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**Bridgend County Borough Council**  
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Legal and Regulatory Services /  
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Our ref / Ein cyf:  
Your ref / Eich cyf:

**Date / Dyddiad:** 29 July 2015

Dear Councillor,

**LICENSING SUB-COMMITTEE A**

A meeting of the Licensing Sub-Committee A will be held in will be held in Committee Rooms 2/3, Civic Offices, Angel Street, Bridgend CF31 4WB on **Tuesday, 4 August 2015 at 10.00 am.**

**AGENDA**

1. Apologies for Absence  
To receive apologies for absence (to include reasons, where appropriate) from Members/Officers.
2. Declarations of Interest  
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 32  
To receive for approval the public Minutes of the meetings of the Licensing Sub-Committees held on 21 April 2015, 9 June 2015, 7 July 2015.
4. Application to Licence Private Hire Vehicle 33 - 36
5. Exclusion of the Public  
The minutes and report relating to the following items are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Act to consider these items in private, the public will be excluded from the meeting during such consideration.

6. Approval of Exempt Minutes 37 - 44  
To receive for approval the exempt Minutes of the meetings of the Licensing Sub-Committees held on 9 June 2015, 7 July 2015.
7. Application for Renewal of Licence 45 - 48
8. Urgent Items  
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.

Yours faithfully

**P A Jolley**

Assistant Chief Executive Legal and Regulatory Services

**Distribution:**

Councillors:

P James  
RD Jenkins  
B Jones

Councillors

JE Lewis  
HE Morgan  
E Venables

Councillors

R Williams

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN LEVEL 4 CONFERENCE ROOM 2, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON TUESDAY, 21 APRIL 2015 AT 10.00 AM

Present

Councillor R Williams – Chairperson

Councillors

JE Lewis

B Jones

Officers:

Carl Window	Trading Standards
Fiona Colwill	Enforcement Officer
Yvonne Witchell	Licensing and Registration Officer
Rachel Morris	Senior Licensing and Registration Assistant
Andrea Lee	Senior Lawyer
Mark Galvin	Senior Democratic Services Officer - Committees

Representing the South Wales Police:

Sgt D Williams  
PC K Ellis

Representing The Golden Lion, Aberkenfig, NR Bridgend

M Dost – Premises Licence Holder  
J Quantick – Supporting the Premises Licence Holder  
G Hopkins – Supporting the Premises Licence Holder

471. APOLOGIES FOR ABSENCE

None

472. DECLARATIONS OF INTEREST

None

473. LICENSING ACT 2003 : SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE MUDO'S CURRENTLY KNOWN AS GOLDEN LION & ABERKENFIG KEBAB & PIZZA HOUSE, 103 BRIDGEND ROAD, ABERKENFIG, BRIDGEND

The Senior Licensing and Registration Assistant presented a report, in respect of an application for a Review of the Premises Licence made by the Chief Officer of Police in relation to the above premises.

She advised that the Premises Licence Holder was Mustafa Dost, and the Premises Licence authorised the supply of alcohol and the playing of recorded music on the days/dates/times outlined in Paragraph 1.2 of the report.

A copy of the application form and background documents submitted by the Chief Officer of Police, together with a location plan, was attached at Appendix A to the report.

The application had been advertised in accordance with the appropriate regulations, and representations had been received from Trading Standards and the Licensing Authority, and these were shown in Appendices B and C of the report, respectively.

The South Wales Fire and Rescue Service, whilst not submitting any representations with regard to the application, did offer an observation and this was contained in Paragraph 4.2 of the report.

The Senior Licensing and Registration Assistant advised that at the time of preparing the report, the Licensing Section were not aware of any discussions between parties and the Premises Licence Holder, and this was still the case at the present time.

The necessary Home Office Guidance on applications of this nature, the Statement of Licensing Policy, Notice of the Hearing and other relevant associated procedures that require to be followed up until and including at the Hearing, had been served on all the interested parties.

The Senior Licensing and Registration Assistant advised those present, that a notice of the Hearing date had been sent to the Premises Licence Holder in the form of a LAR 1 form. This needed to be completed and returned to confirm that representatives from the Golden Lion would be attending the Hearing, and also confirming the names of these representatives. According to her records however, this had not been returned.

Mr Hopkins advised the Sub-Committee that it had been an oversight by the Premises Licence Holder not to complete this form and return it.

The Senior Licensing and Registration Officer advised the applicants that in view of this, application must be made at the meeting to confirm those representatives attending on behalf of the premises, and all parties had to confirm that they accepted this late submission, in order for the Hearing to proceed.

The Legal Officer confirmed that the above procedure had needed to be followed, and as it had not, the Police and representatives from the Licensing Authority and Public Protection Department if they so wished could now object to the application proceeding today on the grounds of non-compliance with the above.

The Chairperson asked the above representatives if they were happy for the Hearing to proceed, notwithstanding that the Premises Licence Holder had failed to complete and return the LAR 1 form, and they each confirmed in turn that they were.

The Sub-Committee then adjourned (with the Legal officer) to consider this issue further, and upon returning and reconvening the meeting, the Chairperson confirmed that Members were happy to proceed.

The Chairperson then invited the Police representatives to present their application, which was presented by PC Ellis verbatim as follows:-

"In terms of errors, can you please peruse page 21 of the application itself which relates to Home Office Guidance concerning reviews?"

Paragraph 11.11 is quoted (half way down) and states, "it is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and other persons in pursuit of common aims".

That particular aspect of the guidance is outdated and has been removed from the guidance issued in October 2014 which is applicable to this application.

The remainder of the guidance has been retained but appears at paragraph 11.10 i.e. from, “where authorised persons ..... ending ..... should not be used to undermine this co-operation”.

Clearly the Home Office felt that if one has to review a licence then in so doing a partnership approach with a licence holder has failed.

This guidance was forever evolving and the current guidance is as recent as March 2015.

Mustafa Dost is both licence holder and Designated Premises Supervisor at the Golden Lion and Aberkenfig kebab & pizza house, Aberkenfig, Bridgend.

However, the name of the premise which appears on the current licence (issue 6 of March 2014) is in fact Mudo's.

Information received from the Environmental Health Authority which is highlighted at Appendix C of the bundle at pages 67 – 70 details that during a food hygiene inspection visit in August 2014 Mustafa Dost leased the kebab takeaway to Onder Akin.

During this visit there were several contraventions of food hygiene regulations.

Evidence highlights that Onder Akin has displayed a similar mindset to Mustafa Dost as despite being instructed last year to register the takeaway with the local authority as a food business and having been left with the appropriate forms, he failed to do so.

James Quantick is the owner of the building, and also has an association with an unlicensed takeaway called Pizza Bella in Porthcawl which was formerly known as Kebabs R Us.

Mustafa Dost similarly had or has a business interest with Pizza Bella.

Disclosure of James Quantick's involvement with the Golden Lion, Pizza Bella and another licensed venue as well as two non-licensed premises in Porthcawl is necessary for the promotion of the licensing objectives.

Offences committed by James Quantick are detailed under Warning Letters issued by the Environmental Health Authority and South Wales Police and appear at pages 37, 43 and 44 of the application.

Irrespective of who owns or leases the property Mustafa Dost has made a conscious decision to retain the Premises Licence in his name and remain as Designated Premises Supervisor.

He is therefore solely responsible for the situation he now finds himself in.

He has committed numerous and the most serious of offences at both the Golden Lion and Pizza Bella causing various authorities to engage in diverse forms of enforcement.

He has for example: -

- 1) Been given verbal warnings and advice by South Wales Police
- 2) Been advised by the Licensing Authority in respect of the illegal siting of gaming machines

- 3) Had served upon him by South Wales Police 6 written warnings
- 4) Had a warning served by the Fire Service
- 5) Been issued with a Closure Notice for the premise
- 6) Received a substantial fine from the Home Office
- 7) Been placed on an Action Plan

However, as he has continued to offend it is clear that all avenues have been exhausted and therefore in order to promote the objectives Review is now the only option open to South Wales Police.

It should be emphasised that offending is not limited to Mustafa Dost as the original licensee was also subject of a warning letter in 2010 for committing numerous licensing offences, yet in 2011 went onto commit further and more serious offences outlined in the application.

She also held the position of licence holder when a significant quantity of heroin with a street value in excess of £30,000 was seized which led to the first review.

The joint Licence Holders prior to Mustafa Dost were also subject of 3 warnings for committing serious offences and what South Wales Police wish to emphasise is that the laissez faire attitude to offending of those holding the licence both past and present as well as the premises itself has attracted a certain customer base which has resulted in a persistent failure to promote the licensing objectives.

No other premise within this borough has been subject of two review applications where the crime prevention objective in particular has been so seriously compromised.

Therefore in his role as licence holder and Designated Premises Supervisor, Mustafa Dost is not fit to hold such positions of responsibility.

In terms of initial representations, it is emphasised at page 4 and 5 of the Officers Report and it is important to note that in relation to Reviews, Licensing Sub-committees must not only have regard to Section 11 of the Home Office Guidance but also Section 12 of the Council's own "Statement of Licensing Policy".

Sub-section 11.1 of the guidance and Sub-section 12.1 of the Policy virtually mirror each other and dictate that reviews of premises licences represent a key protection for the community in respect of problems which may arise at licensed venues.

Section 11 is amplified elsewhere within the review.

Information highlighted within the review demonstrates a systematic and deliberate failure to promote all 4 licensing objectives.

I also wish to highlight the following statement "licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local community safety partnership".

The Licensing Department of South Wales Police is an integral part of the Community Safety Partnership and this is not a statement which has emanated from the Chief Officer of Police but is emphasised at Section 2 of Home Office guidance which relates to the Licensing objectives and in particular Sub-section 2.1 Crime and Disorder.

The premises is a conduit for committing offences which has included the arrest of 2 illegal migrants one of which was employed at the premise whilst another was found there.

The financial penalty on an employer for engaging in the employment of an illegal migrant worker is highlighted at pages 17, 18 and 19 of the Review.

If the UK Borders Agency (which is also referred to as UKBA) is considering that such a fine should be imposed then the procedure on evidencing the offence is that a Referral Notice is served on the employer.

The evidence collated is subsequently examined by the Home Office Civil Penalty Compliance Team (CPCT), Immigration Enforcement which determines whether the employer should be subject of a Penalty Notice under Section 15 of the Immigration, Asylum & Nationality Act 2006.

To deter such criminality massive fines can be served on employers by the Secretary of State and the employer may object and subsequently appeal against the penalty imposed.

The maximum fine was originally £10,000 but from 16th May 2014 to further deter the employment of illegal migrants this figure was doubled.

However, there is vast amount of documentation available electronically and otherwise to help employers avoid committing immigration offences.

There is also a help line manned by UK Borders Agency staff.

At page 5 the Licensing Authority has indicated that a Home Office document titled "An employees guide to right to work checks" has been made available to you

This is a 35 page document explaining matters in detail.

However, a document titled, "Home office checks to ascertain if someone can work in the UK" is a simplistic staged and chronological check using a quick answer tool which enables employers to ascertain if a potential employee can work in the UK legally and asks pertinent questions for example such as: -

Does the worker have a UK passport?  
Are they a British Citizen?  
Do they possess a permit or visa showing that they have a right to work in the UK?  
Do they have any other relevant documents entitling them to work in the UK?

If the answer to those questions is, "No" then the guidance is clear as it details that, "The worker may not be currently entitled to work in the UK".

This document was served on 24th March 2015 as part of the review and is a mere 5 pages which is also available to you.

Extracts from other HO guidance appears on pages 16 – 18 of the application.

In short employers are given every assistance to thoroughly scrutinise potential staff and there is no reason therefore for any employer to employ migrants who are not permitted to work.

If for example an employee produces documentation to suggest he is in the UK legally then those documents can be verified on the Home Office website or UKBA can be contacted on the telephone.

It is not just a case of merely accepting documentation provided to employers. That documentation must be checked in order to ascertain if it is legal or otherwise.

For a licence holder to suggest that documents produced by employees appeared credible is misleading and not accepted or indeed acceptable as those credentials must be substantiated.

In relation to immigration offending arrest warrants issued under the Immigration Act 1971 are sworn out by UK Borders Agency Officers before a Justice of the Peace, only if reliable information is received that immigration offences are being committed.

In other words they must have reliable intelligence to suggest that illegal migrants are at a premises.

UK borders have informed South Wales Police that Mustafa Dost himself is what they class as a person with "indefinite leave to remain" in the UK i.e. an ILR. He is not therefore a British citizen and has had to go through all relevant immigration checks to gain entry into and also work in the UK. So he is entirely familiar with the immigration process.

In respect of Crime and Disorder I refer to Enforcement visits by UK Borders Agency

UKBA conducted the first Enforcement visit to the Golden Lion on 20th October 2013 and entry was gained with the execution of a warrant granted at Swansea Magistrates Court.

A total of 4 persons were found to be working including 2 British citizens, a naturalised Turkish national and Mustafa Dost. .

An Indian national was found in one of the flats above the premises who had come to the attention of UKBA previously as he had illegally entered the UK and was given restrictions to report to the authorities but had absconded.

The flats are part of the premises and persons in control of the Golden Lion also have management of these dwellings.

The absconder was duly arrested and conveyed to Bridgend Police Station for process.

A second warrant was executed on 7th March 2014 as again UKBA had reliable intelligence that an illegal migrant was at the premises.

A total of 5 persons were found to be working at the premises including 2 British citizens and 3 Turkish nationals, one of whom was classed as an "overstayer" i.e. his visa had expired and he was therefore illegally in the UK and was not permitted to work.

He was also arrested and conveyed to Bridgend Police Station for process.

Mustafa Dost was not working at the time but was contacted and requested to attend at the premises for questioning but failed to turn up.

A Referral Notice was subsequently served by post on Mustafa Dost as the owner of the business, and on 29th April 2014 a Notice of Liability (NOL) for a penalty of £5,000 was issued to him in respect of one worker.



Mustafa Dost did not lodge an objection or a subsequent appeal however; he has not paid a penny of the fine and the case is currently with the Home Office third party debt recovery specialists.

At the time the offence was committed the maximum fine was £10,000.

Clearly there is a need for persons to be employed but those job opportunities have been denied to individuals legally entitled to work and it could be argued that Mustafa Dost is exploiting the vulnerability of such persons.

The specific offence committed by Mustafa Dost is:

- 1) Employing an adult subject to control who had not been granted leave to enter / remain in UK contrary to Section 21 of The Immigration, Asylum & Nationality Act 2006. Penalty: Indictment - imprisonment for a term not exceeding two years, a fine, or both. Summary - imprisonment for a term not exceeding 12 months in England and Wales, a fine, or both.

Notwithstanding the immigration transgressions, offences have also been committed under: -

The Licensing Act 2003  
The Regulatory Reform (Fire Safety) Order 2005  
The Gambling Act 2005

However, the serious penalties do not seem to have deterred Mustafa Dost.

As well as the Crime and Disorder objective, the Public Safety objective is also compromised as nothing is known of the antecedent history and background of the employee who entered the UK illegally which potentially further impacts on the licensing objectives.

Furthermore, there had also been a number of disturbances which had resulted in injury and the arrest of assailants.

What is also of concern is the content of the warning letter served on Mustafa Dost by the Fire Service in April 2014 (pages 33 – 35 of the bundle) which highlights failings to comply Fire Safety Regulations.

The Public Nuisance objective is similarly compromised as there have been several reports of assault, fighting and disturbance both inside the premises and outside in the street late at night and during the early hours of the morning to the detriment of the local amenity.

Officers have also witnessed customers outside drinking from bottles and glasses and being rowdy, and during one incident a large disturbance occurred outside the premises and when Officers attended inside, numerous customers were witnessed consuming alcohol at 01.50am when the licence permits opening until 01.30am only.

Clearly, opening after the authorised hours impacts on the public nuisance objective as it does not afford the necessary protection to local residents, whose lives can be blighted by disturbance and anti-social behaviour caused by those visiting licensed venues.

Additionally “Stop on’s” do not promote a gradual dispersal of customers which was in fact a fundamental principle in the introduction of the Licensing Act.

In respect of the protection of children from harm, there are a number of extremely alarming factors about the following incidents:-

- 1) Firstly, during a reported fight at 11.38pm on 19th December 2014 the attending Officers arrested two customers for fighting outside the premises.

The incident occurred on a day, generally referred to as Black Friday, which is an extremely busy period and presents as problematic for the emergency services due to the level of alcohol related incidents and drunkenness.

However, Officers noted that there was a female customer in the bar and although she was accompanied by her father she was drinking wine. She was 14 years of age.

The second incident occurred as follows:-

- 1) At 11.30pm on Thursday 14th November 2013 when a male was seen by a witness to leave the Golden Lion in an intoxicated state whereupon he attempted to smash the window of a nearby Chinese takeaway
- 2) Before subjecting a 57 year old staff member who remonstrated with him to a racially aggravated assault.

He then went onto commit further offences by: -

- 3) Causing criminal damage to a window of a flat by smashing it with his fist
- 4) Pulling over a motor cycle causing scratches to the bodywork and the offside wing mirror to smash.
- 5) Damaging the offside wing mirror of 3 vehicles
- 6) Damaging the bodywork of a fourth vehicle.

He was arrested and what is noteworthy about this incident is that the suspect was aged 17 years and the arresting officer, PC 4889 Littlewood, described him in his statement in the following manner:-

“ He was slurring his words and smelt heavily of intoxicants. I formed the opinion he was drunk and seemed generally agitated”.

The minor was conveyed to Bridgend Custody Suite and perusal of his custody record details the following: -

Custody Care Plan - Health and Wellbeing. Detainee is intoxicated and had to be checked every 30 minutes.

Custody staff further detailed that the suspect was deemed to be still drunk at 07:22am the following day.

He was subsequently interviewed and stated that he went to the Golden Lion at 3.00pm and stayed at the premise until 11.05pm. He drank two cans of alcohol and wasn't drunk. He denied committing any of the offences.

However, his denial of both his demeanour and the offences committed were inconsistent with the facts.

Enquiries also revealed that the suspect had caused damage to the foyer of the Golden Lion. However, Mustafa Dost refused to assist the investigation by supplying a witness statement which does not promote the crime prevention objective.

It transpired that he refused to make a Statement as the offender was in fact his brother-in-law.

Due to his age he was not charged but referred by the court to the Youth Offending Service.

He was made subject of a Youth Rehabilitation Order with intense Supervision and Surveillance which he must adhere to until 6th May 2015.

This incident not only seriously impacts on the Protection of Children from Harm objective but also fails to promote the prevention of crime and disorder.

Just to give you a flavour of some of the other incidents reported to South Wales Police via the 101 or 999 emergency system are as follows, taken verbatim from the call handler:-

14/11/2013 @ 23.30hrs

Damage. I am in main street in Aberkenfig. There is a boy who has tried to smash the window of the Vehn Ly Chinese Takeaway. He is wearing a grey jogging suit, aged about 17 years. He came out of the Lion pub and he has now gone up Dunraven Street. He looked very drunk and he assaulted man who works in the Chinese. I think he has also pushed a bike over in the street.

19/12/2013 @ 19.47hrs

Assist ambulance - location is the Golden Lion - report of a 25 year old female (name unknown) has fallen. Ambulance has received a second call as female is drunk becoming abusive and unhelpful. Ambulance en route and will stand back until Officers attend.

9/2/2014 @ 01.30hrs

There has been an assault at the Golden Lion. Male was assaulted by another male. No other details at this time.

22/2/2014 @ 01.10hrs

Two males have just kicked the door through of the Golden Lion and attacked one of the bar members - male described as having short dark hair wearing a multi coloured jumper, aged 20-22yrs. they are currently on the square. Premise is now called Mudos.

24/5/2014 @ 01.11hrs

There is a male kicking against my windows trying to break them. He may be called A, no descriptions.

21/8/2014 @ 21.32hrs

Me and my sister are in the Lion Pub. My ex-boyfriend is in here and he is trying to feel my sister up. I have asked him to go away and he won't. We have just walked outside. He is inside but he will probably come out now.

5/12/2014 @ 20.33hrs

Caller asking for Police as he has just been hit by a women in the face and about 20 people are outside. Lline has then cleared.

19/12/2014 @ 23.38hrs

Two in custody for public order. Require van asap at Golden Lion.

19/12/2014 @ 23.08hrs

Fight ongoing outside the Golden Lion. Ambulance en route.

18/1/2015 @ 00.20hrs

Verbal dispute in a Public House the assailant has grabbed the victim around the throat causing scratch marks to her neck.

7/2/2015 @ 01.50hrs

The Golden Lion. Two calls in a very short space of time from Officers who had come across a large disturbance with people shouting and screaming outside the pub as they spilled out.

In respect of authorisations, It was important to note that this premises is subject of restrictions by the Premises Licence

If one intends to provide hot food or drink between 23.00hrs and 05.00hrs a Licence is required as it is a licensable activity.

However; the Licence does not permit the provision of hot food or hot drink.

However, he has not only contravened the opening hours authorised by the Licence and the Conditions but has also engaged in licensable activity without permission.

Notwithstanding the Conditions of the Licence he does not have a due diligence defence of not knowing the hours of opening or the licensable activities authorised as has been advised or warned by the South Wales Police on numerous occasions.

Additionally, after being served with the review on 20th February 2015 he attended at Bridgend Police Station 3 days later and asked for advice concerning the Review.

PC Rowlatt, Divisional Licensing Officer, went through the application with him and advised that he adhere to the Conditions of the Licence.

The Officer suggested he seek legal advice, but his attitude was such that he informed her that he would shut the premises.

Referring again to Home Office Guidance issued under Section 182 of the Licensing Act.

As previously highlighted Section 11 relates to Reviews and is specific and very clear. One aspect focuses on "Reviews arising in connection with Crime"

Sub-section 11.27 of the guidance highlights that there is certain criminal activity which should be treated particularly seriously. 10 activities are listed

These are the use of licensed premises: -

- For the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime
- For the sale and distribution of illegal firearms
- For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected
- For prostitution or the sale of unlawful pornography
- By organised groups of paedophiles to groom children
- As the base for organised criminal activity, particularly by gangs
- For the organisation of racist activity or the promotion of racist attacks
- For unlawful gambling
- For the sale of smuggled tobacco and alcohol

These are serious offences and there is obviously a growing concern with the number of migrants entering the UK illegally or remaining in the country unlawfully after their visa has expired for example, coupled with the fact that these individuals are also working that the Home Office has since included alongside these serious criminal activities offences of knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a Condition on that person's leave to enter.

As indicated a migrant who had illegally entered the UK and had previously absconded was found at the premises in 2013.

Another illegal migrant was employed at the takeaway in 2014 whose visa had expired and he too was illegally in the UK.

Furthermore, a number of serious offences have also been committed over a prolonged period under various other Acts.

In relation to engagement with the Licence Holder and enforcement action Sub-section 11.10 of the review guidance details that "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 holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation".

Responsible authorities have attempted to rectify given situations at premises failing to promote the licensing objectives by undertaking various forms of enforcement.

Mustafa Dost was indeed given early notice of the serious concerns of South Wales Police as far back as 2011, when a warning was served in respect of his offending at Kebabs R Us. This was 4 years ago.

He ignored that warning and was given further written warnings concerning the same premises in 2012 (one letter) and 2014 (two letters).

In relation to the Golden Lion, South Wales Police served Mustafa Dost with a warning letter in 2014, and when this warning was also ignored he was placed on an Action Plan in 2015. However, he then had to be given 2 further warnings.

The Action Plan is extremely significant to this review as it is essentially the final chance for a Licence Holder to show a willingness to not only promote the objectives but also engage with the authorities.

Face to face meetings are arranged with South Wales Police and the Licence Holder who is informed of the serious concerns that need to be urgently remedied.

On 12th January 2015 a meeting took place at the premises with Mustafa Dost, and James Quantick and the 4 Licensing objectives were addressed individually within the Action Plan along with Licensable activities relating to the CCTV conditions.

Mr Dost countersigned the Plan and returned it to CSP on 15th January 2015.

The document is designed to identify problems of concern and the steps required to eradicate those problems.

Mustafa Dost indicated that he had problems downloading CCTV.

There are in fact 13 Conditions appended to the Licence concerning CCTV.

For example:-

9. The Premises Licence Holder must make recordings of images available on request to any officer of the South Wales Police in the course of their duties as soon, as is reasonably practicable. Therefore adequate training will have to be provided to duty staff in order to comply with this condition
10. The Premises Licence Holder will be responsible for ensuring that the operating equipment is regularly checked and that it operates at all times during the opening hours.

Whilst South Wales Police fully appreciate that CCTV recording equipment can develop faults and not record incidents the reality of the situation is that if one engages in licensable activity under such circumstances then one does so without authorisation an offence contrary to Section 136 of the Act.

Section 136 is the most serious of licensing offences and as indicated in the warning letters carries a heavy penalty in particular a maximum fine of £20,000.

However, the Home Office have recognised that this is not a significant sum in respect of the money which can be made at certain premises, and since 11th March 2015 the maximum fine has been replaced with an unlimited fine.

In short if Mustafa Dost was unable to adhere to the Conditions of his Licence as CCTV was not working properly then he should not have engaged in licensable activity.

If one focuses on the Action Plan and the action to be taken by Mustafa Dost it states:-

“To be fully compliant with all parts of the licence and the licensing offences”

“To ensure staff fully understand the conditions and apply them at all times”

“To include training of all staff to be able to provide CCTV footage as per licence conditions”

“The number of disorder incidents to be reduced significantly”

“Noise. Ensure no excessive noise or inconvenience to residents”

“At all times staff to be fully compliant with CCTV conditions and suitably trained”

These actions are self-explanatory and were required to:

- prevent the persistent unlawful sale of hot food after 23.00hrs as there is no authorisation in place.
- to adhere to the other Conditions of the Licence including those relating to CCTV.
- to prevent disorder and noise nuisance
- to test compliance with the Action Plan

You will note on page 60 under the document titled “occurrences” that Mustafa Dost did not comply with requests to supply CCTV images in December 2014 in contravention of the Licence, and a mere 3 days after he signed the Action Plan an assault took place which involved two females, one being the suspect and the other the victim.

9 days later on 25th Jan 2015 hot food was supplied at 23.30hrs.

Subsequently hot food was supplied on 4 occasions between 24th Jan and 7th Feb 2015 at 00.30hrs, 00.50hrs, 23.20hrs and 23.59hrs in direct contravention of the Conditions of the licence and the action plan.

at 01.50hrs on sat 7th Feb 2015 (i.e. friday night) officers reported a large disturbance outside the premise and upon entering a number of customers were inside drinking alcohol.

The Licence authorises opening until 01.30hrs only on a Friday.

Mustafa Dost’s wife contacted CSP on 19th January 2015 stating that CCTV could not be downloaded in respect of a disturbance which took place on 19th December 2014 and suggested South Wales Police come and take the hard drive.

She was told that this was not acceptable and she must comply with the Conditions of the Licence.

A warning letter was sent to Mustafa Dost on 22nd January 2015 requesting CCTV but the following day he also telephoned CSP stating that he could not comply with the Conditions.

Manager, Scott Walford, informed Officers on 9th Feb 2015 that he could not comply with CCTV.

In effect Mustafa Dost did not comply with almost every aspect of the Action Plan.

Given that the Hearing is taking place today the latest offending just about sum-up the Management’s attitude toward the Authorities and the legislation which they are required to police.

Last Friday, 17th April, Licensing Officers tasked Aberkenfig Officers with paying attention to the Golden Lion due to the persistent contraventions of the Licence coupled with the alcohol related incidents which had taken place at and outside the premises.

Sgt. Ridd attended and duly submitted the following entry on the occurrence log: -

Supervisor Review

PS 3471 Ridd, J.

Log Entry: Checks conducted on Friday 17th April going into Saturday 18th April.

1. Kebab shop Golden Lion was open at 23:10 hours. the delivery driver was taking out orders, the counter lights were on, the spits were rotating and being heated and the till was on. it was pointed out to them that they were in breach of their licence and that the breach would be reported to the Licencing Officer.

The fact that the driver was taking out orders at 23.10hrs would suggest that hot food was being supplied way after 23.00hrs.

After Sgt. Ridd had gone off duty his colleague, the night shift supervisor, Sgt. Sullivan, later attended and he too submitted the following entry: -

Supervisor review PS 4986 SULLIVAN, B.

Log entry: Operation Raven for night of Friday 17th

At 02.08hrs (Saturday) I noticed that the lights of the Golden Lion pub were still on and saw through the window that people were still inside drinking.

There was a lady behind the bar later identified as Mrs Joanne Middleton Walford.

Entry was gained and the bar man, Scott Walford, was asleep on the bench in the bar.

There were two people from the karaoke staff still there that Scott Walford initially tried to pass off as his staff and not the hired entertainment.

There was a customer who Scott said he was giving a lift home still drinking at the bar.

I did not see Mrs Walford serve any drinks, but the till was still switched on and yet again had not been cashed up.

In relation to warning letters the Fire Service also served a written warning on Mustafa Dost in 2014.

The afore mentioned guidance dictates that Licence holders who have not responded to warnings and failed to improve will be subject of the review process.

Despite the involvement of South Wales Police, the Fire Service, the Environmental Health Authority and the Licensing Authority, as well as the UK Borders Agency, serious offending has continued and the warning letters are particularly significant as they highlight:-

- 1) The requirement to obtain a Premises Licence (i.e. for Kebabs 'R' Us/Pizza Bella)
- 2) The need to make application to authorise the provision of hot food (Golden Lion)
- 3) The Conditions of the Premises Licence
- 4) The serious offences which Mustafa Dost has persistently committed
- 5) The heavy fines which can be imposed under the Licensing Act
- 6) More importantly warnings strongly emphasised that South Wales Police could apply to Review the Licence if offending continued

Neither the severe financial penalties, the advice nor the warning letters from South Wales Police and our partners has had any effect and have in fact been treated with total disregard.



Numerous and diverse offences have been committed which have been persistent, deliberate and unacceptable.

Mustafa Dost's mind set is such that he has not only committed offences after he was served with the Review Application, but right up to the weekend prior to the Hearing.

The Review is an extremely critical condemnation of the management of this premises and presents as a dismal failure to promote the licensing objectives.

There are currently about 550 licensed premises located within Bridgend County Borough and to understand the overall picture of enforcement since 2005 when the Licensing Act was introduced, South Wales Police has had to review the authorisations of 20 premises in order to promote the licensing objectives.

This equates to just 2 reviews each year.

Again taking into consideration the Home Office guidelines that, "Licensing authorities should look to the police as the main source of advice on crime and disorder it was strongly recommended to various Sub-Committees that 13 of those authorisations should be revoked."

In other words the police do not propose that authorisations should be forfeited unless it is felt absolutely necessary in so doing to promote the licensing objectives.

So when we bring a Review before you it is because we have a very good reason for doing so.

A Member asked the Police representatives if it was normal practice for as many as 4 warning letters to be sent to a Premises Licence Holder before sterner action was considered to be taken against them.

Sergeant Williams advised that though such warning letters were sent out, the Police endeavoured to work with Premises Licence Holders and Designated Premises Supervisors to give them every opportunity possible to comply with Conditions of their Licence and to address any other concerns that may have been raised in respect of the Premises.

The representative from the Public Protection Department added that it was the job of Officers in that Department to work closely in partnership with the Police, and in respect of the Golden Lion premises, he supported the concerns raised by the Police in their submission in respect of the premises, in that the Premises Licence Holder was not complying with the licensing objectives, which was in turn not enabling the premises to operate and function as a licensed premises should do. The Premises Licence Holder's disregard to promote the licensing objectives was having a detrimental effect upon both the patrons who visited the premises as part of their socialising, and the wider community within which the premises was situate.

The Licensing Enforcement Officer added that an Environmental Health Officer in the food safety team had previously visited the premises on the 14<sup>th</sup> August 2014 to carry out a routine food hygiene inspection. She in turn had produced a Witness Statement in relation to this as follows, which she read out to Members:-

"When I arrived on site I met staff member Mr Mustafa Aygan. Mr Mustafa Aygan advised me that he and his partner had only opened the business the week previous. I

asked Mr Aygan who the food business operator was and he informed me that his partner Mr Onder Akin was the food business operator. The food business operator had not registered the food business, this was discussed and a food business registration form was left on site. Mr Aygan informed me that the business name was now Aberkenfig Kebab House. At the time of the inspection Mr Mustafa Dost's food hygiene training certificate was on the wall. I asked Mr Aygan if Mr Dost works at the business or if he has anything to do with the business and Mr Aygan informed me that Mr Dost has nothing to do with the business. Mr Aygan advised that the business is leased from Mr Dost however he has nothing to do with the business. I was informed that Mr Dost still runs the pub but has no involvement with the food business".

The Chairperson then invited the Licensing Enforcement Officer to give her submission.

She confirmed that the Enforcement Section of Bridgend County Borough Council supported the application made by South Wales Police to review the premises licence of the Golden Lion & Aberkenfig Kebab & Pizza House (Mudo's), 103 Bridgend Road, Aberkenfig and made the following representations.

Licensing Enforcement Officers are responsible for the enforcement of conditions set on Premises Licences under the Licensing Act 2003. The team is also responsible for investigating licensing related complaints received by the Council.

In terms of concerns over the management of the premises under the Licensing Act 2003, she advised that the service noted the evidence of South Wales Police and shared the concern that the Golden Lion & Aberkenfig Kebab & Pizza House (Mudo's) is failing to promote the licensing objectives.

On 28 February 2014 a complaint was received from a member of the public alleging that children were purchasing alcohol from the premises and on the 28 April 2014 a complaint was received alleging the premises was trading and serving hot food up until 01:30 hours, the premises has no licence for late night refreshment, therefore, must cease serving hot food and drink between the hours of 23:00 and 05:00.

Mr Dost assumed responsibility for the premises in December 2013. In January 2014 information was received that the Designated Premises Supervisor (DPS) was no longer at the premises and the person named as DPS on the Premises Licence did not have day to day control of the sale and control of alcohol. On 8 January 2014 Licensing Enforcement Officers visited the premises and advised Mr Dost to cease the sale of alcohol with immediate effect, until a time when a Variation of DPS application had been submitted to the Licensing Authority, subsequently on the same day (8 January 2014) an application was submitted.

During the visit on 8 January 2014 Mr Dost was also advised that he had no Notification under the Gambling Act 2005 in place, even though Gaming Machines were switched on and available for use in the bar area. Mr Dost was advised to turn the machines off until a Notification had been granted. To date no application has been received, yet Mr Dost still has Gaming machines on the premises which are available for use.

Mr Dost obtained his Personal Licence on 11 February 2014 and subsequently became DPS as well as Premises Licence Holder (PLH)

The premises has substantially been altered since Mr Dost became PLH.

Premises Licence for the premises states in Paragraph 6 of Annex 2 – Conditions Consistent with the Operating Schedule States:

“No structural alterations or alteration to the layout of the premises including ceiling and wall linings shall be carried out without the consent of the Licensing Authority”.

This Condition appears to have been contravened as during a recent visit by a Licensing Enforcement Officer it was seen that the lounge of the premises had been substantially altered from a lounge bar to a fully functioning kebab sit down and takeaway shop.

The Premises Licence also refers to the area where the Kebab shop is sited as a “Lounge”.

Mr Dost has failed to inform the Licensing Authority of any changes to the premises.

A further issue to consider advised the Enforcement officer, was that the Kebab Shop is operating within a licensed area, therefore, allowing children to enter a licensed premises without being accompanied by an adult, in addition gaming machines could also be sited, under the on-licence exemption and accessed by children.

In light of the above, the Licensing Enforcement Section had no confidence that the management of the Golden Lion & Aberkenfig Kebab & Pizza House (Mudo’s) is effectively promoting the licensing objectives under the Licensing Act 2003.

This review was welcomed as a means of identifying the most appropriate way to ensure that these concerns are addressed.

The Chairperson asked Mr Hopkins, who was going to lead on the Premises Licence Holder’s submission if he or other representatives from the Golden Lion had any questions of the representatives from the Statutory bodies.

He replied that they hadn’t, and he proceeded to present his case.

Mr Hopkins advised that even though Mr Dost had played an active part in business activities at the Golden Lion and Aberkenfig Kebab & Pizza House since December 2013, he was not fully responsible for these premises until he signed the Lease in September 2014. Since then he had held joint responsibility for the premises with Mr Quantick.

He therefore felt that any incidents of crime and disorder at the premises prior to December 2013, the Sub-Committee should not take on board, as Mr Dost was not responsible for the premises at that time.

Mr Dost had recognised that there was room for improvement in terms of the control of the premises and the manner in which it operated, and to this end, Mr Scott Middleton the current Manager was going to apply to become Designated Premises Supervisor there. It was anticipated that this proposal would ensure that the business would operate more effectively in future.

He noted from the report, that the premises had previously been the subject of a Closure Notice. However, he again wished the Sub-Committee to note, that this had been in November 2013, and he reiterated that at this time Mr Dost had not been the Responsible Owner of the premises.

Mr Dost also intended to submit a minor variation by way of a Plan, that would remove altogether the Kebab & Pizza House from the existing Premises Licence.

In terms of some of the evidence provided as part of the Statement of South Wales Police, a person who had previously resided at the premises, but who was picked up by UKBA as a result of an Enforcement visit, was from overseas but had been residing in the UK legally for 20 years. Unfortunately however, his visa had been shown to be out of date. He was now going to apply for a new visa to correct this oversight. As far as Mr Dost had been concerned this person had been staying with him at the time, under a valid visa. Mr Dost was also fully aware of the relevant regulations and Home Office guidance under which people from overseas were permitted to remain in the country.

Mr Hopkins recommended that also his client wished to add 3 further Conditions to the Premises Licence, in order to improve the way the business operated, and he would discuss the finer wording of these with the Police prior to these being submitted.

In terms of the South Wales Fire and Rescue Service, they were going to further inspect the premises to carry out a Fire and Risk Assessment. Fire fighting equipment had been made available at the premises, and this would also be inspected by the Fire and Rescue Service.

In terms of the Kebab and Pizza House that adjoined the premises, this had only been established to uplift the business and generate some further income. He recognised however, that there had been occasions when food had been sold after permitted hours within which to do so. It was therefore proposed that application be made for a Late Night Refreshment Licence for the purpose of selling the above food products up to 01:00hrs on Friday and Saturday and up to the time of 12 midnight on other days of the week.

Mr Dost currently ensured that this part of the business terminated at 23:00hrs in the absence of the above Licence.

Though the South Wales Police had claimed that food was being served after the permitted hours under which to do so, there had been some confusion here added Mr Hopkins, in that food products were not being sold after 23:00hrs but delivered to customers home addresses via a delivery service that the shop provided.

The Police had made reference to another incident, whereby a female under the age of 18 had consumed alcohol in the Golden Lion premises. However, there was no evidence to suggest that this had been the case, though she had been seen consuming alcohol in another licensed premises in the village earlier that evening, prior to her father taking her home.

One of the Conditions that his client intended putting forward, was that no children shall remain at the premises after 20:00hrs, and that other concerns residents had raised over cases of disturbance following patrons leaving the premises of an evening, be addressed and tackled with the Police. It was also proposed, that a Personal Licence Holder be present at the premises after 19:00hrs each night, with two such persons there to manage the sale of alcohol at the premises. An incident book would also be provided, in order to monitor incidents as described by the Police in their application for Review of the Licence.

There were 12 Cameras at the premises with a 31 day CCTV coverage, and all staff working at the premises had now been trained to download images as and when requested for evidence and other related purposes.

Mr Hopkins added that Mr Dost was not directly responsible for the operation of the Kebab and Pizza House, as he was only the leaseholder of this part of the business.

He added that to obtain more control of patrons entering and leaving the premises of an evening, it was intended to install a further CCTV camera outside the front of the Golden Lion, and to ensure staff have training in respect of Challenge 25, with refresher training on this quarterly. His client wished to put these forward as added Conditions to his Premises Licence.

PC Ellis noted that in Mr Hopkins' submission, it was confirmed that Mr Dost had become Premises Licence Holder at the premises in December 2013, and that when a Closure Notice had been served on the premises in November 2013, the lounge of the premises was being gutted by Mr Dost.

Mr Dost replied that he was helping with decorating the premises at this time, however, the Premises Licence Holder at the time was Mr Singh as opposed to himself.

The Senior Licensing and Registration Assistant advised that the transfer of the Premises Licence in respect of the above ie from Mr Singh to Mr Dost, took place on 23 December 2013.

PC Ellis asked for confirmation as to who was intended to take over as Premises Licence Holder at the premises from Mr Dost.

Mr Dost confirmed that it was intended that Mr Scott Middleton takes over this role.

PC Ellis advised the Sub-Committee that just last Saturday evening, Mr Middleton was working at the premises and it had been noted that the Golden Lion was open after the hours permitted under the provisions of the Premises Licence.

Mr Dost advised that this was not the case, as he was paying for the Karaoke at the time after he had closed the bar, prior to then taking other staff home.

PC Ellis advised that this was the second time the premises was open serving alcohol after the permitted hours to do so, as on 7 February 2015 the premises had been still open to patrons at 01:50hrs.

Mr Dost advised that he could not remember the above, even if it had occurred.

PC Ellis asked Mr Dost to expand upon the immigration offences as detailed in the submission of the South Wales Police.

Mr Dost advised that one of the people referred to had worked in the country for the last 12 years, and he was working in not just the Kebab and Pizza House at the Golden Lion, but also at another venue known as Mama's Kebab House. This person had a valid passport and visa, and he wasn't strictly working in the Golden Lion Kebab and Pizza House, but more just looking after the sale takings. This individual was an acquaintance of Mr Singh and though he wanted to rent the Kebab and Pizza House off him, he did not directly work for him.

The Legal Officer asked Mr Dost if this person was getting paid for looking after the sale takings, and that as a result of this Mr Dost had faced having a large fine to pay due to a breach of the immigration law, particularly as he didn't appeal against the offence, which in itself, suggested an admission of guilt.

Mr Quantick explained that the person in question had been working in Marmaris Kebab shop in Bridgend, though as Mr Dost had indicated, he was looking to rent the Golden Lion Kebab and Pizza House off him. He had been residing with Mr Dost and when the Border Agency had noted that his visa was out of date, he was employed by Marmaris

and not Mr Dost. He had been going through a divorce at the time, and with this on his mind, he had forgotten to make application to renew his visa. Mr Dost had now learned from this mistake, and he should have also appealed against the fine imposed upon him which was £5k. The person in question was now no longer residing in the UK.

The representative from the Public Protection Department whilst noting that Mr Hopkins had suggested adding further Conditions to the Premises Licence, felt that this was a token gesture, given that Mr Dost could not comply with the existing Conditions of the Licence.

The Licensing Enforcement Officer stated that tended to agree with the views expressed immediately above, for the reasons submitted in both the Police application and her submission made earlier.

The Chairperson then invited all parties to give any closing Statements.

Mr Hopkins advised the Sub-Committee that Mr Dost was unreservedly sorry for past events relating to crime and disorder that had taken place within and in the vicinity of the premises, and that was the reason why further Conditions had been put forward to be added to the Premises Licence, in order to ensure that the premises operated more effectively in the future. He wished for the Sub-Committee to note that any offences or similar matters referred to by the Statutory Bodies previous to December 2013 be disregarded, as Mr Dost had not been the person responsible for the premises at that time.

The Public Protection Officer and the Enforcement Officer both confirmed that they had nothing to add to their previous submissions.

The South Wales Police through PC Ellis gave the following closing statement, as quoted.

“Section 11.16 of home office guidance refers in particular to the powers of the licensing authority on the determination of a review.

It states that, “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”.

Sub-section 11.18 details that “where responsible authorities have already issued warnings requiring improvement, either orally or in writing, that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate”.

This aspect of the guidance is extremely pertinent to this premises.

The considerable number of offences committed to date has been unacceptable and the numerous warnings given by South Wales Police and our partners have been treated with complete disdain.

The options available to you are clearly laid out in the guidance at Sub-section 11.19 and are replicated on page 4 of the Officers Report.

In terms of steps taken to promote the licensing objectives, any decision made by the Sub-committee be taken following consideration of the representations received with a view to promoting the 4 licensing objectives. .

1) Take no action

Given the circumstances that would not promote the objectives.

2) Modify conditions?

Mr Dost has been afforded every opportunity to address offending yet despite enforcement he has persistently failed to promote the objectives.

There seems little point in amending or adding conditions as the most basic of restrictions of not being authorised to sell hot food, closing on time and failing to supply CCTV images have not been adhered to and there has been no attempt to heed numerous warnings.

It would be highly unlikely therefore that if you were to impose any meaningful conditions on the licence they would be complied with.

3) Exclude a licensable activity

The main activity is the supply of alcohol and to exclude this would effectively close the premises albeit revoking the licence is the recommendation of South Wales Police.

4) Remove the Designated Premises Supervisor

5) Suspend the Premises Licence for a period not exceeding 3 months?

If you determine to suspend the authorisation then this course of action would promote the objectives but would be a short term fix only and the licence holder will quickly revert to type.

6) Ultimately revoke the licence

South Wales Police have grave concerns over the premise and feel that this will not change due to offending under the: -

Immigration, Asylum & Nationality Act

Licensing Act

Gambling Act

Coupled with a complete failure to adhere to the Action Plan

What should be of serious concern to you is the attitude displayed to the authorities in relation to enforcement which has been ignored.

In fact it has had no effect whatsoever.

This is a clear indication that nothing will change and presents as an abject failure to promote the objectives.

Sub-section 11.28 of the Home Office guidance is very clear. It not only instructs responsible authorities to use reviews effectively to deter the serious activities and crimes referred to from being committed. But when reviews arise in such circumstances and the licensing authority determines that the crime prevention objective is being undermined to further crimes, and it expects Licensing Sub-Committees to seriously consider revoking the licence.

What is very significant is that it goes onto suggest that this should be the course of action and I quote, "even in the first instance."

This is an area of the guidance which offers Committees little room for manoeuvre as knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter, are criminal offences which seriously impact on the Crime Prevention objective and South Wales Police suggest that, given the guidelines specific to these offences then these alone should warrant revocation of the licence.

However, a number of other serious criminal offences have been committed, including those concerning the Licensing Act which have been persistent and the Gambling Act which further impact on the crime prevention objective.

In short previous enforcement by four responsible authorities as well as the UK borders agency has been wholly ineffective and SWP are of the opinion that offending has not been committed as a consequence of ignorance or error but has been intentionally, persistent and determined effort over a prolonged period.

The situation will not change and the offending committed to date by Mustafa Dost encompasses not only contraventions of several acts but is also a failure to comply with the recent action plan and merits Revocation of the Premises Licence"

Members then retired to consider the matter further, whereupon on their return, it was

RESOLVED:

- (1) The Chairperson advised that this was an application by the South Wales Police to review the premises licence Mudo's currently known as the Golden Lion and Aberkenfig Kebab and Pizza House. The Sub-Committee had heard representations from the Police in relation to a number of breaches of the licence. In March 2014 a Turkish migrant was found working at the premises who was illegally in the UK. Mr Dost was requested to attend the premises by the border agency on this occasion but failed to turn up. Mr Dost received a fixed penalty for this offence of £5,000 and he did not appeal the same. The Police stated that Mr Dost has indefinite leave to remain in the UK and as such is familiar with the process of the requirements with the ability to be able to work in the UK. The Sub-Committee were not persuaded by Mr Dost's version of events that the person was not working at the premises, but was thinking of buying the kebab business and came to try out the premises, in addition to which he also stated that this person previously had the right to work in the UK. In April 2014 there was serious contraventions of the fire safety regulations. The Police had also given detailed evidence in relation to a number of incidences recorded against the premises in 2014 and 2015.

The Licensing Officer advised the Sub-Committee that in February 2014 there was a complaint from a member of the public that the premises were serving alcohol to children and on the 28th April 2014 there was a complaint that the premises were serving hot food until 1.30am.

In January 2014 information was received that the Designated Premises Supervisor (DPS) was no longer at the premises and the person named as DPS on the licence did not have day to day control of the sale of alcohol. On the 8th January 2014 Licensing Enforcement Officers visited the premises and advised Mr Dost to cease the sale of alcohol with immediate effect. Mr Dost then submitted an application on that day.



On 8th January 2014 Mr Dost was advised that he had no notification under the Gambling Act 2005 in place, even though gaming machines were switched on and available for use. Mr Dost was advised to turn off the machines until a notification had been granted, and to date no application has been received.

Mr Dost has also substantially altered the premises in contravention of his Premises Licence, and failed to notify the authority of any changes, to date this application has still not been made.

The Sub-Committee were also advised that Mr Dost was operating a kebab shop within a licensed area, therefore allowing children to enter a licensed premises without being accompanied by an adult. Mr Dost has leased the premises to Aygan but it still fell within the Premises Licence as no application to alter the same has been made to the authority.

On the 19th December 2014 there was an underage female drinking wine in the premises.

The Police have stated that they were so concerned about these premises that they put Mr Dost on an Action Plan in January 2015 for a period of 3 months. This clearly set out what the Police expect from Mr Dost which he in turn signed. Prior to this verbal warnings had also been given to Mr Dost. The Sub-Committee heard that just 3 days after signing the Action Plan an assault took place at the premises and 9 days later food was being supplied at 11.30pm. Hot food was then supplied on 4 separate occasions between the 24th January and 7th February after 11pm.

On 7th February again after the Action Plan was signed, Officers reported a large disturbance outside the premises at 1.50am. Officers entered the premises where a number of customers were drinking alcohol, again in contravention of the licence. CCTV was requested by the Police who were advised by the pub manager, Mr Walford that they could not supply the CCTV footage of the incident, again in breach of the Action Plan.

On the 17th April this year Officers attended the premises and the kebab shop was still open at 11pm and the delivery driver was taking out orders, the spits were still rotating and the till was still on, this occurred after Mr Dost knew that the Police had made an application to review his Licence. The same evening a police officer again visited the premises at 2.08am and noticed that the lights of the pub were still on, and when he looked through the window people were still inside drinking alcohol. The officer entered the premises and the barman Scott Walford was asleep on the bench and Joanne Middleton was behind the bar, there were two people from the Karaoke entertainment still there. The till was still switched on and had not been cashed up. This incident took place after the Action Plan and after the application had been submitted for the review.

On hearing the evidence the Sub-Committee have noted that Mr Dost has been the licence holder since the 23rd December 2013 and during that time has continually breached the licensing laws and failed to promote the 4 licensing objectives.

Mr Dost has been advised and given warnings by the Police and Licensing Enforcement Officers in relation to both the authorisation needed under the Gambling Act in relation to the gaming machine at the premises, and also that authorisation was required to alter the premises which were part of the licence.

Despite being advised to rectify these breaches he had failed to do so. He had been the Premises Licence holder for 15 months and has had more than enough time to improve the manner within which the premises operated.

The Sub-Committee had considered Section 182 of the Licensing Act 2003, the Home Office guidance under the Licensing Act, and in particular 11.27 which states that certain criminal activity should be treated particularly seriously one of these being "knowingly employing a person who is unlawfully in the UK".

The Sub-Committee had also take into consideration 11.18 and the fact that Mr Dost has been given previously a written warning and been subject to an Action Plan by the Police.

The Sub-Committee had also taken into consideration the Councils Statement of Licensing Policy.

The Sub-Committee had decided that Mr Dost had failed to promote the 4 licensing objectives, and that he has failed to adhere to any formal or written warnings issued by the Police, as well as failing to follow the Action Plan that had been put in place. The Sub-Committee decided that the stepped approach by the Police in respect of these premises had not worked.

The Sub-Committee had also decided that Mr Dost has had sufficient time make improvements at the premises and promote the licensing objectives. The Sub-Committee had taken into consideration the proposals put forward by Mr Dost in relation to the additional Conditions to be placed on his licence, but based on the evidence given by the Police, Licensing Enforcement Officer and Trading Standards Officer Members decided that they had no confidence in Mr Dost promoting the 4 licensing objectives even with the new conditions he had put forward.

The Sub-Committee had decided that in order to promote the 4 licensing objectives it would revoke the licence of the Golden Lion.

In coming to this decision the Sub-Committee had only taken into consideration incidents which took place at these premises when Mr Dost was the licence holder.

The Sub-Committee had not taken into consideration any warning letters in relation to any other premises or any matters which took place prior to Mr Dost taking over the licence.

- (2) That Mr Dost be advised of his right to appeal the decision in (1) above through the Bridgend Magistrates' Court within 21 days of him receiving notification of this decision.

The meeting closed at 12.00pm

The meeting closed at 2.00 pm

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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 9 JUNE 2015 AT 10.00 AM

Present

Councillor R Williams – Chairperson

P James  
E Venables

RD Jenkins

JE Lewis

HE Morgan

Officers:

Katia Daw  
Yvonne Witchell  
Andrew Rees

Lawyer  
Licensing & Registration Officer  
Senior Democratic Services Officer – Committees

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Member for the reason so stated:

Councillor P James – Hospital Appointment.

2. DECLARATIONS OF INTEREST

None.

3. APPROVAL OF MINUTES

RESOLVED: That the minutes of the Licensing Sub-Committee of 18 February, 17 March, 14 April and 12 May 2015 be approved as a true and accurate record.

4. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraph 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

Minute No:      Summary of Items:

LICENSING SUB-COMMITTEE A - TUESDAY, 9 JUNE 2015

- 5 Approval of exempt minutes of the Licensing Sub-Committee of 18 February, 17 March, 14 April and 12 May 2015.
- 6 Application for the Grant of Licence.

5. APPROVAL OF EXEMPT MINUTES

6. APPLICATION FOR GRANT OF NEW LICENCE

7. URGENT ITEMS

There were no urgent items.

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 7 JULY 2015 AT 10.00 AM

Present

Councillor R Williams (Chair)

Councillors:

P James  
RD Jenkins  
JE Lewis  
E Venables

Officers:

Andrea Lee	Senior Lawyer
Yvonne Witchell	Licensing & Registration Manager
Andrew Rees	Senior Democratic Services Officer - Committees

8. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members for the reasons so stated:

Councillor B Jones – Other Council Business  
Councillor H E Morgan – Unwell.

9. DECLARATIONS OF INTEREST

None.

10. APPLICATION TO LICENCE PRIVATE HIRE VEHICLE

The Licensing and Registration Officer submitted a report regarding an application by Mr Michael Anderson to licence a Vauxhall Vectra Design, vehicle registration number CE09 JYF as a private hire vehicle to seat four persons. The vehicle is pre-owned and was first registered at the DVLA on 24 April 2009. The applicant had provided a service history for the vehicle and an MOT certificate which had been carried out on 22 April 2015.

The applicant was present in support of the application and the Sub-Committee adjourned the meeting in order to view the vehicle.

On inspecting the vehicle, the mileage was confirmed as being 71,859 miles.

The applicant informed the Sub-Committee that the vehicle had 2 previous owners and in the event of his application being successful intended to use the vehicle in the course of his work for Driven Cars in Porthcawl.

The Licensing and Registration Officer informed the Committee that the application fell outside the Policy guidelines for the first licensing of vehicles and which would normally be refused; however, a relaxation of the Policy may be considered in exceptional circumstances.

The Sub-Committee retired to consider the application further and on their return it was:

RESOLVED: That the Sub-Committee considered the application to licence a Vauxhall Vectra Design, vehicle registration number CE09 JYF as a private hire vehicle to seat four persons and granted the application in view of the exceptional condition of the vehicle.

11. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

<u>Minute No:</u>	<u>Summary of Items:</u>
12	Application for the Renewal of Licence.
13	Application for the Renewal of Licence.



## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO LICENSING SUB COMMITTEE

4 AUGUST 2015

#### REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

##### APPLICATION TO LICENCE PRIVATE HIRE VEHICLE

#### 1. Purpose of Report.

- 1.1 To ask the sub-committee to consider the application to grant a licence for a private hire vehicle.

#### 2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 None

#### 3. Background.

- 3.1 It is the duty of the Local Authority to determine applications made under the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847. These applications are referred to Licensing Sub-Committee for determination.

#### 4. Current situation / proposal.

- 4.1 Application is made by Kindertons Ltd, to licence a Skoda Superb vehicle registration number WK15YJG as a private hire vehicle to seat 4 persons.
- 4.2 The vehicle is leased from GE Capital and was first registered at the DVLA on 31 May 2015. The applicant has stated that the vehicle had no miles on the clock at the time of application on 14 July 2015.
- 4.3 The vehicle is submitted for consideration under the Council's Private Hire Vehicle Policy.
- 4.4 Policy Guidelines

The vehicle policy applicable to this application was approved by the Licensing Committee on 10 March 2008. The relevant extract from the policy is as follows:

*“(Policy 2.1) Applications for the first licensing of a hackney carriage or private hire vehicle should be submitted to the Council within 14 days of the first registration of the vehicle at the DVLA. The mileage at the time of application should be no greater than 500 miles. The applicant may be the second or a subsequent registered keeper but the applicant must demonstrate that there is no more than 14 days between the first registration and transfer to the applicant’s name. Applications will normally be dealt with under the Scheme of Delegation to Officers.*

*(Policy 2.2.5) A relaxation of the policy will also be considered in exceptional circumstances for applications relating to the first licensing of private hire vehicles. The Council does not seek to limit or define a particular vehicle which is suitable but will adhere to the minimum standards for the size of seats and legroom etc which are available on request. Irrespective of the age of the vehicle it must be capable of satisfying the general licensing conditions and be fit for purpose as a private hire vehicle in terms of passenger safety and comfort. Each application will be reported to the Licensing Sub-Committee for determination on its merits having regard to the following criteria:*

- *That the vehicle presented is in an exceptional condition in relation to its exterior and interior appearance with no evidence of defects, chips, marks or other evidence of unreasonable wear and tear or damage.*
- *That the vehicle presented offers an exceptional standard of safety and comfort for passengers in terms of features offered for example ABS, passenger airbags and ability to meet current requirements on emissions testing.*
- *That the application includes evidence that the vehicle has been serviced at the intervals recommended by the manufacturer and at an approved garage. Other relevant documentations such as an MOT certificate should also be provided.*

*(Policy 2.4) All applicants should be satisfied that they can meet all current policy requirements before submitting an application and are advised that they submit an application which falls outside the above policy guidelines at their own risk. Acceptance of an application does not infer that it will be granted. Applicants are strongly advised not to purchase a vehicle or make any other financial commitment until the application is determined.”*

## **5. Effect upon Policy Framework & Procedure Rules.**

5.1 None

## **6. Equality Impact Assessment.**

6.1 This vehicle is not for wheelchair use. There are no other implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation.

## **7. Financial Implications.**

7.1 None for the Authority. The Applicant has not purchased the vehicle, but leased it from GE Capital. The Applicant has paid the application fee.

## **8. Recommendation.**

8.1 The Sub-Committee is asked to determine the application having regard to the information contained within this report.

**Andrew Jolley**  
**Assistant Chief Executive Legal and Regulatory Services**  
**29 July 2015**

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**Background documents**

Private Hire Vehicle Application  
Private Hire Vehicle Policy Guidelines

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