

MINUTES
OF A MEETING OF THE
LICENSING SUB-COMMITTEE A

held on 14 March 2023

Present:

Cllr S Dorsett (Chairman)
Cllr A Caulfield (Vice-Chair)
Cllr C S Kemp

1. ELECTION OF CHAIRMAN

Councillor Steve Dorsett was elected Chairman of the Sub-Committee for the remainder of the Municipal Year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Andy Caulfield was appointed Vice-Chairman of the Sub-Committee for the remainder of the Municipal Year.

3. MINUTES

RESOLVED

That the minutes of the Sub-Committee held on 16 September 2021 be approved and signed as a true and correct record.

4. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

5. URGENT BUSINESS

There were no items of Urgent Business.

6. REVIEW OF A PREMISES LICENCE - LATINO RESTAURANT ITALIANO, UNIT 4 HARLAN HOUSE, 44 COMMERCIAL WAY, WOKING

The Sub-Committee had before it a report regarding an application by the Home Office for a Review of the Premises Licence held by Latino Restaurant Italiano, Unit 4 Harlan House, 44 Commercial Way, Woking. Caroline Laird, Immigration Enforcement Officer, and Detective Sergeant Martin Linton attended the meeting to represent the Home Office. The Premises Licence Holder, Guiliano Pugliese, and Fabio Panza attended the meeting to represent Latino Restaurant Italiano.

All parties present had a copy of the Licensing Committee's agreed procedure to be followed at Licensing Sub-Committee hearings. The Chairman introduced Members of the Sub-Committee and outlined the order of speaking which would be followed at the hearing.

The Licensing Authority's representative, Matthew Cobb, advised the Sub-Committee that on 19 January 2023, following receipt of intelligence relating to illegal workers in the premises, the Home Office and Surrey Police had carried out an inspection of Latino Restaurant Italiano. During the visit it was found that one staff member onsite had no right to be working and was served Immigration paperwork accordingly. Since 2006, all businesses had a legal requirement under the Immigration, Asylum and Nationality Act 2006 to carry out 'right to work' checks, ensuring all staff members held a legal right to work in the UK. In January 2019, the Home Office system was improved further with the implementation of an online checking system, allowing employers to carry out a quick and simple check on a potential employee.

Mr Cobb reported that Section 4 of the Licensing Act 2003 states that, in carrying out its functions, a Licensing Authority must have regard to guidance issued by the Secretary of State under the Section 182 Guidance on Illegal Working, in which it was categorised as a serious offence alongside illegal firearms, prostitution, drug dealing and other crimes. Section 11.27 of the Guidance stated that criminal activities with a connection to a licensed premises should be treated seriously, and where reviews arise it is expected that revocation of the Premises Licence, even in the first instance, should be seriously considered. The matter was therefore before the Sub-Committee for determination.

None of the parties present had any questions for Mr Cobb.

The Chairman gave the Home Office the opportunity to address the Sub-Committee. Ms Laird advised the Sub-Committee that during the visit on 19 January 2023, following intelligence received over two illegal female workers who had not been present at the time, one person had been found to be working illegally. Mr Pugliese had admitted that the worker had been undergoing a trial shift and that a Civil Penalty Referral was served on the business. Taking into account the previous visit by the Home Office, it was felt that the premises was not upholding the Licensing Objective of crime and disorder and that its Premises Licence should be revoked.

Following a question from Mr Cobb, it was noted that a casual trial volunteer would be classed as a worker under the legislation.

The representatives from Latino Restaurant Italiano had no questions for the Home Office.

Following questions by Members of the Sub-Committee, it was stated that the restaurant kept records of checks carried out on its other employees along with copies of relevant documentation.

The Chairman gave the representatives from Latino Restaurant Italiano the opportunity to address the Sub-Committee. Mr Pugliese stated that the restaurant was open for seven days each week and that the person concerned had entered the premises unexpectedly to ask for work, with a curriculum vitae and identification. The person was provided with a trial shift to undertake the washing-up as the restaurant had been very busy and required help. Mr Pugliese admitted that he had made a mistake and apologised, stating that it would not happen again.

Following questions by Mr Cobb, Mr Pugliese stated that the trial shift had been for two hours; he was unaware of two female illegal workers previously working at the premises; he would ask employees for their passport and proof of address; he had not used the Home Office Right to Work online system; and he had not been present at the previous Home Office inspections in 2013/14.

Following questions by DS Linton, Mr Pugliese advised that he had worked in hospitality all his life, and in the UK from 1999; he employed around 12 or 13 people at the restaurant; he was the Designated Premises Supervisor; and if the trial shift had been successful the intention would have been for the person concerned to become fully employed.

Following questions by Members of the Sub-Committee, Mr Pugliese reported that the restaurant's accountant would carry out the required checks on employees and would be aware of the Home Office Right to Work website; and that the illegal worker was of Brazilian origin and had no other work in the UK listed on his CV.

The Chairman gave those present the opportunity to make closing statements.

Mr Cobb stated that it was important to take into account the severity of the case and follow the statutory guidelines, irrespective of any hardship on the business concerned. The previous intelligence regarding two female illegal workers should be noted along with the joint Home Office and Police response of dispatching in a twelve person team. The restaurant had not disputed that it was a paid shift and that a single offence of illegal working should be taken seriously.

Ms Laird stated that illegal working was a serious issue regardless of the length of a shift and encouraged over-stayers to seek work. It was noted that the person's CV had been written in English, despite the person not being able to speak English, and that the Home Office Right to Work checks were a requirement of the business and not an external accountant. The Sub-Committee was urged to consider the revocation of the Premises Licence.

Mr Pugliese stated that in the past a number of people had walked into the restaurant with a CV and requested work. He stated that if the business was forced to stop selling alcohol it would need to close; all staff were working hard and that it was a family restaurant. He reiterated that he had made a mistake and it would not happen again.

The Chairman adjourned the meeting at 3.20pm. The Sub-Committee deliberated in private, requesting that the Council's Solicitor join them for the provision of legal advice, and re-assembled at 3.45pm.

The Chairman stated that the Sub-Committee had considered revocation, however it had been felt that the responsibility mainly fell with the Premises Licence Holder, Mr Pugliese. The Sub-Committee had agreed to remove Mr Pugliese as the Premises Licence Holder; to add a condition to the Premises Licence that all relevant records must be maintained and retained accordingly of the right to work of any person working at the premises, to be made available for inspection on demand of any Responsible Authority and retained for a period of 12 months after the employee had ceased working at the premises; and in order for the condition to be actioned and a new Designated Premises Supervisor to be put in place, the Premises Licence be suspended for a period of one month with immediate effect.

It was stated that in coming to its decision, the Sub-Committee had taken into account the Licensing Act 2003, particularly sections 52 and 182, the Council's Licensing Policy, and the written and oral evidence presented at the hearing. It was added that any party present would have the Right of Appeal to the Magistrate's Court within 21 days.

RESOLVED

- That (i) the existing Designated Premises Supervisor of Latino Restaurant Italiano be removed;

- (ii) a condition be added to the Premises Licence of the restaurant that all relevant records must be maintained and retained accordingly of the right to work of any person working at the premises, to be made available for inspection on demand of any Responsible Authority and retained for a period of 12 months after the employee had ceased working at the premises; and
- (iii) in light of the time taken to action the above, the Premises Licence be suspended for a period of one month with immediate effect.

The meeting commenced at 2.30 pm
and ended at 3.50 pm

Chairman: _____

Date: _____