



## TO THE MEMBERS OF THE **LICENSING SUB-COMMITTEE A**

You are hereby summoned to attend a meeting of the Licensing Sub-Committee A to be held on Tuesday, 14 March 2023 at 2.30 pm in the Council Chamber, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL.

The agenda for the meeting is set out below.

JULIE FISHER  
Chief Executive

## **AGENDA**

### **PART I - PRESS AND PUBLIC PRESENT**

1. Election of Chairman  
To elect a Chairman of the Sub-Committee for the remainder of the Municipal Year.
2. Election of Vice-Chairman  
To elect a Vice-Chairman of the Sub-Committee for the remainder of the Municipal Year.
3. Minutes  
To approve the minutes of the meeting of the Licensing Sub-Committee A held on 16 September 2021 as published.
4. Declarations of Interest  
To receive declarations of disclosable pecuniary and other interests from Members in respect of any item to be considered at the meeting.
5. Urgent Business  
To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

### **Matters for Determination**

6. Review of a Premises Licence - Latino Restaurant Italiano, Unit 4 Harlan House, 44 Commercial Way, Woking (Pages 3 - 42)  
Reporting Person – Matthew Cobb

AGENDA ENDS

Date Published - 6 March 2023

For further information regarding this agenda and arrangements for the meeting, please contact Doug Davern on 01483 743018 or email [doug.davern@woking.gov.uk](mailto:doug.davern@woking.gov.uk)



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## LICENSING SUB-COMMITTEE A – 14 MARCH 2023

### REVIEW OF A PREMISES LICENCE – LATINO RESTAURANT ITALIANO, 44 COMMERCIAL WAY, WOKING

#### Executive Summary

This report considers an application to review the Premises Licence (PL) for the above premises from the Home Office Immigration and Customs Enforcement (ICE) team.

#### Recommendations

The Committee is requested to:

**RESOLVE THAT** the report be considered and the application be determined accordingly.

**The Sub-Committee has the authority to determine the above recommendation.**

#### Background Papers:

Application form  
Operating Schedule  
Representations from Statutory Bodies and Interested Parties

#### Reporting Person:

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

#### Contact Person:

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

#### Date Published:

6 March 2023



## 1.0 Summary of Proposal

**Application Type:** Review of Premises Licence under section 51 Licensing Act 2003

**Variation:** No

**Site Address:** 4 Harland House, 44 Commercial Way, Woking, GU21 6HW

**Applicant** Caroline Laird, Immigration Officer 18876, on behalf of South Central ICE Immigration Enforcement of the Home Office

**Application Ref:** 23/00031/PREMISES

## 2.0 Description of Premises and Existing Licence

2.1 Small restaurant located in the town centre, approximately 114m<sup>2</sup> in size of which approximately 92m<sup>2</sup> is retail area, 13m<sup>2</sup> is kitchen area and 9m<sup>2</sup> is storage area.

2.2 The premises is licenced for alcohol (both on and off sales) as well as recorded music and late night refreshment (i.e. the provision of hot food or hot drink between the hours of 23:00 and 05:00).

2.3 Current licenced hours of operation are:

Sale of alcohol Monday to Saturday 10:00 - 00:00

Sale of alcohol Sunday 10:00 - 23:00

Recorded music Monday to Sunday 00:00 - 00:00

Late night refreshment Monday to Saturday 23:00 - 00:00

Late night refreshment Sunday 23:00 - 23:30

2.4 The premises has been licenced since before 2005, however we do not have records to confirm exactly when, as the Local Authority took over responsibility from the Magistrates Courts in 2005, meaning all prior records remained with the Courts.

2.5 The current Premises Licence is attached as **Appendix 1 (page 11)**.

## 3.0 Background

3.1 The premises has been a licenced premises for as long as our records go back. Prior to Licensing Legislation becoming the responsibility of the Local Authority – Licences were issued by the Magistrates Courts. In 2005 – with the introduction of the Licensing Act 2003 – the premises came under the jurisdiction of Woking Borough Councils Licensing Authority, licenced by Woking Borough Council as “Latino” in 2005.

3.2 In February 2009, the licence was transferred over to a company – ‘Baldo Limited.’ Companies House shows that the director of this company was a Mr Giuliano Pugliese. At the same time, the DPS of the premises also became Mr Giuliano Pugliese.

3.3 Companies house records show that ‘Baldo Limited’ went into liquidation and was dissolved on the 27 January 2017, meaning the owner had to either lose the licence or transfer it to prevent it lapsing.

3.4 Mr Giuliano Pugliese applied for the licence to be transferred to his name on the 28 February 2017 and this was granted. He also remained the DPS for the premises.

#### **4.0 The Review Application**

4.1 On the 19<sup>th</sup> of January 2023 a Home Office Immigration Customs Enforcement (ICE) team carried out an inspection of the premises following an allegation that the premises was employing illegal workers (i.e. those with no right to work in the UK).

4.2 The inspection identified one worker on the premises who had no right to work in the UK.

4.3 The Home Office ICE team submitted a review of this premises on the 27 January 2023 on the grounds that the Premises was failing to comply with the licensing objective relating to the prevention of Crime and Disorder.

4.4 A copy of the Home Office Review Application is attached as **Appendix 2 (page 21)**.

4.5 A statement from the Home Office Immigration officer is attached as **Appendix 3 (page 31)**.

#### **5.0 Promotion of Licensing Objectives**

5.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

#### **6.0 The role of the Home Office as a Responsible Authority**

6.1 The S182 Guidance (a generalised guidance produced by the Government to provide clarity on the Licensing Act) provides further information on the role of the Home Office and illegal working.

6.2 Section 9.25 identifies that the Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

6.3 If a business has any immigration offences and civil penalties, these will be considered as part of the licence application, and as a ground for making a formal request to a licensing authority for a licence to be reviewed.

6.4 Section 2.6 states that the prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters.

## 7.0 Illegal Working in Licenced Premises

- 7.1 All employers have a responsibility to prevent those without lawful immigration status from working in the UK. The ability to work illegally is often the main driver of illegal migration. Working in the UK without the requisite permission (“illegal working”) encourages people to break our immigration laws and provides the practical means for migrants to remain in the UK unlawfully. It often results in abusive and exploitative behaviour, the mistreatment of unlawful migrant workers, tax evasion and illegal housing conditions, including modern slavery in the most serious cases. It can also undercut legitimate businesses and have an adverse impact on the employment of people who are in the UK lawfully.
- 7.2 Employers have a responsibility to prevent illegal working in the UK by ensuring that their employees have the right to work here. The illegal working provisions of the Immigration, Asylum and Nationality Act 2006 came into force on 29 February 2008. Section 15 of the Act allows the Secretary of State to serve an employer with a notice requiring the payment of a penalty of a specified amount where they employ a person who is:
- subject to immigration control; and
  - aged over 16; and
  - not allowed to carry out the work in question because either they have not been granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:
    - (i) is invalid;
    - (ii) has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise; or
    - (iii) is subject to a condition preventing them from accepting the employment.
- 7.3 Consequently it is clear that the requirement to carry out a right to work check is a legal requirement of all employers. At Woking Borough Council – for example – the Licensing Authority is required to check an applicants’ right to work when they apply for Premises Licences, Personal Licences as well as Taxi and Private Hire Drivers Licences.
- 7.4 Since 28 January 2019, employers have been able to rely on the Home Office online service to establish a statutory excuse.
- 7.5 The requirement for the employer to check using the online system is not an onerous one, and having used it many times as part of the Licensing requirements – we can confirm it takes about three to five minutes to complete.

## 8.0 Associated Guidance

- 8.1 The Section 182 Guidance provides more information in relation to Illegal Workers. The relevant paragraphs relating to illegal workers and the Home Office are attached as **Appendix 4 (page 33)**.
- 8.2 The excerpts from the S182 Guidance make it clear that illegal working is a serious offence in the UK and should be dealt with accordingly. Section 11.27 (as seen in Appendix 4) categorises ‘illegal working’ as having the same severity as such offences as illegal firearms, prostitution, racism, pornography, drug dealing and paedophilia.

8.3 Whilst this may seem excessive or unequal, to put illegal working in the same category as other abhorrent offences, it is not within our remit to interpret the laws and statutory guidance – but to follow it and apply it accordingly.

8.4 The S182 Guidance, having categorised the severity of illegal working, goes on to state that

*“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.”*

8.5 The Home Office has produced a document entitled “Preventing illegal working in licenced premises and the Home Office role as a responsible authority in England and Wales” – of which relevant excerpts can be found in **Appendix 5 (page 37)**.

## 9.0 Policy Considerations

9.1 In making its decision, the Sub-Committee is obliged to have regard to the relevant national Guidance and the Council’s own Licensing Policy. The Sub-Committee must also have regard to the application, to any and all of the representations made and the evidence it hears, and its duty under S17 Crime and Disorder Act 1998.

***Crime and Disorder Act 1998 Section 17 - Duty to consider crime and disorder implications.***

Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area; and (d) serious violence in its area.

9.2 The Licensing Officer considered the following policies taken from the **‘Licensing Policy for Woking Borough’** should be considered for this application.

**From Woking Borough Council Licensing Policy 2021-2026**

**6.5** The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case.

**6.6** The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

## 7.0 The Licensing Objectives (Prevention of Crime and Disorder)

**7.1** The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.

**7.2** In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.

**7.6** The Council recognises that licence conditions should not replicate offences that are set out in the Licensing Act or other legislation. With this in mind, the Council will, when considering an application for a premises licence upon the receipt of relevant representations, consider attaching conditions to licences and certificates to deter and prevent crime and disorder both inside and in the immediate vicinity of the premises. These may include conditions drawn from the Pool of Conditions relating to the prevention of crime and disorder. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities that take place there.

9.3 Section 11.19 of the Statutory Guidance recalls Section 52 of The Licensing Act 2003, and covers the powers of a licensing authority on the determination of a review

9.4 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (a) 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; either permanently or for a period up to three months;
- (b) 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) either permanently or for a period up to three months;
- (c) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- (d) suspend the licence for a period not exceeding three months; or
- (e) revoke the licence.

The Committee may also offer informal advice and guidance or take no further action.

9.5 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

9.6 Section 11 of the S182 Statutory Guidance is attached within **Appendix 4 (page 33)**.

## 10.0 Implications

### Financial

10.1 There are no significant financial implications. The applicant, licence holder and any interested parties or responsible authorities who have made a representation have the right of appeal to a Magistrates' Court (within 21 days starting the day after the date a decision is reached) should they feel any decision is unjust. Although there is a possibility costs may be awarded against the Council where decisions are overturned, case law shows this as unlikely where the Council are shown to be acting in accordance with their duties as Licensing Authority based on information supplied at the time.

### Human Resource/Training and Development

10.2 None.

### Community Safety

10.3 Improving standards and ensuring compliance can potentially improve community safety in line with the Licensing Objectives as set out in the Licensing Act 2003

10.4 As highlighted in S7.1 of this report, permitting illegal working has very serious knock on effects which should be borne in mind when making any decisions.

### Risk Management

10.5 The risks to the Council associated with determining an application are:

- Failure to undertake our statutory responsibilities within required timescales;
- Making a decision that could be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

10.6 These risks have been dealt with in the report under section 5.0 by highlighting that the Sub-Committee is required to determine this application for a premises licences under the Licensing Act 2003 having due regard to the four licensing objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates court and promote Community Safety in the Borough.

### Sustainability

10.7 The four licensing objectives addressed in the Council's licensing policy, which the Sub-Committee is obliged to have regard to in making its decision, are in line with the Council's sustainability aims.

## 11.0 Conclusions

11.1 The Committee is asked to consider the review application, contents of this report and its appendices, the evidence and representations presented, answers to questions posed and deliver its decision with reasons.

REPORT ENDS



**Woking Borough Council**  
Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

Premises licence number

19/00449/PREMIS

**Part 1 – Premises details**

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

**Latino**

4 Harland House, 44 Commercial Way, Woking, Surrey, GU21 6HW.

**Telephone number**

**The date the licence takes effect**

15 January 2020

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities**

Sale of alcohol	Week Days	10:00 - 00:00
Sale of alcohol	Saturday	10:00 - 00:00
Sale of alcohol	Sunday	10:00 - 23:00
Recorded music	Week Days	00:00 - 00:00
Recorded music	Weekends	00:00 - 00:00
Late night refreshment	Week Days	23:00 - 00:00
Late night refreshment	Saturday	23:00 - 00:00
Late night refreshment	Sunday	23:00 - 23:30

**Seasonal variation / non-standard timings:**

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

Good Friday: 23.00 to 23.30

**The opening hours of the premises**

Not applicable

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

On and off premises

Part 2

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

Mr Giuliano Pugliese  
[REDACTED]

E-mail latinowoking@gmail.com

Business telephone number 01483 773097

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

Not applicable

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

Giuliano Pugliese  
[REDACTED]

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

Personal Licence [REDACTED]

Licensing Authority Guildford Borough Council

15 January 2020

Date Licence Issued



Senior Licensing Officer

## Annex 1 – Mandatory conditions

- 1) No supply of alcohol may be made under the premises licence
  - (1) At a time when there is no Designated Premises Supervisor in respect of the premises licence, or
  - (2) At a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.
- 3) (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.
    - (1) 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);
    - (2) 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 significant risk of undermining a licensing objective.
    - (3) 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 significant risk of undermining a licensing objective.
    - (4) 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.
    - (5) 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).
- 4) The responsible person must ensure that free potable water is provided on request to customers where it reasonably available.
- 5) (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 licences 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.
- 6) The responsible person shall ensure that–
  - (1) 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–
    - a. beer or cider: 1/2 pint;
    - b. gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - c. still wine in a glass: 125 ml; and

- (2) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (3) 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.
- 7) (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 purpose 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 amount 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) "value 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) (a) 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.
- (b) 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.

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

***General – all four licensing objectives***

- Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such persons as an ancillary to a meal.
- Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served on the premises.

***The prevention of crime and disorder***

None

***Public safety***

None

***The prevention of public nuisance***

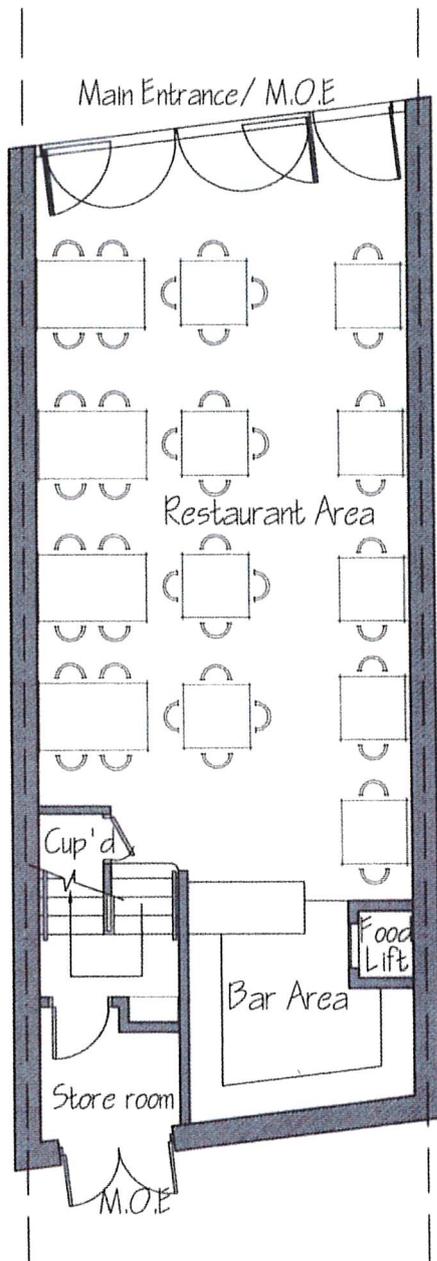
None

***The protection of children from harm***

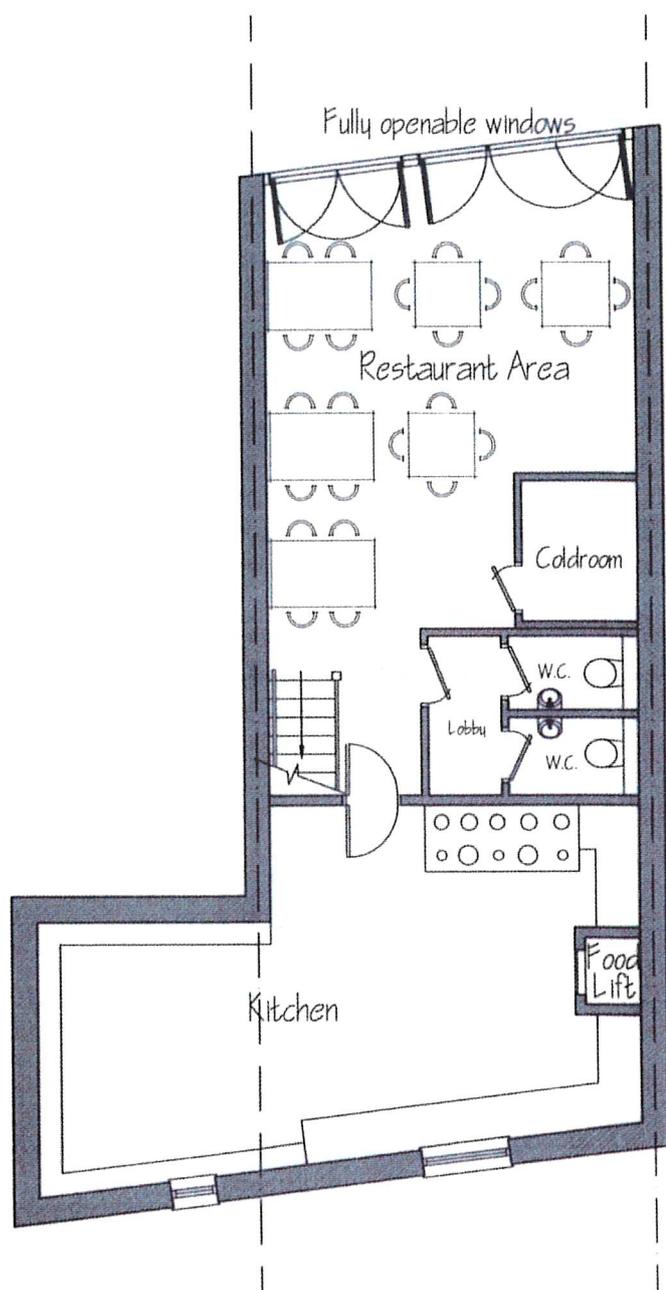
None

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

Not applicable



GROUND FLOOR PLAN



FIRST FLOOR PLAN



**Woking Borough Council**

Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

Premises licence number

19/00449/PREMIS

**Premises details**

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

**Latino**

4 Harland House, 44 Commercial Way, Woking, Surrey, GU21 6HW.

**Telephone number**

**The date the licence takes effect**

15 January 2020

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities**

Sale of alcohol	Week Days	10:00 - 00:00
Sale of alcohol	Saturday	10:00 - 00:00
Sale of alcohol	Sunday	10:00 - 23:00
Recorded music	Week Days	00:00 - 00:00
Recorded music	Weekends	00:00 - 00:00
Late night refreshment	Week Days	23:00 - 00:00
Late night refreshment	Saturday	23:00 - 00:00
Late night refreshment	Sunday	23:00 - 23:30

**Seasonal variation / non-standard timings:**

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

Good Friday: 23.00 to 23.30

**The opening hours of the premises**

Not applicable

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

On and off premises

Name, (registered) address of holder of premises licence

Mr Giuliano Pugliese  


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

Not applicable

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

Giuliano Pugliese

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

15 January 2020

Date Licence Issued



Senior Licensing Officer



## 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 Caroline LAIRD

*(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**

Latino Ristorante Italiano,  
Unit 4 Harlan House,  
44 Commercial Way,  
Woking,  
GU21 6HW

**Post town**

Woking

**Post code (if known)**

GU21 6HW

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

Mr Giuliano Pugliese

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

19/00449/PREMIS

## Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick ✓ yes

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

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

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

Name and address	
Caroline Laird (Immigration Enforcement Officer 18876) Immigration Enforcement 581 Staines Road, Hounslow, Middlesex, TW4 5DL	
Telephone number (if any)	07788 360023
E-mail address (optional)	Caroline.Laird@homeoffice.gov.uk

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

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

Please tick one or more boxes ✓

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

One of the licensing objectives which underpins the Licensing Act 2003 is the prevention of crime and disorder and all operators are expected to take steps to promote the licensing objectives.

Home Office (Immigration Enforcement) believe that Mr Giuliano Pugliese is not preventing crime and disorder and therefore should no longer be allowed to hold a premises or personal licence.

Mr Giuliano Pugliese is using this business to employ illegal workers which is strictly prohibited under the Licensing Act 2003 and Immigration Act 1971(aa).

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

1. It deprives HMRC and the Government of revenue by non-payment of tax and national insurance.
2. It exploits the undocumented by paying them less than the minimum wage and provides no employment or income protection.
3. It encourages other overstayers / illegals to seek similar work.
4. It allows a business to unfairly undercut other businesses by employing cheap labour.
5. Illegal workers are often housed in cramped and unsatisfactory conditions by the employer as part of their working arrangement.

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

**3) Use additional sheets if necessary**

LATINO RISTORANTE ITALIANO, Unit 4, Harlan House, 44 Commercial Way, Woking, GU21 6HW is a restaurant in the town of Woking, Surrey. The premises has a licence to sell Alcohol for consumption on and off the premises between the hours of 1000 and 0000 Weekdays, 1000 and 0000 on Saturdays, and 1000-2300 Sundays.

There is also a licence for late night refreshment from 2300 to 0000 Monday to Saturday and 2300 to 2330 on Sundays.

The Premises Licence Holder and the Designated Premises Supervisor are the same person Mr Giuliano Pugliese.

Home Office (Immigration Enforcement) have received information stating that the employer is employing workers that have no right to be working in the UK and is not carrying out the required checks.

As a result of this intelligence, Home Office (Immigration Enforcement) with 2x Police Officers from the Modern Day Slavery & Organised Crime Unit, planned an Enforcement visit which was conducted on 19.01.2023 with entry being gained by Immigration Officers from South Central ICE under Section 179 of the Licensing Act 2003.

When officers were inside premises, several workers were encountered by Immigration and Police Officers in the kitchen and behind the bar.

Immigration Officers encountered and arrested 1 person who had no right to be working in the UK.

Allowing people with no right to work in the UK, to work at the restaurant shows that there is absolute disregard to their responsibility as an employer to ensure their staff are legally permitted to work in the UK.

The required checks are not being carried out, which could put members of the public at risk due to no criminal history being known.

Mr Giuliano Pugliese was present at the time of the visit and was asked questions in relation to the male with no right to work, he admitted to letting him work without checking any documents 'to see how he got on' and also stated 'we are so short of staff I let him try for a few hours'. Mr Pugliese also admitted that no checks were done to ensure the male was allowed to work lawfully in the UK.

Due to this, a Civil Penalty Referral has been served on the business and it is currently under consideration as to whether a fine will be served on the business for the employment of people who have no work to be working in the UK.

Evidence has been found that the employer is not following the Licensing Objective set out above of 'Prevention of Crime and Disorder', I feel that appropriate action would be the revocation of the Premises Licence and also to consider whether Mr Giuliano Pugliese is a person that is responsible to hold a Personal Licence.

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

--	--	--	--	--	--	--	--

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

Please tick ✓ yes

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

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

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

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

Signature            C LAIRD 18876  
.....

Date                    26.01.2022  
.....

Capacity              Immigration Enforcement 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.

## **Guidance notes for applying for a review of a premises licence Licensing Act 2003**

### **Licensing - review of premises licences**

Under the Licensing Act 2003 the local authority now takes full responsibility of all licensing matters, which previously were dealt with by the magistrate's court. All pubs, nightclubs, off-licences and late night takeaways must have a licence from the council in order to trade.

### **What is a review?**

The new licensing law came into effect in November 2005 and means that people living close to, and feel they are being affected by, a licensed premises can now ask the council to review the premises licence. People are firstly advised to try and reach an agreement with the premises itself, or by contacting the Police or the council's environmental protection team for noise issues.

If these measures fail, you can apply to the council to review the licence of the premises. The ground for a review must relate to one of the licensing objectives, which are:

- Prevention of crime and disorder
- Promotion of public safety
- Prevention of public nuisance
- Protection of children from harm.

The Licensing Authority can reject any ground for review if it considers it to be 'frivolous', 'vexatious' or 'repetitious' (i.e. the council might find the representations were vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness. Repetitious would mean a representation identical or similar to an earlier application).

To apply for a review you must:

- Complete the application form
- Make a note of the name and address of the premises, and describe specific incidents such as dates and times, and how long the disturbance lasted on the incident report form

When applying for a review it is important to remember that a copy of your application will be made available to the public and you should be willing to present your views to the council's licensing sub committee. You cannot apply for a review anonymously.

### **Applying for a review**

On the same day that you send your review application to the council, you must also send copies to:

- The holder of the premises licence; and
- Each responsible authority

The contact details for the relevant responsible authorities are shown below. (If the premises licence is in respect of a vessel there are additional responsible authorities, details of which are available from the council's licensing section). The council will check to confirm that you have done this.

**Environmental health service: health and safety**

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

**Environmental health service: pollution**

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

**Planning service**

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

**Surrey children's services**

Surrey County Council, Quadrant Court, 35 Guildford Road, Woking, GU22 7QQ

**Child employment team**

Surrey County Council, Quadrant Court, 35 Guildford Road, Woking, GU22 7QQ

**Surrey Fire and Rescue Service**

Headquarters, Croydon Road, Reigate, Surrey, RH2 0EJ

**Surrey Police**

Woking Police Station, Station Approach, Woking, Surrey, GU22 7SY

**Surrey Trading Standards**

Buckinghamshire and Surrey Trading Standards, Woodhatch Place, 11 Cockshot Hill, Reigate, Surrey RH2 8EF

**Public Health NHS Surrey**

Lesley Hackney, Public Health Business Manager, Room G55 County Hall, Penrhyn Road, Kingston Upon Thames, KT1 2DN

**Advertising a review**

When the council receives a request to review a premises licence, it has to advertise the application on or near the premises concerned and at the council offices. The advertising has to take place for 28 days and will contain details of the grounds for review. The name and address of the person who has applied for the review will be included in this information.

**Hearing a review**

The council has 28 days, following the end of the advertising period, to hold a hearing to consider the review application. Everyone who has made representations, including the premises licence holder, will be invited to attend the hearing which will be open to the public. All papers relevant to the hearing will also be publicly available. This will include details of the person(s) who applied for the review.

The licence holder will be able to respond to the request for the review and is likely to be legally represented at the hearing. Both parties can call witnesses.

The review panel will want to find out all the facts about the problems being experienced as a result of the operation of the premises and will ask questions of yourself, your witnesses and of the licence holder and their witnesses.

If the review panel, having heard all the facts, considers it necessary for the promotion of the licensing objectives, it can modify the licence conditions, exclude activities from the licence or suspend the licence.



To Licensing Authority  
Woking Borough Council  
Civic Offices,  
Gloucester Square,  
Woking



Date – 10.02.2023

The Home Office (Immigration Enforcement) (IE) as a Responsible Authority wish to apply for a review of the premises licence under S.51 of the Licensing Act 2003 for a premises known as Latino Ristorante Italiano as IE feel that the licensing objective of the prevention of crime and disorder is not being upheld at the venue as the premises has been employing illegal workers.

The Guidance issued to local authorities by the Home Office under s.182 of the Licensing Act makes it clear that there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. This includes employing a person who is disqualified from work by reason of their immigration status

The basis for this review request is as follows:

Latino Ristorante Italiano is a restaurant/pub in Woking, Surrey. The premises has a licence to sell alcohol for consumption on and off the premises between the hours of 1000 and 0000 weekdays, 1000 to 0000 Saturdays and 1000 to 2300 Sundays. There is also a licence for late night refreshments to be sold between 2300 to 0000 Monday to Saturday and 2300 to 2330 Sundays. The Premises Licence Holder and DPS is the same person Mr Giuliano Pugliese.

Home Office (Immigration Enforcement) have received intelligence relating to the premises to suggest that there are people employed with no right to work in the UK.

As a result of this intelligence, on the 19th January 2023 Home Office (Immigration Enforcement) and Police Officers from the Surrey area conducted a visit to Latino Ristorante Italiano, Unit 4 Harlan House, 44 Commercial Way, Woking, GU21 6HW.

Entry was gained under Section 179 of the Licencing Act 2003. On arrival the restaurant was very busy downstairs. They were not using the upstairs restaurant.

The Immigration Enforcement team consisted of 10 officers plus 2 officers from Surrey Police.

When officers entered the restaurant, the Officer In Charge (OIC) spoke to the employee behind the bar area who confirmed he was the person in charge as the owner/manager of the restaurant. The OIC made it clear why we were there and also explained our powers under s179 as to how we are able to check the property.

3x staff members were encountered downstairs, the 2 males were spoken to by the Police Officers for Immigration checks to be conducted, this was done for both of the males working downstairs. The female who was downstairs was taken upstairs to enable other officers to carry out a check, and she was also cleared and able to return to work.

1x BRA male who was working in the kitchen and had been referred to officers after the Police Officers had carried out their checks, had no right to be working and he was served Immigration paperwork as a Worker in Breach of his landing conditions

## Appendix 3

He had a return flight booked for February, but agreed to Voluntarily Depart and has bought his departure forward to depart on the 25.01.2023.

The kitchen was upstairs with more seating area, whilst Officers were in the kitchen more staff were encountered including 1x male who was referred to Immigration Officers for further checks to be conducted.

Working in Breach of your landing conditions is an Offence under Section 24(1)(b)(ii) of the Immigration Act 1971(aa).

Immigration officers conducted a Q&A with the owner who stated that he had been in charge of this business for 15 years so he would have been here when Immigration Enforcement had visited previously in 2013 and 2014 with the same allegations of employing illegal workers. He stated that the male had only come in to work for a trial on the night we conducted the visit.

The owner was also asked why the correct procedure was not followed when the male was employed at the restaurant, he responded with;

*'Most of the time, they don't work with passport, insurance number. When we let somebody come, we trust them, we ask them to bring everything the next day. It's not everything straight away. As a restaurant, we really struggle, if someone ask for Job, sometimes we need people straight away, we would say come for a try out and after we would ask for documentation. We do not ask for documentation on first day'.*

He was also unaware of the right to work checks that an employer should be carrying out stating that the accountant deals with all of those things.

One of the licensing objectives which underpins the Licensing Act 2003 is the prevention of crime and disorder and all operators are expected to take steps to promote the licensing objectives. Home Office (Immigration Enforcement) believe that Mr Giuliano Pugliese is not preventing crime and disorder and therefore should no longer be allowed to hold a premises licence. It appears that the manager of this premises is using his restaurant business to employ illegal workers which is strictly prohibited under the Licensing Act 2003 and Immigration Act 1971(aa)

Home Office (Immigration Enforcement) request that the Licensing Sub-Committee revoke the premises licence to prevent further serious crime and to protect the community from further harm. A Civil Penalty Notice notifying Mr Giuliano Pugliese that he is liable for a fine was served to him when officers attended the address

IO C LAIRD 18876

Excerpts taken from the  
**Home Office Revised Guidance**  
**issued under section 182 of the Licensing Act 2003**

Published December 2022

The following sections of the S182 Guidance all relate to the requirement to prevent employment of illegal workers.

The Licensing Act 2003 and the S182 guidance make it very clear that Licensing Authorities must take a very tough stance on illegal working. Over the last few years, various amendments have been made to the Licensing Act 2003 to introduce requirements for checks to prevent the issue of licences to someone who does not have a right to work, and the refusal/revocation of Personal Licences for those who have committed illegal working offences – as these now count as ‘relevant offences.’

**2.3** Conditions should be targeted on deterrence and preventing crime and disorder **including the prevention of illegal working** in licensed premises (see paragraph 10.10).

**2.6** The prevention of crime **includes the prevention of immigration crime including the prevention of illegal working in licensed premises**. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

**9.25** The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State’s behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

**10.8** The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at **preventing illegal working in licensed premises**. This provision also applies to minor variations.

**10.10** The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises

concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for **the prevention of illegal working in premises licensed to sell alcohol or late night refreshment** might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online right to work check) is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

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

**11.16** The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

**11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

**11.18** However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account Revised Guidance issued under section 182 of the Licensing Act 2003 I 97 when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

**11.19** Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

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

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

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

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

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

### **Reviews arising in connection with crime**

**11.26** Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives **and the prevention of illegal working** in the interests of the wider community and not those of the individual licence holder.

**11.27** There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK;**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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

*Excerpts taken from***Preventing illegal working in licenced premises and the Home Office role as a responsible authority in England and Wales**

Published August 2022

The following excerpts relate to the ability of the Home Office to request a review of a premises following an issue around illegal working.

**Requesting a review of a licence****Summary of a licence review**

An application for a review of a premises or personal licence must be relevant to the promotion of one or more of the **licensing objectives** which, under the prevention of crime and disorder, includes the prevention of immigration crime and illegal working.

Immigration Enforcement (IE) may, therefore, request that an existing premises licence (except regulated entertainment only licences) be reviewed by the relevant licensing authority if there are concerns relating to immigration crime and illegal working in licensed premises. This also applies to licences issued before the Immigration Act 2016 came into force. Such a request is likely to follow an enforcement visit, data sharing with HM Revenue and Customs or the grant of a **compliance order** by a court (for which special arrangements apply). Following an Immigration Compliance and Enforcement (ICE) team enforcement visit, they will refer the case to the Intervention and Sanctions Directorate (ISD) Alcohol and Late Night Refreshment team (ALNR) team as appropriate, based on the ICE team's assessment of the criteria set out below.

In the case of premises licences, the immigration offences and penalties leading to a request for a review may pre-date 6 April 2017. For personal licence reviews, the offences and penalties must have occurred on or after 6 April 2017.

**When to request a review**

The following factors should always trigger an assessment by the ALNR team or relevant ICE team of whether it would be appropriate for ICE to request a review of a personal or premises licence

The licence holder:

- has no lawful immigration status/right to work (if the licence was granted before 6 April 2017)
- has been convicted of an offence of employing an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006
- has been required to pay a penalty, in particular:
  - a penalty under section 15 of the 2006 Act during the last 3 years ending on the date of the licence application

- a penalty at any time which they have failed to pay
- has, at any time, been convicted of an offence under any of the Immigration Acts - as defined by section 61(2) of the UK Borders Act 2007

In the case of disqualification by reason of immigration status, this course of action is relevant where a licence was issued before 6 April 2017, as licences granted prior to that date will not automatically lapse where they have no lawful status. In these circumstances, the onus will be on IE to inform the relevant licensing authority and request a review of the licence

## **Considerations for the review of a personal licence, premises licence, or both**

In every case, apart from late night refreshment, there will be a personal and premises licence to be considered. IE must determine whether to:

- request a review of the premises licence
- request a review of the personal licence
- request a review of both the premises licence and the personal licence of the designated premises supervisor (DPS)

## **Premises licences**

It is important to think about the following:

- revoking a premises licence will generally result in the closure of the business, which will impact lawful as well as unlawful workers
- revoking a personal licence may have a significant impact on the individual but only a limited impact on the business, particularly when the personal licence holder is not the DPS - where the personal licence holder is the DPS for the business, the premises licence holder may apply to vary the licence to appoint a different DPS
- is the seriousness of the illegal working or immigration crime identified such that the only appropriate remedy is to request that the premises licence be revoked; or can the risk be mitigated by the attachment of conditions
- a premises licence applies to specific premises and, therefore, evidence must focus on the prevention of crime or prevention of illegal working in those premises - consideration may also be given to any other evidence that will be relevant to the assessment of risk, including where a business has either:
  - shown wilful or systematic disregard for the law in respect of the employment of illegal workers at any other premises
  - generally been compliant, but has received penalties in other locations, perhaps by virtue of the size of its workforce, and there is evidence that the company has sought to address deficiencies that led to the employment of illegal workers. Such evidence is likely to mitigate against requesting a review, or it may be appropriate to consider requesting licensing conditions

- is there evidence that a business has been non-compliant in another legal entity, dissolved in order to evade sanctions, and re-emerged in another name (phoenixism) and continued its noncompliant activity - if so, evidence of phoenixism should be provided in the representations to the licensing authority to supplement the information about immigration offences and penalties (it will be necessary to establish a clear connection between the 2 businesses in order to produce this in evidence)
- the request for a review must be a proportionate response based on the individual facts of the case. It must be supported by sufficient disclosable evidence - this will be shared with the licensing authority, other responsible authorities, the licence holder, and be presented at a hearing open to the public

## Conditions, suspension and revocation

### Conditions

Conditions can only be requested in relation to a premises licence, not a personal licence.

Ask the question: can the risk of immigration crime be sufficiently mitigated by conditions being placed on the licence?

Conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case. Appropriate conditions could include evidencing to immigration officials that they are complying with requirements, for example:

- the employer must demonstrate that they are carrying out checks relating to the right to work of their employees at the premises at [insert address of premises] and any prospective employees before entering into a contract of employment
- any copies of documents retained by the employer as a result of conducting checks relating to the right to work must be stored securely by the employer at the premises or a digital copy be immediately accessible from the premises for ease of inspection by immigration officials
- the employer, or any person appearing to represent the employer, must be able to produce on demand documents relating to the right to work at the request of an immigration officer who enters the premises to carry out an inspection under section 179 (1A) of the 2003 Act

Conditions may be appropriate where illegal working is identified but the employer has a statutory excuse, the employer has not heeded earlier warnings from IE, or the civil penalty is of a low value.

Payment of an outstanding penalty may not be requested as a licence condition. However, it may be referred to when making a request for a review.

## Suspension

Suspension is possible in relation to premises licences, usually taken together with conditions. It is not common for a licensing authority to suspend a personal licence. IE may consider that it is necessary to request the suspension of a premises licence in order for the licence holder to address concerns they have identified at the premises and put systems in place to prevent illegal working occurring in the future. Accordingly, they may request a review with a request to suspend the premises licence, plus adding conditions such as mandating right to work checks on all existing staff and new staff.

## Revocation of a licence

IE will request a review of a licence and its revocation, in circumstances in which it is considered that the risk of immigration crime and illegal working cannot be otherwise mitigated. If a premises licence is revoked, this is likely to cause the closure of the business.

It will also be the appropriate remedy in relation to a personal licence.

Serious and or repeat non-compliance may include:

- multiple civil penalties or a single penalty for a large amount
- unpaid civil penalties
- unspent immigration offences or other relevant offences
- phoenixism
- breach of a compliance order under section 38 and schedule 6 of the 2016 Act

## An escalated approach

The following approach should be considered when deciding whether to initiate a licence review. It should be noted that it is not the intention that the steps below should be followed sequentially; there may be cases where the severity or scale of non-compliance (including issues other than illegal working) will require consideration of action to be taken without all preceding steps having been taken already. Such as:

- during a joint working operation led by IE; intel received prior to the visit and interviews conducted by officers identified an employee had history for drug dealing and there were concerns that the premises is being used for that purpose
- the fire exits were locked, and it was identified during an illegal working interview that the owner had told the employee to keep them locked whilst he was there on their own for security purposes
- an employee confirmed that they were the only employee working at a premise and had sole responsible for the day to day running of the premise including the sale of alcohol
- ICE officers identified that during illegal working interviews, the premise licence holder was employing underage individuals

Serious safeguarding concerns, breaches to conditions or strong evidence to show failures in meeting licensing objectives identified by ICE teams during a visit, should be considered for

licence review. The primary purpose of a review is to act as a deterrent to prevent further breaches. It can also prevent any licensable activities which are causing concern from happening in future.

At all times, ICE teams are encouraged to discuss the steps they are taking in respect of specific premises with a licensing authority and other responsible authorities, before taking a decision on the most appropriate response in respect of a personal or premises licence. In all cases where illegal working is identified on a visit, and there is no evidence that the employer has a statutory excuse including when it is a first offence, the ICE team should issue a Referral Notice to the employer. The ICE team should advise the employer about the impacts that further non-compliance may have on their ability to carry out a licensable activity. If a further enforcement visit takes place at the business within a 3-year period and further illegal working offences discovered, (where there has been no change in ownership or legal entity of the business and the licence holder remains the same person) the ICE team should again issue a Referral Notice. A review of the licence should then give due consideration to seeking the application of conditions to the premises licence to encourage compliance. Dependent on the severity of the offence they may wish to consider requesting the suspension or revocation of the licence.

There may be occasions where the ICE team have visited for a third occasion within a 3-year period and further offences identified, where there has been no change in ownership or legal entity of the business and the licence holder remains the same person. In these cases of persistent non-compliance, the ICE Team must consider issuing a closure notice to temporarily close the business. In considering who the licence has transferred to, ensure attention is paid to a connected person, to rule out any abuse. Unless the notice is cancelled, issue of a closure notice must always be followed by an application to the relevant magistrates' court within the statutory timeframe for a compliance order, to apply conditions on the business. A compliance order automatically triggers the review of a licence; the court are obliged to inform the local licensing authority who will carry out the review. In practice, the ICE team will wish to follow up with the local licensing authority and the ISD ALNR to ensure the licence review is progressed.

If, following a compliance order, a further visit is conducted and breaches of the order identified, the ICE team should make a referral to their local Criminal and Financial Investigations team to consider a criminal investigation into the breach of the order. If no action has previously been taken regarding the licence, then a further review must be requested following consultation with the local CFI team.

It is important that there is a clear rationale as to why we are seeking a review of a premise licence and that we can evidence that we have engaged with an employer or premises or personal licence holder to try and modify their behaviour through education, warning and sanction. There is no need to evidence this type of engagement where serious non-compliance has been identified from the outset. IE checklists are 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 employing an illegal worker.

Where a review is requested and conditions are imposed on licensed premises they need to be proportionate and link to the licensing objectives and need to serve a purpose to fit in with the licensing objectives. IE conditions should relate to the prevention of illegal working in licensed premises.

The above considerations should be made and recorded on Pronto as this will provide important evidence in any licence review. This will show that the employer has failed to comply with their responsibilities or conditions imposed upon them and that the review of the licence is, therefore, proportionate and necessary to prevent illegal working in licensed premises; which is part of the licensing objective of preventing crime and disorder.