on his behalf

I have worked with Albert over many years on various community boards to support the City of Portsmouth. Albert's commitment to the City and the community is unwavering, his actions and deeds have demonstrated dedicated support for so many.

His work with the BME groups and the Chinese Association across the South Coast is admirable. Albert works hard to connect businesses and people and is always promoting Portsmouth in everything he does.

Albert is a loyal, kind and honest man whom I am proud to know and call a friend and colleague.

Upon reading the report left under the above reference I would ask, why would you enter a business at the most busiest time and on the most important day for a hospitality business and disrupt service and cause the most economic and reputable damage? Why would you hurt a small independent business at the most crucial time of the week when still trying to recover from Covid shut downs? Was there not a more suitable time and day?

I would as a small business owner be desperately upset if someone disrupted my business at it's most critical time in front of customers and with orders needing to be fulfilled.

I believe Albert Choi of sound charter and a reputable business owner.

Yours sincerely

Caroline

Caroline Collings-Wood

**Chief Executive Officer**

Area Lead for Hampshire and IOW FSB

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## Appendix D

To the members of the Licensing Committee

I'm writing in reference to Albert Choi and the licence of the Noble House restaurant.

I am not writing in any way to comment on the findings of the Immigration Officials in this case. What I am doing is to put on record the support to the community of Portsmouth that Mr Choi has given so that the committee has a more rounded impression of the impact that Mr Choi has on this community.

From the start can I say that I do not condone any breach of the law, nor of immigration rules.

Mr Choi has made a very significant contribution to the life of this city. I'd like to highlight three areas in my letter to you.

The first has been the support that Mr Choi has given to the city during the Covid outbreak. Mr Choi organised donations of PPE from his contacts in our twin cities in China so that those who were most vulnerable were able to get face masks when they were in short supply.

We have also had a major problem with some members of ethnic minority groups getting vaccinated in Portsmouth. Mr Choi organised and publicised an NHS free vaccination centre for unvaccinated people at the Portsmouth Chinese Association centre in North End.

The second area has been the links that he has built up between Portsmouth and cities in China. In a completely volunteer capacity, he has organised both twinning visits and trade missions to our twin cities in China. He has given his time for free and paid his own flights to help build these links so that links can be made between Portsmouth and China. The University, St John's College and Portsmouth Grammar School have all benefited from the links that Mr Choi has built up.

Finally, Mr Choi has been happy to support various local charities at the Noble House Restaurant. Local good causes have benefited from many thousands of pounds of donations that have come through the events Mr Choi has put on.

In coming to your decision today I hope you can keep in mind these benefits to the local community that Mr Choi has given to the local community and that your decision reflects not only what has gone wrong in this case but also the benefits to the local community that Mr Choi has given.

Yours sincerely

Mr David Fuller

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## Appendix D

22/01282/LAREVI

As a publican and local business person in Southsea since 1994 I have known Albert for all of this time.

Albert has always been a prominent member of the community doing lots of work for local charities and always supporting charity nights that I have done with vouchers etc. He has also always supported the Mayor and the Town council unwaveringly.

He led a delegation to China recently and has helped to put Portsmouth on the map. Albert is a local hero.

I believe that Albert understands licensing and should not lose his licence - I do not believe that The Police or the local council have had any concerns so I think that a national body should not be calling for revocation of a licence.

Steve Hudson

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## APPENDIX D

From: Jonathon Band  
Sent: 07 March 2022 09:46  
To: Licensing Shared Email  
Subject: Character Reference for Albert Choi

Reference 22/01282/LAREI

To whom it may concern.

I have known Mr Choi for some 20 Years. He runs an excellent high standard restaurant, provides thoughtful leadership to the City's Chinese community and promotes the City. He is an individual of good character and behaviour and I have no hesitation in supporting the maintenance of his licence.

He was mortified back in Oct when he was not able to meet an obligation to provide a large takeaway order in support of a family birthday event because of an allegation made against his restaurant.

Yours faithfully

Sir Jonathon Band



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## APPENDIX D

Review Reference Number: 22/01282/LAREVI

Dear Sirs,

Following the recent visit from Immigration Officers to the Noble House Chinese Restaurant in Osborne Road, Southsea, I would firstly like to say that I completely support Immigration Officers in the work they do. If we did not have such procedures and laws to prevent illegal workers in this country, I can't imagine what a mess we would be in. So well done to those involved.

I am also a good friend of Albert Choi and his family. I have know Albert and his wife Saundrine for 27 years, both are very proud parents and very dedicated to work (Noble House). I was shocked to read the article in the Portsmouth News, given Albert's professionalism and attention to detail. Although I have not spoken to Albert about this, I am pretty certain that there will be some kind of explanation.

Albert is very well know in Portsmouth and has done so much work with Portsmouth City Council to help promote the City. I just hope this is considered during the review.

On a personal note, Albert has been one of those 'real' life-long friends to me. He has helped me when times were hard financially by inviting me and my family to Noble House and not paying a penny. In fact I've lost count how many times he has helped me in this way. It is different now of course, but that's something I will never forget. My point is, that he is a kind warm man with a good soul and someone who I would trust with my life.

By removing Noble House license, this would potentially ruin what is the best Chinese restaurant in Portsmouth. Albert has been through some really hard times to try and keep Osborne road alive, especially when Gunwharf Quays opened. Albert resisted the temptation to move there and instead opened Chez Choi opposite the Noble House; he was determined to keep Osborne road on the map in terms of places to eat and might I say, he succeeded although Chez Choi did not.

Whatever the outcome is of the review, I would urge you to refrain from removing the license for Noble House. There are a lot of bad people out there doing some terrible things and getting away with it. Albert is not one of these people - he works hard and has a real zest for life. He is very well respected both by his customers, business associates, friends and family.

I really can't imagine why Albert would intentionally do something like this. He has to be law abiding because of his high profile within the City. Hopefully there will be a fair outcome in this matter and I hope my email helps whoever are the decision makers.

Yours sincerely,

David Woodings

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## APPENDIX E

**From:** David Newcomb  
**Sent:** 16 March 2022 12:54  
**To:** Stone, Derek <Derek.Stone@portsmouthcc.gov.uk>  
**Subject:** Noble House, Southsea

Dear Derek

I have some additional information in relation to the premises licence review hearing reference 22/01282/LAREVI

I have noticed in the Home Office Premises Licence Review pack at paragraph 2.9 a typing error in relation to dates that the Noble House was visited.

The first visit was on 23/09/2011 and not 2012 as shown and I apologise for this error.

Please find attached (responses in red) from the Civil Penalties team with regard to previous and current fines levied against Noble House, Southsea

We have attended - Noble House, 43 Osborne Road, Portsmouth, Hampshire, PO5 3LS On three occasions:

23/09/2011 – MV141BNW1106 – 1x arrest made CP ref 16007, £10,000 penalty issued on 11/10/2011 to Birmingham (18) Limited, penalty not paid, company dissolved. Not pursuing o/s debt.

20/06/2012 – MV141DTK1256 – 2x arrests made CP ref 03673, £5,000 penalty issued on 29/08/2012 to 2018 Limited, penalty not paid, debt recovery efforts exhausted not currently pursuing debt.

24/10/2021 – EV19-806,572 – 3x arrests made CP ref 320271, Fine due to be issued 17/03/2022

Kind Regards,

**Dave Newcomb**  
Immigration officer 9080  
South Central ICE

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