

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

07 June 2023

Dear Councillor

You are summoned to attend the meeting of the;

LICENSING SUB-COMMITTEE on THURSDAY 15 JUNE 2023 at 10.30 am.

Please note that the hearing will be held in the **COUNCIL CHAMBER, MALDON DISTRICT COUNCIL OFFICES, PRINCES ROAD, MALDON.**

A briefing for Members will not be held unless specifically requested. If clarification is needed or there are issues regarding the Hearing, procedural issues or any legal matters, please email Committee Services (committee.clerk@maldon.gov.uk) to arrange this.

We ask that Members ensure they arrive at least 15 minutes prior to the Hearing to agree the Chairman for the meeting.

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. For those wishing to attend in person, please be advised that there are space limitations within the Council Chamber and therefore you will be required to submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

COUNCILLORS

M G Bassenger
M F L Durham, CC
J C Stilts
M E Thompson



MALDON DISTRICT COUNCIL
LICENSING ACT 2003 – HEARINGS OF THE LICENSING SUB-COMMITTEE
AIDE MEMOIR – PREMISES LICENCE

The Chairperson of the Hearing will open the Hearing and explain that the Sub-Committee's role is to determine applications and other matters under the Licensing Act 2003. He / she will then introduce Members and Officers present.

1. The Chairperson of the Hearing will outline the procedure to be followed. He / she should ensure that all representations, witness statements and hearing papers (by stating what they are) have already been read and that there is no need to repeat these. Should there be any late documentation in support of a representation or application, it may be introduced with the consent of all parties.
2. All people present to identify themselves by name and who they represent.
3. A brief outline of the application will be given by the Licensing Officer.
4. The Applicant to make an opening statement.
5. The Applicant to call witnesses*.

* Please note: Any person calling a witness must not ask leading questions of him/her, i.e. by phrasing a question in such a way that the answer is suggested in that question.
6. Each Responsible Authority followed by the Licence Holder and/or Interested Party (or their spokesperson) will take turns (in an order to be determined by the Chairperson) and may make an opening statement and may then call witnesses* until every party has been heard.
7. Members of the Sub-Committee may ask questions to elicit information from any party at any time during the Hearing.
8. The Hearing shall take the form of a discussion led by the Members of the Licensing Authority. Cross examination of applicants, witnesses and persons making representations shall not be permitted unless it is considered to be required in order to properly consider the matter to be determined.
9. Each Responsible Authority, the Licence Holder and/or Interested Party (or their spokesperson) then makes closing statements in turn.
10. The Applicant then makes a closing statement.
11. The Chairperson to then deal with issues arising from any person excluded from the Hearing and to ask if everyone has said what they want to say.
12. The meeting will close at this point.
13. Members of the Sub-Committee should then discuss the evidence and representations made before reaching their decision (this will be done after the meeting has closed and parties will be notified of the decision afterwards).
14. The determination will be given within five working days (beginning with the day on which the hearing was held).

Note: Any reference in this Procedure Note to an Applicant, Responsible Authorities or Interested Parties includes a person who may be representing them.



**AGENDA
LICENSING SUB-COMMITTEE**

THURSDAY 15 JUNE 2023

1. **To appoint a Chairperson for the Hearing**

2. **Chairperson's notices**

3. **Apologies for Absence**

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Application for a Review of a Premises Licence - Maldon King Kebab, 169 High Street, Maldon, Essex** (Pages 5 - 44)

To consider the report of the Director of Service Delivery (copy enclosed).

NOTICES

Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

In the event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber.

Closed-Circuit Televisions (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
LICENSING SUB-COMMITTEE
15 JUNE 2023**

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE - MALDON KING KEBAB,
169 HIGH STREET, MALDON, ESSEX**

1. PURPOSE OF THE REPORT

- 1.1 The Committee is requested to consider an application to review a premises licence made by the Essex Police under section 51 of the Licensing Act 2003 and to have regard to the representations made during the consultation period that followed in line with the promotion of the licensing objectives:
- a) The prevention of crime and disorder;
 - b) Public safety;
 - c) The prevention of public nuisance;
 - d) The protection of children from harm.

2. RECOMMENDATIONS

Members are advised that they have the following options when determining this application:

- (a) to modify the conditions of the 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;
- (b) to 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);
- (c) to suspend the licence for a period not exceeding three months;
- (d) to revoke the licence.

3. SUMMARY OF KEY ISSUES

- 3.1 Maldon King Kebab is a fast-food takeaway outlet situated in Maldon High Street near to both commercial and residential properties.
- 3.2 The premises is licenced for Late Night refreshments only which allows for the sales of hot food and drink after 23:00. Full details of the licensable activities are detailed on the current licence as attached to this report as **APPENDIX A**.

- 3.3 The original licence was first granted back in 2005 and has been transferred several times over the years. The current premises licence holder is Mr Mehmet Gigil who has held the licence for only a short period of time since 16 March this year.
- 3.4 On 20 April 2023 the Licensing Authority received an application for a review of the premises licence for Maldon King Kebab at 169 High Street, Maldon, Essex, CM9 5BS, made by Essex Police on the grounds of prevention of crime and disorder.
- 3.5 The Committee is also requested to consider the application (**APPENDIX B**) having regard to representations received and the requirement to promote the four licensing objectives.
- 3.6 The grounds for review are that the crime and disorder objective of the Licensing Act has been undermined in that Immigration Compliance and Enforcement officers of the Home Office discovered four disqualified persons working illegally on the premises. The statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. In particular, employing a person who is disqualified from work by reason of their immigration status is a criminal activity which, according to the Home Office Guidance to the Licensing Act 2003, should be treated particularly seriously.
- 3.7 The application has been properly made in accordance with the Licensing Act 2003 and all procedures correctly followed.
- 3.8 A Public notice was displayed on the premises advertising the review after the day following receipt of the application and all responsible authorities were notified of the application. Closing date for representations was 18 May 2023.
- 3.9 On 21 April 2023 all responsible authorities were notified of the application for the review of the premises licence at Maldon King Kebab and invited to make representation should they choose to do so.
- 3.10 On 26 April 2023 the licensing authority received two supplementary evidence bundles from Essex Police to support their application for the review of the premises licence. These are attached as **APPENDIX C**.
- 3.11 On 2 May 2023 the licensing authority received representation from the Home Office. Full details are attached as **APPENDIX D**. There were no other representations.
- 3.12 It should be noted that because there are no licensable activities for the sales of alcohol by retail, therefore there is no requirement to have a Designated Premises Supervisor (DPS) at the premises.

4. CONCLUSION

- 4.1 The relevant sections of the Statement of Licensing Policy are brought to the attention of Members and are as follows:
- (27) Where relevant representations are made, the Council will seek to make objective judgements as to whether conditions may need to be attached to various authorisations, to secure promotion of the licensing objectives.
- 4.2 This application has been correctly submitted.

- 4.3 At the conclusion of this hearing Members are advised to consider the options as previously recommended.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

- 5.1 Reports need to have regard to the following six priorities, which underpin the Council's vision for the district:

- Supporting our communities;
- Enhancing and connecting our place;
- Helping the economy to thrive Smarter finances;
- A greener future;
- Provide good quality services.

6. IMPLICATIONS

- (i) **Impact on Customers** – Temporary Closure or Restriction of Business, Disruption of Service, Quality and Consistency, Trust and Reputation, Increased Scrutiny and Compliance Measures, Legal Consequences.
- (ii) **Impact on Equalities** – Employment Discrimination, Exploitation and Vulnerability, Impact on Local Communities, Access to Job Opportunities, Social and Economic Impacts, Response and Enforcement.
- (iii) **Impact on Risk** – Legal and Regulatory Risk, Reputational Risk, Financial Risk, Operational Risk, Supply Chain Risk, Compliance Risk:
- (iv) **Impact on Resources (financial)** – Fines and Penalties, Legal Expenses, Operational Disruptions, Recruitment and Training, Rebuilding Trust and Reputation, Compliance Measures.
- (v) **Impact on Resources (human)** – Workforce Changes, Increased Workload, Training and Education, Recruitment and on boarding, Employee Morale and Engagement, Compliance Management.

Background Papers:

Statement of licencing policy

Section 51 Licensing act 2003

Premises Licence held by Licensing Authority.

Enquiries to: Daniel Winter Daniel.winter@maldon.gov.uk

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Regulation 33, 34

Premises Licence Maldon District Council

Premises Licence Number

10/00598/LAPRE 200

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Maldon King Kebab
169 High Street
Maldon
Essex
CM9 5BS

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Late Night Refreshment

Times the licence authorises the carrying out of licensable activities

Late Night Refreshment

Sunday	23:00 - 00:00
Friday & Saturday	23:00 - 02:00
Monday to Thursday	23:00 - 01:30

The opening hours of the premises

Monday	12:00 - 01:30
Tuesday	12:00 - 01:30
Wednesday	12:00 - 01:30
Thursday	12:00 - 01:30
Friday	12:00 - 02:00
Saturday	12:00 - 02:00
Sunday	12:00 - 23:30

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

Part 2

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

Mehmet Gigil
169A High Street
Maldon
Essex
CM9 5BS

Electronic Mail mehmetgilgil123@hotmail.com

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

N/A

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

N/A

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

N/A

Date... 28th January 2011

*This Premises Licence issued
in accordance with Section 18
of the Licensing Act 2003*



Maldon District Council Licensing Authority

Issued 20th March 2023 following a transfer of the premises licence

Annex 1 – Mandatory conditions

N/A

Annex 2 – Conditions consistent with the Operating Schedule

- 1 The Kitchen extract system will be maintained within service guidelines to ensure no noise nuisance
- 2 A CCTV system will record on the premises during each period the premises is open to the public.
- 3 An accident and incident book will be maintained on the premise and will be made available to an Authorised Officer of the Police or Licensing Authority upon request.
- 4 Disorderly customers will be required to leave the premises.

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

N/A

Annex 4 – Plans



Regulation 33, 34

Premises Licence Summary

Maldon District Council

Premises Licence Number

10/00598/LAPRE 200

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Maldon King Kebab
 169 High Street
 Maldon
 Essex
 CM9 5BS

Telephone number

Where the licence is time limited the dates

-

Licensable activities authorised by the licence

Late Night Refreshment

Times the licence authorises the carrying out of licensable activities

Late Night Refreshment

Sunday	23:00 - 00:00
Friday & Saturday	23:00 - 02:00
Monday to Thursday	23:00 - 01:30

The opening hours of the premises

Monday	12:00 - 01:30
Tuesday	12:00 - 01:30
Wednesday	12:00 - 01:30
Thursday	12:00 - 01:30
Friday	12:00 - 02:00
Saturday	12:00 - 02:00
Sunday	12:00 - 23:30

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

Name, (registered) address of holder of premises licence

Mehmet Gigil
169A High Street
Maldon
Essex
CM9 5BS

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

N/A

State whether access to the premises by children is restricted or prohibited

N/A

Date... 28th January 2011

*This Premises Licence issued
in accordance with Section 18
of the Licensing Act 2003*



Maldon District Council Licensing Authority

Issued 20th March 2023 following a transfer of the premises licence

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Appendix B

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Rachel Savill 76871 Licensing Officer, Essex Police

(Insert name of applicant)

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

Part 1 – Premises or club premises details

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

Maldon King Kebab
169 High Street
Maldon
Essex

Post town Maldon

Post code (if known)
CM9 5BS

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

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

10/00598/LAPRE 200

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

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

☒

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

☐

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

Please tick ✓ yes

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

on behalf of the Chief Officer of Police
 Essex Police
 Licensing Department
 Braintree Police Station
 Blyths Meadow
 Braintree
 CM7 3DJ

Telephone number (if any)
 01245 452035

E-mail address (optional)
 Licensing.Applications@essex.police.uk

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

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <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 ground(s) for review (please read guidance note 2)

The grounds for review are that the crime and disorder objective of the Licensing Act has been undermined in that Immigration Compliance and Enforcement officers of the Home Office discovered 4 disqualified persons working illegally on the premises.

The statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. In particular, employing a person who is disqualified from work by reason of their immigration status is a criminal activity which, according to the Home Office Guidance to the Licensing Act 2003, should be treated particularly seriously

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

At approximately 14:18 hours on Sunday 29th January 2023 immigration officers attended Maldon King kebab situated at 169 High Street, Maldon, Essex, CM9 2PE and executed a search warrant issued under Paragraph 17(2) Schedule 2 Immigration Act 1972. This warrant had been obtained following receipt of intelligence that persons were working illegally at the premises.

Four persons were arrested and detained under paragraph 17 (1) schedule 2 of the Immigration Act 1971 due to having no right to work in the UK and no leave to remain in the UK. During the course of the execution of the search warrant and arrest of staff, the owner arrived on the premises and identified himself and immediately attempted to interfere with the persons detained and was very clearly hostile to officers present. Immigration officers had to leave the premises due to the manager's hostile and angry behaviour.

It is the contention of the Police that a review of the licence is necessary as the employment of an illegal worker is a breach of the crime and disorder objective.

Essex Police will produce further documentary or other information in support of this application ahead of the hearing and would ask the authority to take this into account as it may do under Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005.

In accordance with paragraph 11.9 of the Statutory Guidance Essex Police may amplify its representation at the subsequent hearing.

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

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Rachel Savill

Signature.....

Date

.....20/04/2023.....
.....

Capacity Licensing Officer

.....

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

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.



Essex Police submission regarding review of the
Premises Licence for:

Maldon King Kebab
169 High Street, Maldon, Essex, CM9 5BS

Premises Licence Holder:
Mehmet GIGIL

Non Redacted

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1.0 Outline of the Circumstances leading to the Review Application

- 1.1 At approximately 14:18 hours on Sunday 29th January 2023, immigration officers attended Maldon King Kebab situated at 169 High Street, Maldon, Essex, CM9 2PE and executed a search warrant issued under Paragraph 17(2) Schedule 2 Immigration Act 1972. This warrant had been obtained following receipt of intelligence that persons were working illegally at the premises.
- 1.2 Upon entry to the premises Immigration Officers identified 5 persons. Three of which were behind the till and counter kitchen area. Two of the males were located in a rear outside storage building linked to the premises. 4 of the 5 persons were arrested for working illegally.
- 1.3 The immigration status of the 4 persons detained is detailed in a statement from Immigration Compliance and Enforcement Officer (see document 1).
- 1.4 OFFENDER 1, A 19-year-old male, national of Turkey was arrested. Home Office records show he arrived on 9 July 2020 illegally and made a claim for asylum on the same date, this was refused on 15th August 2022. An appeal was lodged against this refusal on 18th August 2022 which is still pending. Offender 1 has not been granted permission to work in the United Kingdom and was encountered wearing a Maldon King Kebab branded shirt and was found in the kitchen / food preparation area. Offender 1 admitted to working at the business and that on the day of his arrest he had been brought to work by the owner and that he was not paid in money but in cigarettes and food.
- 1.5 OFFENDER 2, a 22-year-old male, national of Turkey was arrested. Home Office Records show no trace of lawful entry into the United Kingdom. Offender 2 has never had permission to work in the United Kingdom. Offender 2 when encountered on 29th January 2023 was wearing a Maldon King Kebab branded shirt and in the kitchen food preparation area.
- 1.6 OFFENDER 3, a 23-year-old male, national of Turkey was arrested. Home Office records show he arrived illegally in the United Kingdom by small boat on 1st May 2022 and made a claim for asylum on the same date which remains outstanding. Offender 3 was encountered in the storeroom on entry to the premises. Offender 3 has no permission to work in the United Kingdom.
- 1.7 OFFENDER 4, a 23-year-old male, national of Turkey was arrested. Home Office Records show no trace of lawful entry into the United Kingdom, Offender 4 has no permission to work in the United Kingdom, on encounter he was wearing a Maldon King Kebab branded shirt and was located in the kitchen preparation area.

2.0 Reason for review

- 2.1 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.
- 2.2 The case of *East Lindsey District Council v Hanif* (see 8.11) 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.
- 2.3 Essex Police 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. Therefore Essex Police has proceeded straight to review.

3.0 Outcome Sought

- 3.1 Essex Police 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 engaged in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally.
- 3.2 This submission and appended documents provide the licensing sub-committee 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.
- 3.3 It is in such circumstances as this review application that a respondent may suggest that conditions are imposed which would prevent a reoccurrence of the employment of illegal workers in the future; an argument that the sub-committee should take remedial and not punitive action.
- 3.4 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 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.
- 3.5 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.
- 3.6 In seeking revocation, Essex Police 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 by other legislation”.
- 3.7 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.
- 3.8 Essex Police 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 section 8 of this submission).

- 3.9 Respondents who fail to convince a sub-committee that the imposition of conditions to undertake proper right to work checks is a suitable alternative to a deterrent outcome often point to the option of suspension of a licence; pointing out that this may be a suitable punitive response instead which will deter others.
- 3.10 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.
- 3.11 Essex Police 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 5 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.
- 3.12 If it were not for criminally minded or complicit employers; illegal workers would not be able to obtain a settled lifestyle and deprive legitimate workers of employment. The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are often paid below the minimum wage (itself an offence) and National Insurance payments are not paid. The main draw for illegal immigration is work and low-skilled migrants are increasingly vulnerable to exploitation by criminal enterprises; finding themselves in appalling accommodation and toiling in poor working conditions for long hours for little remuneration.
- 3.13 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.

4.0 Immigration Offences

- 4.1 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 the revocation/suspension of their premises licence.
- 4.2 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 4.3 checks, i.e. that they were duped by fake or forged documents.
- 4.3 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"*.
- 4.4 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 persons did not have the right to work.
- 4.5 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 Essex position highlights this as relevant irrespective of whether a civil penalty is imposed, or a prosecution launched for employing an illegal worker.
- 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.
- 4.6 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 non-monetary reward (such as board and lodgings) is working illegally and is a criminal offence committed by the worker and facilitated by the 'employer'.

5.0 Steps to Avoid the Employment of an Illegal Worker

- 5.1 It is a straightforward process for any employer, no matter how small, to prevent themselves employing an illegal worker. If an employer has failed to take even the most basic steps then Essex Police 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.
- 5.2 The Home Office has made checklists widely available which set out what a responsible employer should ask for ahead of employing any person in order to demonstrate 'due diligence' and avoid liability for inadvertently employing an illegal worker.
- 5.3 Since April 2017 these checklists have been embedded in the statutory applications for personal licences and premises licences, the transfer of premises licences and designated premises supervisor variations.
- 5.4 The first few results on a Google search for "right to work checks UK" are links to the GOV.UK website.
- 5.5 One of these links (<https://www.gov.uk/check-job-applicant-right-to-work>) provides general advice around the right to work checks, as well as a checklist of steps to take in the employment process. There are also further links on the page to other relevant websites and guidance.

6.0 Relevance/Irrelevance of a Civil Penalty or Prosecution

- 6.1 An employer found to have 'employed' an illegal worker may, dependent on culpability and the evidence available, be issued with a civil penalty or prosecuted or indeed neither.
- 6.2 Where an illegal worker is detected a civil penalty may be 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.
- 6.3 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.
- 6.4 But where an employer has not bothered with the basics of return to work checks, placed an employee on 'the books', paid minimum wage or paid employer national insurance contributions – it become difficult to 'prove' the employment statement where the only evidence may be the word of an illegal worker who has since been detained or has 'moved on'.
- 6.5 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.
- 6.6 This does not however prevent the crime prevention objective being engaged as the premises licence holder has nonetheless facilitated a criminal offence taking place and the lack of checks suggests that in the past (and is likely in the future) has employed illegal workers. In drawing its conclusion the sub-committee is entitled to exercise common sense and its own judgement based on the life experiences of its members. The *East Lindsey* case (see section 8) provides that action (revocation) to prevent what is likely to happen in the future is legitimate.

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

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

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

- 7.2 Essex Police submits that in the particular circumstances of cases where Immigration Compliance and Enforcement receive intelligence concerning the employment of illegal workers and act upon it; such warnings are inappropriate.
- 7.3 Not only would advance warning of enforcement activity prevent the detention of persons committing crimes and the securing of evidence, a warning after the event to comply with immigration legislation serves as no deterrent.
- 7.4 In particular; Essex Police 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).

7.5 Paragraph 11.26

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

- 7.6 Thus the financial hardship occasioned by the suspension or revocation of the premises licence should 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).
- 7.7 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)*, [2016] EWHC 1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.
- 7.8 Paragraph 11.27 of the Guidance states:

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

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

7.9 Paragraph 11.28 of the Guidance states:

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

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

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

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

7.11 Since the main driver 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.

7.12 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.

8.0 Case Law

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

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

This was a case where a premises had sold alcohol to underage 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.

- 8.3 Issues relevant to the case before today's sub-committee which are considered in the *Bassetlaw* judgment 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.

- 8.4 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 as 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.

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

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

- 8.6 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.
- 8.7 This has some similarity with any argument that may be put forward in the case before the sub-committee 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 sub-committee despite the wording of the Guidance at paragraph 11.28.
- 8.8 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 perfectly sensible and appropriate provisions to be included on a licence. However, it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14 year old girls”*.
- 8.9 Essex Police contends that in the case before the sub-committee the facts are similar. In the cited case straightforward sensible enquiries could have been made as to the age of the children and the imposition of additional conditions as a form of remedy was considered inappropriate by Mrs Justice Slade for ‘those serious cases’ set out in the Guidance.
- 8.10 In the case before the sub-committee, simple steps (set out at Appendix A) were available to prevent the employment of illegal workers – none were taken; the imposition of conditions to remedy this situation is inconsistent with the section 182 Guidance and this case citation. A negligent employer should expect revocation in the first instance.
- 8.11 *East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway)*, [2016] EWHC 1265 (Admin)

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

Amongst other matters it had been argued for the premises licence holder that the crime prevention objective was not engaged where a prosecution or conviction for the employment of an illegal worker was not in place. Whilst the

initial hearing may have suggested several illegal workers being employed, the High Court appeal and decision related to the employment of one individual and is therefore, Essex Police would argue, indistinguishable from the matter before the sub-committee.

- 8.12 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 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).

RESTRICTED (when complete)**WITNESS STATEMENT**

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

URN

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Statement of: **Kate Naunton**.....Age if under 18: **OVER 18** (If over 18 insert "over 18")Occupation: **IMMIGRATION OFFICER**

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

Signature K. NAUNTON Date: 01 February 2023

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

I am an Immigration Officer of the Home Office Immigration Enforcement Immigration Compliance & Enforcement Team East of England, based at Custom House, Viewpoint Road, Felixstowe, Suffolk IP11 3RF. I have been an Immigration Officer since January 2020. My current role is as an Immigration officer of the Immigration Enforcement arrest team, operating across eight counties of the East of England including Essex, responding to intelligence relating to alleged immigration offences in this area, liaising with local police and other law enforcement agencies and supporting other government departments, local authorities and relevant other organisations in enquiries or investigations relating to non-British nationals. As part of my duties I have responsibility for the compilation and custody of Home Office records in both written and electronic form. These records are compiled by officers and members of staff during their duties, from information which they have particular and specific knowledge of at the time of compiling, in light of the volume of records compiled and the length of time that has elapsed, they cannot reasonably be expected to have any recollection of the matters dealt with in relation to a specific record.

At the request of Essex Police Licencing, I have examined Home Office records relating to an Immigration Enforcement visit to "Maldon King Kebab" at 169 High Street, Maldon Essex, CM9 5BS.

Signature: K. NAUNTON Signature Witnessed by:

RESTRICTED (when complete)Continuation of Statement of: **Kate NAUNTON****Page 2**

Home Office records show that on 29th January 2023 Immigration Officers from this team including myself conducted an enforcement visit to these premises to execute a search warrant issued under Paragraph 17(2) Schedule 2 Immigration Act 1972 to look for Rahim GUGUS, a Turkish national born 05 February 1992. This warrant had been obtained following receipt of intelligence that persons were working illegally at the premises on a daily basis. Enquiries with Environmental health showed that a Rahim GOGUS was working at the premises. Home Office records showed only one trace of a Rahim GOGUS, a Turkish national born 05 February 1992 entering the UK illegally on 22 May 2014. GOGUS made a claim for asylum which was refused, and he was listed as an absconder on 26 November 2015, no trace of GOGUS leave the United Kingdom.

Home Office records show that Immigration Officers entered the premises and executed the search warrant at approximately 14:18 hours on 29 January 2023. Officers' contemporaneous notes recorded and time and location stamped electronically, show that on entry there were five persons in the premises. All male of dark European appearance three of which were behind the till and counter kitchen area. Two of the males were located in a rear outside storage building linked to the premises.

Of those encountered, KIRMIZI a 19-year-old male, national of Turkey was arrested. Home Office records show KIRMIZI arrived on 9 July 2020 illegally and made a claim for asylum on the same date, this was refused on 15th August 2022. KIRMIZI lodged an appeal against this refusal on 18th August 2022 which is still pending. KIRMIZI has never been granted permission to work in the United Kingdom. KIRMIZI when encountered was wearing a Maldon King Kebab branded shirt and was found in the kitchen / food preparation area. KIRMIZI was released on Immigration bail after encounter on 29th January 2023. KIRMIZI admitted that he was working at the business, that on the day of his arrest he had been brought to work by the owner who he identified as GILGIL and that he was not paid in money but in cigarettes and food.

CELIK, a 22-year-old male, national of Turkey was arrested. Home Office Records show no

Signature: K. NAUNTON Signature Witnessed by:
2004/05(1)

RESTRICTED (when complete)Continuation of Statement of: **Kate NAUNTON**

Page 3

trace of lawful entry into the United Kingdom, as a national of turkey he would require a visa or entry clearance to enter the United Kingdom. CELIK made a claim for asylum when encountered on 29th January 2023 and was subsequently released on immigration bail.

CELIK has never had permission to work in the United Kingdom. CELIK when encountered on 29th January 2023 was wearing a Maldon King Kebab branded shirt and in the kitchen food preparation area.

Also arrested was GOGUS, a 23-year-old male, national of Turkey. Home Office records show GOGUS arrived illegally into the United Kingdom by small boat on 1st May 2022 and made a claim for asylum on the same date, this claim remains outstanding. GOGUS was encountered in the storeroom on entry to premises. GOGUS has no permission to work in the United Kingdom. GOGUS was released on immigration bail on 29th January 2023.

MERNEZ a 23-year-old male, national of Turkey was arrested. Home Office Records show no trace of lawful entry into the United Kingdom, as a national of Turkey he would require a visa or entry clearance to enter the United Kingdom. MERNEZ has no permission to work in the United Kingdom, on encounter he was wearing a Maldon King Kebab top and in the kitchen preparation area. GOGUS was released on immigration bail on 29th January 2023 as he as no document to assist with removal from the United Kingdom.

During the course of the execution of the search warrant and arrest of staff, the owner Mehmet GILGIL arrived on the premises and identified himself and immediately attempted to interfere with question of subjects and was very clearly hostile to officers present. GILGIL attempted to converse with arrested persons in Turkish. I escorted GILGIL from away from the premises to speak to him and explain what was happening, but he only became more hostile and refused to engage in conversation with me. GILGIL then re-entered the premises and again attempted to interfere with officers' question of arrested persons. Th decision was made to leave the premises due to GILGIL's hostile and angry behaviour..

Home Office records show that GILGIL was encountered himself on 31 July 2014 working

Signature: K. NAUNTON Signature Witnessed by:
2004/05(1)

RESTRICTED (when complete)Continuation of Statement of: **Kate NAUNTON****Page 4**

illegally at Maldon King Kebab 169 High Street, Maldon Essex, CM9 5BS he was served as an overstayer in United Kingdom. GILGIL is subject to immigration control and has leave to remain in the United Kingdom until 29 May 2023.

I make this statement of my own free will from records that I have seen and accessed today, 1st February 2023. I am willing to attend court or any other judicial or review hearing if necessary.

Signature: K. NAUNTON Signature Witnessed by:
2004/05(1)



Immigration Enforcement

Alcohol & LNR Licensing Team,
Interventions Sanctions & Compliance,
Home Office,
15th Floor, Long Corridor
Lunar House,
40, Wellesley Road
Croydon,
CR9 2BY

IE.AlcoholReviews@homeoffice.gov.uk

Thursday 16th February 2023

In the case of Maldon King Kebab, 169 High Street, Maldon, Essex, CM95BS

Home Office Immigration Enforcement (HOIE) have worked closely with Essex Police to instigate Licensing Act 2003 proceedings. Essex Police are leading on this case and HOIE have provided evidence support of these proceedings. The fact that Essex Police lead on such cases reflects that those Responsible Authorities are often best placed to make applications in regards the prevention of crime and disorder (including the prevention of illegal working) within their local area. In this case, Essex Police are the appropriate Responsible Authority to take enforcement action.

HOIE's work with Essex Police includes sharing data under the Licensing Act 2003. Section 185 of the Act provides that Responsible Authorities may share data with each other for these purposes.

The absence of specific HOIE representations on such a case does not mean that HOIE is not supporting Essex Police. It reflects the fact that we work closely with Essex Police to identify people who are working illegally.

Yours sincerely

Alcohol & LNR Licensing Team
Home Office

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Immigration Enforcement

Immigration representation in support of an application for the review of a premises Licence

On behalf of the Secretary of State, Home Office (Immigration Enforcement) makes representations in support of the following application for the review of a premises licence, relating to the prevention of crime and disorder objective, including the prevention of illegal working and immigration crime in licensed premises.

IE wishes to make representations on an application for a review of a premises licence.

Details of Premises:			
Premises Licence Holder:			
Mehmet Gilgil			
Name and Address of Premises:			
Maldon King Kebab, 169 High Street Maldon			
Post Town:	Essex	Post Code:	CM9 5BS

Representations are being made for the following reasons:

The Licensing Act 2003 outlines 4 objectives that are to be upheld, the Home Office (Immigration Enforcement) is concerned regarding the prevention of crime and disorder.

Home Office (Immigration Enforcement) considers that Mehmet Gilgil is not taking suitable measures to prevent crime and disorder. The business has employed illegal workers which is prohibited under the Licensing Act 2003 and the Immigration Act 1971 (as amended).

Employing illegal workers in the UK has the following impact on the community and society as a whole: -

- It deprives HMRC and the Government of revenue by non-payment of tax and national insurance.
- It exploits the undocumented by paying them less than the minimum wage and provides no employment or income protection.
- It encourages those without permission to work to seek similar employment.
- It allows a business to unfairly undercut other businesses by employing cheap labour.
- Illegal workers are often housed in cramped and unsatisfactory conditions by the employer as part of their working arrangement.

Immigration Enforcement supports the Police Licensing Team in bringing this review application for the above premises.

On 29th January 2023 Immigration Officers attended Maldon King Kebab situated at 169 High Street, Maldon, Essex, CM9 2PE and executed a search warrant issued under Paragraph 17(2) Schedule 2

Immigration Act 1972. This warrant had been obtained following receipt of intelligence that persons were working illegally at the premises.

Mr Gilgil was not at the premises when officers arrived but was contacted by a member of his staff. An Immigration Officer was able to speak on the phone with Mr Gilgil to explain the purpose of the visit. Mr Gilgil told the officer that he will be at the premises as soon as possible.

On arrival Mr Gilgil was confrontational, hostile, and aggressive, as the officer tried to explain the reason for the visit.

The following illegal workers were encountered:

RAHIM GOGUS: 05 February 1992, Turkish national.

Gogus entered the UK as a clandestine entrance on 22 May 2014. He was refused leave to remain on 18 November 2014 and marked as Appeal Rights Exhausted on 25 September 2015 and then was listed as an absconder on 26 November 2015.

He was encountered at Maldon King Kebab with no valid leave to remain and no right to work in the UK.

CIHAN KIRMIZI: 12 November 2003 Turkish national.

Kirmizi was encountered at the rear of the premises in a storeroom and asked if he was employed at the premises, he replied yes. He avoided making eye contact while trying to walk out the door which led Immigration Officers to believe Kirmizi had something to hide.

At the time of the enforcement visit, Kirmizi changed his story about his arrival in the UK. He told Immigration Officers he had been in the country for two years and arrived by plane but, records confirm from his first interview was in 2020 when he arrived by lorry.

Kirmizi had no valid leave to remain in the UK, or right to work in the UK at the time of the enforcement visit. Kirmizi was arrested.

MUHAMMET GOGUS: 5 October 1999 Turkish national.

He entered the UK on 01 May 2022 illegally by small boat. He was encountered at the premises in the storeroom, when officers introduced themselves as immigration, he walked away in the opposite direction to avoid officers.

Gogus had no valid leave to remain in the UK, or right to work in the UK at the time of the enforcement visit. Gogus was arrested.

AHMET MERNEZ: 17 December 1999 Turkish national.

Entered the UK illegally, no records found on system

Immigration Officers entered the kitchen area, Mernez saw them and attempted to escape from the rear. When asked questions by Immigration Officers about what he was doing at the premises, Mernez replied: He had only arrived two months ago and only came to visit.

Mernez claimed he wasn't working at the premises but, Immigration Officers encountered him, in the kitchen wearing King Kebab branded clothing. He said the clothes were given to him because he had no clothes. He had no valid leave to remain or any right to work in the UK at the time of the enforcement visit.

UMUT CELIK: 15 February 2000 Turkish national.

Entered the UK illegally, as such there are no records of an exact date. However, during Celik's interview with Immigration Officers on 29 January 2023 he claimed being in the UK for a month.

He sought leave to remain on 30 January 2023 and this is currently under consideration.

Celik was encountered at Maldon King Kebab in the kitchen area. Immigration Officers asked Celik if the manager knew his immigration status, he said yes. He also was not asked by the manager to provide any documentation to prove whether he was eligible or not to work in the UK.

Celik had no valid leave to remain in the UK, or right to work in the UK at the time of the enforcement visit.

Details of Responsible Authority

Name and Address:

Home Office Immigration Enforcement
The Alcohol and LNR Licensing Team
40 Wellesley Road
Croydon
CR9 2BY

Email address
(optional):

alcohol@homeoffice.gov.uk

Signatures

Signature of Responsible Authority

Home Office Immigration Enforcement

Date:

02/05/2023

Capacity:

Responsible
Authority

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