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

Legal and Regulatory Services /
Gwasanaethau Cyfreithiol a Rheoleiddiol
Direct line / Deialu uniongyrchol: 01656 643148
Ask for / Gofynnwch am: Mark Galvin

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: 3 November 2014

Dear Councillor,

LICENSING ACT 2003 SUB-COMMITTEE (A)

A meeting of the Licensing Act 2003 Sub-Committee (A) will be held in Committee Rooms 2/3, Civic Offices Angel Street Bridgend CF31 4WB on **Friday, 7 November 2014 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 the 1st September 2008.
3. Licensing Act 2003: Section 51 Application for Review of Premises Licence 3 - 30
Momtaji Restaurant, 118 Commercial Street, Maesteg

Yours faithfully
P A Jolley
Assistant Chief Executive Legal and Regulatory Services

Distribution:

Councillors:
B Jones

Councillors
JE Lewis

Councillors
R Williams

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Agenda Item 3

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO SPECIAL LICENSING ACT 2003 SUB COMMITTEE

7 NOVEMBER 2014

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

LICENSING ACT 2003 : SECTION 51

APPLICATION FOR REVIEW OF PREMISES LICENCE

MOMTAJ INDIAN RESTAURANT, 118 COMMERCIAL STREET, MAESTEG, BRIDGEND

1. Purpose of Report.

- 1.1 On 15 September 2014, an application for a Review of the Premises Licence was submitted by the Chief Officer of Police in relation to the premises known as Momtaj Indian Restaurant, 118 Commercial Street, Maesteg, Bridgend
- 1.2 At the time the application for the Review of the Premises Licence was received, Samsoo Miah was the Premises Licence Holder. However, on 7 October 2014, an application to transfer the Premises Licence to NK (Wales) Ltd was received and the application took immediate effect.
- 1.3 The Premises Licence authorises the sale by retail of alcohol and Recorded Music between 1000 - 2300 hours Monday to Saturday, 1200 - 2230 hours Sunday, Christmas Day 1200 - 1500 hours and 1900 - 2230 hours, Good Friday 1200 – 2230 hours and New Year's Eve as per the Regulatory Reform (Special Occasions Licensing) Order 2002.

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

- 2.1 None.

3. Background.

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

4. Current situation / proposal.

- 4.1 The application has been advertised in accordance with the regulations and no representations have been received.
- 4.3 At the time of preparing this report the Licensing Section were not aware of any discussions between the Chief Officer of Police and the Premises Licence Holder and an update will be provided to the Committee at the start of the hearing.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 None

6. Equality Impact Assessment.

6.1 A full Equality Impact Assessment has not been undertaken in relation to this service, however due regard has been given to the implications on persons protected by equality legislation and human rights. Adverse impact of this Legislation on the equality protected groups is very unlikely. Consideration has been given to the guidance issued to accompany the Licensing Act 2003 relating to need to eliminate duplication and conflict with existing disability legislation and to reference and highlight the Council's Race Equality Scheme, policies and codes of conduct to applicants. We do not consider, on the basis of the above, that a detailed Equality Impact Assessment is required for this service. In line with our Inclusive Equalities Scheme we will monitor for any adverse impacts that may develop.

7. Financial Implications.

7.1 None

8. Recommendation.

8.1 The Licensing Sub-Committee must consider:-

- having regard to the application and any relevant representations, steps it considers necessary for the promotion of the licensing objectives.

8.2 The steps the Licensing Authority can take are:-

- no action;
- modify the conditions of the licence;
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence;

8.3 Members must also have regard to the following:- Section 11 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003 and Section 12 of the Council's Statement of Licensing Policy which relates to review of licences. Section 10 of the Home Office Guidance which relates to imposing condition on premises licences.

Andrew Jolley
Assistant Chief Executive Legal and Regulatory Services
Date 3 November 2014

Contact Officer: Rachel Morris
Senior Licensing & Registration Assistant

Telephone: (01656) 643110

E-mail: Rachel.Morris@bridgend.gov.uk

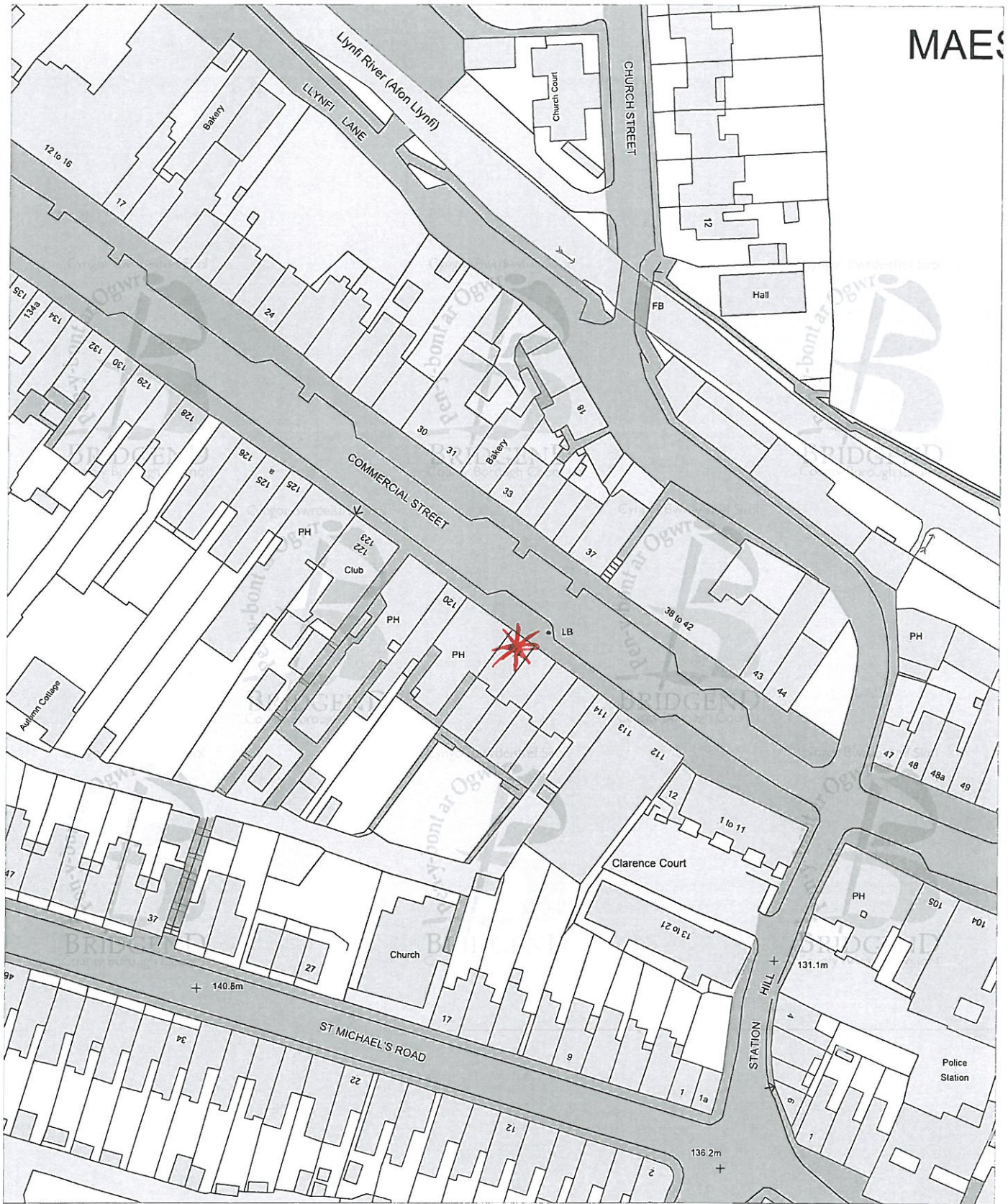
Postal Address Civic Offices, Angel Street, Bridgend, CF31 4WB

Background documents

Application for Review of Premises Licence and supporting documentation
Bridgend County Borough Council Statement of Licensing Policy: www.bridgend.gov.uk
Amended Guidance issued under Section 182 of the Licensing Act 2003 – October 2014
available at www.homeoffice.gov.uk

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MAES



Cyngor Eiddwr Stryd Stryd



Darren Mepham
Chief Executive

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Licensing Sub Committee

1:1000

Time of Plot:
13:11

Date of Plot:
30/10/2014

Plot generated by:
HPD

Department :
Licensing & Registration



**Application for Review of a Premises Licence under
Section 51 of the Licensing Act 2003**

(1)

Reference number:
B.3-330/14

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

(2) **We South Wales Police**

Apply for the review of a premises licence for the premises described in Part 1 below

Part 1 - Premises details

Postal address of premises: Montaj Indian Restaurant, 118 Commercial Street	
Post town: Maesteg	Postcode (if known): CF34 9DL
Telephone number: (01656) 732999	

Name of the premises licence holder: Samsoo Miah

Number of the premises licence holder: BCBCLP398

Part 2 - Applicant details

I am

1) an interested party (Please complete section (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in businesses in the vicinity of the premises

Please tick ✓ yes

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Delete any words that do not apply

- (1) Insert name and address of relevant licensing authority and its reference number (optional)
- (2) Insert name(s) of applicant(s)

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)

Mr

Mrs

Miss Ms

Other title
(for example, Rev)

Surname

First Names

Please Tick ✓ Yes

Day Month Year

I am 18 years old or over

Current address

Post town

Postcode

Daytime Contact telephone number

Email Address (optional)

(B) Details of other applicant

Name and Address

Post Town

Postcode

Date of Birth

Day Month Year

Telephone Number (If any)

C) Details of Responsible Authority (please see guidance note 5)

South Wales Police

**The Chief Officer of Police
Chief Superintendent 4308 James
Police Station
Brackla Street**

Post Town **Bridgend**

Postcode **CF31 1BZ**

Telephone number

(01656) 655555 Ext.27/201

Email Address

(Optional)

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

Please tick one or more boxes ✓

1) The Prevention of Crime and Disorder

2) Public Safety

3) The Prevention of Public Nuisance

4) The Protection of Children from Harm

✓
✓

Please state grounds for review (please see guidance note 1)

Please provide as much information as possible to support the application (please see guidance note 2)

SAMSOO MIAH

Samsoo and **Majnoo Miah** are brothers and UK citizens born in Bangladesh.

The Licensing Act 2003 went "live" on **25th November 2005** the year the original Premises Licence was issued to **Samsoo Miah** who has held the position of licence holder since this period.

He has a Personal Licence, reference NPT-PER-0399, issued on **31st October 2005** by Neath Port Talbot County Borough Council which expires on **30th October 2015**.

He is also the Designated Premises Supervisor (DPS), a position he has held since **14th May 2010** and therefore holds the two positions of authority at the premise where he has ultimate responsibility for the way it is managed.

Majnoo Miah is also the holder of a Personal Licence; reference NPT-PER-0384, issued on **6th September 2009** also by Neath which expires on **5th September 2015**.

He was DPS between 2005 and 2010.

Samsoo and **Majnoo Miah** have therefore managed the restaurant since the Act was introduced.

THE PREMISE

The premise was formerly known as the Mumtaz Indian restaurant and is situated in the heart of Commercial Street in Maesteg town centre within a row of terraced buildings comprising mainly businesses, with some flats and bedsits above.

The area contains a high concentration of licensed premises such as various takeaways, cafes and restaurants offering a variety of cuisine, public houses, registered clubs and a nightclub.

It therefore experiences a high volume of pedestrian and vehicular traffic consequently there is a disproportionate amount of crime, particularly alcohol related violent crime, public disorder, anti-social behaviour, public nuisance, litter and noise pollution within this area.

THE PREMISES LICENCE

On 2nd August 2005 **Samsoo Miah** made application to convert the existing licence into a Premises Licence and proposed **Majnoo Miah** as DPS.

The provision of late night refreshment is the supply of hot food or hot drink between 23.00 and 05.00 hours however; **Samsoo Miah** did not apply for this licensable activity when he submitted the original application for the grant of the licence.

Late night refreshment is therefore not permitted by the authorisation.

As recorded music is generally background only the predominant licensable activity is the sale of alcohol.

It is important that the Sub-Committee familiarise themselves with the licence briefly however; the following activities and opening timings are permitted: -

The licensable activities authorised by the licence are:

Supply of alcohol
Recorded Music

Times the licence authorises the carrying out of licensable activities:

Monday to Saturday: 10:00 – 23:00 hours

Sundays: 12:00 – 22:30 hours

Christmas Day: 12:00 – 15:00 and 19:00 to 22:30 hours

Good Friday: 12:00 – 22:30 hours

New Years Eve: As per The Regulatory Reform (Special Occasions Licensing) Order 2002

Opening hours of the premises:

As above

There are mandatory conditions appended to the licence at **Annex 1**.

Additionally there are two conditions attached at **Annex 2** and these concern the proposals which were volunteered in the original application which were then adopted as conditions i.e. conditions consistent with the Operating Schedule.

On 7th April 2010 **Samsoo Miah** made application to vary the licence to “*remove any restrictions on the sale of alcohol for consumption off the premise*”.

In layman’s terms this was to enable the supply of alcohol for off sales, as part of a meal only, with either a takeaway or home delivery.

On 14th May 2010 **Samsoo Miah** made application to vary the licence to remove **Majnoo Miah** and specify himself as DPS.

THE LICENSING OBJECTIVES

THE PREVENTION OF CRIME AND DISORDER

South Wales Police work in conjunction with our partners at the United Kingdom Borders Agency (UKBA) exchanging information and intelligence and often accompanying them on enforcement visits when immigration warrants are executed at licensed premises.

This partnership has evolved since an important part of Home Office licensing guidance relative to reviews was amended to specifically focus on enforcement around serious criminality involving the unlawful the employment of illegal migrants.

The guidance is referred to elsewhere in the review.

In **2008** UKBA executed a warrant at the restaurant as they had reliable intelligence to suggest that migrants who were illegally in the UK were also being employed there.

In **2013** UKBA executed two further warrants and in **2014** another warrant was executed.

In total **11** Bangladeshi nationals were detained during the execution of the **4** warrants and identity checks proved that **10** of them were what UKBA refer to as "overstayers" in the UK i.e. they had overstayed the terms of their visa.

1 had not only entered the UK illegally but was also a failed asylum seeker.

1 produced a forged Bangladeshi passport in the identity of another Bangladeshi national in an attempt to deceive UKBA officers.

Not only was the passport counterfeit but it also contained a bogus residence permit.

None of them were permitted to work whilst many of them informed UKBA that they slept at the premise.

It is extremely important to note that after the latter arrests in **2013** South Wales Police served a written warning on **Samsoo Miah** informing him without reservation that if he employed any more illegal migrant's application would be made to revoke the licence.

PUBLIC SAFETY

Public Safety is at risk because 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.

HOME OFFICE AND BRIDGEND COUNTY BOROUGH COUNCIL GUIDANCE - REVIEWS

The grounds for this review are based on promoting **2** key licensing objectives and the application is based on the repeated failure to promote those objectives.

Section 12 of Bridgend County Borough Council's "**Statement of Licensing Policy**" refers to **Reviews of Licences**

Paragraph 12.1 **“Reviews of Premises Licences represent a key protection for the community in respect of problems during the term of a Premises Licence”.**

Home Office guidance under Section 182 of the Act refers to **Licensing Objectives and Aims:**

Sub-section 1.2 highlights that, **“The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken”.**

Sub-section 1.3 details the objectives and 1.4 states that, **“Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times”.**

Section 11 relates to **Reviews:** -

Sub-section 11.1 **“The proceedings set out in the 2003 Act for reviewing Premises Licences represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a Premises Licence”.**

“Reviews arising in connection with crime”

11.27 **“There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously”.**

The Home Office lists 12 activities in all 2 of which are pertinent to this application: -

“These are the use of the licensed premises: -

As the base for the organisation of criminal activity, particularly by gangs”.

The other is, **“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.”**

The ability of **Samsoo Miah** to employ as well as facilitate numerous illegal migrants within the building over a lengthy period coupled with the seizure of forged identity documents would suggest to South Wales Police that this particular offending is synonymous with organised criminality.

11.28 **“It is envisaged that licensing authorities, the police 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”.**

The aforesaid guidelines are extremely specific to this application as they have been blatantly ignored.

The guidelines issued by UKBA are clear and unambiguous and are freely available to all employers on the Home Office website.

Similarly guidance under the Licensing Act as well as that issued by the local authority requires a clear emphasis on promoting the licensing objectives.

Illegal working is not a victimless crime as it exploits sometimes vulnerable migrants, and potentially, defrauds the taxpayer, can deny employees a safe working environment, undercuts honest employees and

limits the employment opportunities of legitimate jobseekers.

As there are a number of staff members who have been illegally employed there are clearly working opportunities available however; they have been denied to persons who are legally able to work.

Employing such illegal workers is likely to result in Her Majesties Revenue & Customs (HMRC) being deceived by licensee's avoiding paying tax and National Insurance contributions.

It is also arguable whether transient non-British nationals who speak very little or no English and have little or indeed no knowledge of licensing law promotes the licensing objectives.

Licence holders have attempted to absolve themselves of any blame for employing such individuals by indicating that they have been supplied with fraudulent identification documents.

This is not only inaccurate and misleading but demonstrates a complete lack of due diligence.

UKBA has an employee checking service which is freely available to employers who must verify the immigration status of potential migrant employees by conducting relevant document checks.

South Wales Police feel that there is no alternative but to review the Premises Licence in light of: -

- the clear guidelines given by the Home Office
- the persistent offending
- the warning given to the licence holder
- his failure to comply with that warning
- the number of like offences subsequently committed
- the number of other offences detected
- the concerns of both South Wales Police and the Home Office of employing illegal migrants
- the impact on all these activities on the licensing objectives

IMMIGRATION ISSUES

The following guidance has been extracted from the Home Office UKBA website and is a: -

SUMMARY GUIDE FOR EMPLOYERS ON PREVENTING ILLEGAL WORKING IN THE UK

“Illegal working has harmful social and economic effects on the UK; it undercuts British businesses and their workers that stay within the law and exploits migrant workers. As long as there are opportunities for illegal working the UK will be an attractive place for illegal migrants. That is why we need to put a stop to employers breaking the law by taking tough action against those who do so.

There is evidence that some workers employed illegally are paid less than the minimum wage, do not pay tax, and may be doing dangerous work that breaks health and safety regulations. Employers who use illegal workers may do so because they want to avoid providing minimum standards, such as the National Minimum Wage and paid holidays. This is harmful to the workers involved and enables dishonest employers to gain an unfair advantage over competitors who operate within the law”.

IMMIGRATION, ASYLUM & NATIONALITY ACT 2006 (KNOWN AS THE 2006 ACT)

The following information is also freely available on the same website and is designed to assist staff who are involved in recruiting people.

It aims at preventing illegal working in the UK and contains important information and advice on:

- **the law on illegal working**
- **your role and duty as an employer**
- **the document checks you should carry out**
- **the various documents you could be given**
- **the various types of immigration statuses held by people; and**
- **the consequences if you do not carry out your duty and UKBA find you employing an illegal worker.**

THE LAW AND YOUR DUTY AS AN EMPLOYER

“The law on preventing illegal working is set out in Sections 15 to 25 of the 2006 Act.

These rules came into force on 29th February 2008.

You are breaking the law if you employ a person who does not have the right to work in the UK.

You can be fined up to £10,000 for each illegal worker or face criminal prosecution”.

YOUR DUTY UNDER THE 2006 ACT

Under the 2006 Act you have a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK.

You should check and keep copies of original, acceptable documents before someone starts working for you.

If a person has a time limit on their stay then you should carry out repeat checks at least once every 12 months.

If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then you must not employ them in breach of these restrictions.

You should also verify that a person has the right to work when certain documents or scenarios are presented to you.

You can find out more about carrying out document checks in the section 'Right to work document checks'.

This duty applies to anyone who starts working for you on or after 29th February 2008.

PENALTIES IF YOU FAIL TO CARRY OUT YOUR DUTY

If you do not carry out these checks you may be required to pay a fine, known as a civil penalty, under Section 15 of the 2006 Act if you employ an illegal worker.

An illegal worker is defined as someone who:

- is subject to immigration control; and
- is aged over 16; and
- is 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:

is invalid,

has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise, or

is subject to a condition preventing them from accepting the employment.

A civil penalty up to a maximum amount of £10,000 for each illegal worker can be imposed on you.

We can serve you with a Notice of Liability to pay a penalty for a specific amount on behalf of the Secretary of State”.

CRIMINAL OFFENCES COMMITTED

THE IDENTITY DOCUMENTS ACT 2010

1) Offence: For a person with an improper intention to have in their possession or under their control: -

- (a) an identity document that is false and that person knows or believes to be false
- (b) an identity document that was improperly obtained and that person knows or believes to have been improperly obtained, or
- (c) an identity document that relates to someone else.

Contrary to Section 4(1)

Penalty: Imprisonment for a term not exceeding 10 years or a fine (or both).

THE IMMIGRATION ACT 1971 (EMPLOYEE)

1) Offence: Enter the UK without leave contrary to Section 24(1)(a)

Penalty: Six months imprisonment and / or a fine not exceeding level five (£5,000) on the standard scale.

2) Offence: Knowingly remaining beyond the time limited by leave (“overstaying” in the UK)

contrary to Section 24(1)(b)(i)

A person commits the offence on the day when he or she first knows that leave to enter or remain has expired, and continues to commit it until such time as his or her position is regularised, for example through a further grant of leave in any category.

Penalty: Six months imprisonment and / or a fine not exceeding level five (£5,000) on the standard scale.

SECTION 10 OF THE IMMIGRATION & ASYLUM ACT 1999

Section 10 contains the provisions under which certain categories of people who are in the UK unlawfully may be subjected to administrative removal procedures.

A person who is not a British citizen may be removed from the UK, in accordance with directions given by an immigration officer,

If:

He/she does not observe a condition of his limited leave to enter/remain or remains beyond the period of his limited leave.

THE IMMIGRATION, ASYLUM & NATIONALITY ACT 2006 (EMPLOYER)

1) Offence: Employ adult subject to control who had not been granted leave to enter / remain in UK contrary to Section 21

Penalty: Summary: Twelve months imprisonment and / or a fine not exceeding the statutory maximum *.

** The prescribed maximum penalty assigned to a penalty notice for employing adult(s) subject to immigration control is £10,000. This is per the Immigration (Employment of Adults Subject to Immigration Control) (Maximum Penalty) Order 2008.*

Indictment: Two years imprisonment and / or a fine.

One will note that the penalties for employing such persons are extremely severe but this does not seem to have deterred **Samsoo Miah**.

There are a number of male employees referred to within the review and details of these individuals have been disclosed to South Wales Police by UKBA however; their names have not been disclosed for confidentiality purposes.

Incidents concern offences committed under the aforesaid acts which directly relate to the Licensing Act as licensing guidelines concerning reviews in connection with crime detail that certain immigration offences should be treated very gravely and give rise for review.

The licence holder has employed several persons who are classed as "overstayers" one of whom not only had in his possession fraudulent documents but was arrested for theft, whilst another had entered the UK illegally,

As employer **Samsoo Miah** is also liable for the offence of aiding and abetting an employee to enter and remain in the UK illegally as he is providing regular job opportunities and allowing them to reside at the restaurant.

He is not only exploiting their immigration status and vulnerability but is also intentionally flouting immigration laws and guidance provided to employees as well as licensing guidance.

THE THEFT ACT 1968

1) Offence: Dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it contrary to Sections 1 to 7

Penalty: On indictment imprisonment for a term not exceeding 10 years or a fine (or both).

On **8th May 2014** South Wales Police arrested one of the migrants for theft which was committed in Maesteg.

UKBA were duly notified and checked his UK status whereupon he was arrested by their officers for being an "overstayer".

ENGAGEMENT WITH THE LICENCE HOLDER AND ENFORCEMENT ACTION

Paragraph 11.11 of the guidance concerning "**Reviews**" highlights that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims.

South Wales Police has attempted to rectify given situations at premises failing to promote the licensing objectives by undertaking various forms of enforcement.

Samsoo Miah was served with a warning letter on **30th September 2013** which is appended to the application.

The letter is extremely significant to the review as he was informed that if he employed any more illegal migrants then South Wales Police would seek the ultimate sanction.

As highlighted he simply chose to ignore that advice and, given his attitude, there seemed little point in pursuing other avenues of engagement.

REVIEWS - GENERAL

A considerable number of premises within the borough have been subject of varied enforcement and licence holders have been given advice, received verbal and written warnings and had meetings with South Wales Police which are designed to make management aware of police concerns and encourage them to address the problems being experienced.

There have also been prosecutions resulting in offenders receiving substantial fines as well as having their Personal Licences suspended.

Ultimately the review procedure has also been utilised and restricted conditions have been appended to licences including a reduction of opening hours.

Authorisations have also been suspended and revoked.

However; South Wales Police feel that given the specific guidelines outlined coupled with the mindset of **Samsoo Miah** review is the only appropriate form of enforcement which will promote the licensing objectives.

There are approximately 530 premises within the borough and the Licensing Sub-Committee should note that reviews have had an extremely positive effect on licence holders.

Those who have not had their authorisation revoked have been caused to manage their venues more responsibly, conscientiously and professionally thereby promoting the objectives which in turn has led to a substantial reduction in reported incidents at those premises.

REVIEW RECOMMENDATIONS

Reviews represent a key protection for the community in respect of problems during the term of an authorisation.

Any decision made by the Sub-Committee must be taken following consideration of the representations received with a view to promoting the objectives.

In the case of a review the Sub-Committee may make a number of determinations which are highlighted within the guidance and in the Officers Report.

CONCLUSION

The application relates to offences committed under the aforesaid acts which directly impact on the Licensing Act as the guidelines concerning reviews in connection with serious crime should be treated very gravely and give rise for review.

Guidelines dictate that licensing authorities, the police and other law enforcement agencies will use the review procedures effectively to deter such criminal activities one of which is the use of a premise as the base for organised criminal activity, mostly by gangs, whilst another is the employment of 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.

South Wales Police suggest that these two activities are interlinked.

The guidelines in this respect go further and highlight that revocation of the licence, even in the first instance, should be seriously considered by Sub-Committees if it is determined that the premise is being used to further crimes which impacts on the crime prevention objective.

This is such a case as the restaurant is being used to commit offences under the Immigration Act, the Immigration, Asylum & Nationality Act and the Identity Documents Act.

South Wales Police respectfully suggest that the situation will not change and feel that the only option open which would address the systematic failures outlined in these submissions and promote the licensing objectives is to: -

REVOKE THE PREMISES LICENCE.

[Empty rectangular box]

Have you made an application for review relating to these premises before?

Please tick ✓ yes

If yes, please state the date of that application

Day		Month		Year	

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

NOT APPLICABLE

Please tick ✓ yes

• I have sent copies of this form and enclosures to the responsible authorities and the premises license holder

• I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 - Signatures (please read guidance notes 3 and 4)

Signature if applicant or applicant's solicitor or other duly authorised agent (please read guidance note 4)
If signing on behalf of the applicant please state in what capacity.

Signature

William James

Date **Monday 15th September 2014**

Capacity **Chief Superintendent 4308 James**

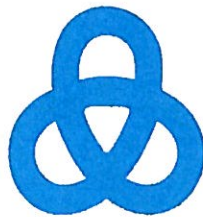
Notes for guidance

1. The grounds for review must be based on one of the licensing objectives
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review, if available.
3. The application form must be signed
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address we shall use to correspond with you about this application

MOMTAJ INDIAN RESTAURANT



Pen-y-bont ar Ogwr
Mwy Diogel



Safer Bridgend

www.saferbridgend.org.uk

APPLICATION FOR A REVIEW OF THE PREMISES LICENCE

WARNING LETTER



Community Safety Partnership
Licensing Department
Police Station
Brackla Street
Bridgend
CF31 1BZ
B.3-976/1
01656 306022
30th September 2013

Samsoo Miah

Samsoo Miah
Premises Licence Holder & Designated Premises Supervisor
Mumtaz Indian Restaurant
118 Commercial Street
MAESTEG
CF34 9DL

Sir,

OFFENCES UNDER THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006

On **Friday 27th September 2013** United Kingdom Borders Agency (UKBA) officers attended at your premise and detained three staff members, one of whom was an illegal entrant into the United Kingdom whilst two had overstayed the terms of their visa.

Home Office guidance under Section 182 of the Licensing Act 2003 relates to Section 11 **Reviews**: -

"Reviews arising in connection with crime"

11.27 **"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously."**

One of these criminal activities is 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.

Section 21 of the Immigration, Asylum and Nationality Act 2006 concerns an offence of employing an adult subject to control who had not been granted leave to enter/remain in United Kingdom.

The penalty is: -

Summary: Twelve months imprisonment and / or a fine not exceeding the statutory maximum *.

* The prescribed maximum penalty assigned to a penalty notice for employing adult(s) subject to immigration control is £10,000. This is per the Immigration (Employment of Adults Subject to Immigration Control) (Maximum Penalty) Order 2008.

Indictment: Two years imprisonment and / or a fine.

A Notification of Potential Liability (NOPL) can be issued by the UKBA to an employer for the illegal employment of staff and can result in a penalty of up to £10,000 per illegal worker.

UKBA has informed South Wales Police that a NOPL was infact served on MAJNOO MIAH, who previously held the position of Designated Premises Supervisor, for employing persons who were working without permission.

If any further offences are committed under the 2006 Act or indeed the Licensing Act South Wales Police will make an application under Section 51 of the Act to review your licence and strongly recommend that it is REVOKED.

A premise situated nearby recently had their authorisation revoked whilst another is undergoing the review process where revocation has been similarly suggested.

This letter may be regarded as official correspondence, which will be held on file and under Section 185 of the Act concerning the investigation of a complaint in respect of licensed premises a copy of this correspondence will also be disclosed to the Licensing Authority.

Regards,

Licensing Sergeant 623 Williams

MOMTAJ INDIAN RESTAURANT



Pen-y-bont ar Ogwr
Mwy Diogel



Safer Bridgend

www.saferbridgend.org.uk

APPLICATION FOR A REVIEW OF THE PREMISES LICENCE

**ADDITIONAL INFORMATION POST SERVICE OF
THE APPLICATION**

FIRST ILLEGAL MIGRANT FOUND WORKING AT THE RESTAURANT

On 28th October 2006 South Wales Police attended a report of a serious disturbance at the restaurant and arrested 4 persons one of whom was a Bangladeshi staff member, aged 20 years, who had illegally entered the UK.

TRANSFER OF THE PREMISES LICENCE & VARIATION OF DPS

On 2nd October 2014 an application was submitted by Naheem Kadir to transfer the Premises Licence from Samsoo Miah to NK (WALES) LTD.

Application was simultaneously made by Naheem Kadir to vary the DPS removing Samsoo Miah and replacing him with Majnoo Miah, the previous DPS.

THE LICENSING ACT 2003

Friday 3rd October 2014 @ 23.30 hours

Police Community Support Officers (PCSO's) attended at the premise and noted that it was open for business.

The standard permitted hours of opening and licensable activity are:

Monday to Saturday 10.00 - 23.00 hours
Sunday 12.00 - 22.30 hours

Under Section 136 it is an offence to: -

A) Carry on or attempt to carry on a licensable activity on or from any premise otherwise than under and in accordance with an authorisation i.e. a Premises Licence and the conditions which form part of it

OR

B) Knowingly allow a licensable activity to be so carried on.

The offence is considered so serious that the penalties are: -

- 1) A maximum fine of £20,000 and/or a term of imprisonment on summary conviction not exceeding 6 months
- 2) All alcohol and containers may be forfeited and destroyed
- 3) The Premises Licence may be reviewed under Section 51
- 4) Suspension or forfeiture of a Personal Licence

TIME LINE OF EVENTS

2004

13th February 2004 - Samsoo Miah granted Justices On-Licence (Licensing Act 1964).

2005

2nd August 2005 - Samsoo Miah made application under "*grandfather rights*" to convert the existing licence into a Premises Licence and nominated himself as licence holder and Majnoo Miah as DPS.

6th September 2005 - Personal Licence issued to Majnoo Miah.

11th October 2005 - Application for a Premises Licence approved.

31st October 2005 - Personal Licence issued to Samsoo Miah.

24th November 2005 - The Licensing Act 2003 went "*live*". The first Premises Licence was issued prior to this date.

2006

28th October 2006 - 4 persons were arrested following a disturbance at the restaurant one of whom was a Bangladeshi national who the Home Office confirmed had illegally entered the UK.

2008

4th September 2008 - First warrant executed by UKBA and illegal migrants arrested. Samsoo and Majnoo Miah were working at the premise at the time the warrant was executed. (The Licensing Department was not informed of this incident until 2014)

2010

7th April 2010 - Samsoo Miah made application to vary the licence to remove a restricted condition.

10th May 2010 - Second Premises Licence issued.

14th May 2010 - Samsoo Miah made application to remove Majnoo Miah as DPS and specifying himself as DPS.

2nd June 2010 - Third Premises Licence issued.

2013

21st August 2013 - Second warrant executed by UKBA and illegal migrants arrested.

27th September 2013 - Third warrant executed by UKBA and illegal migrants arrested. Majnoo Miah was again working at the time the warrant was executed.

30th September 2013 - Warning letter served on Samsoo Miah by South Wales Police informing him that if any further arrests are made by UKBA then application would be made to revoke the licence.

15th October 2013 - Samsoo Miah notified the Licensing Authority of a change of trading name from Mumtaz to Momtaj.

18th October 2013 - Fourth Premises Licence issued.

2014

8th May 2014 - Illegal migrant arrested by South Wales Police for theft from store. UKBA were notified and subsequently detained him.

4th July 2014 - Fourth warrant executed by UKBA. Illegal migrants arrested one of whom produced a counterfeit Bangladeshi passport and a fake residence permit in an attempt to deceive UKBA. Samsoo Miah was again working at the time the warrant was executed.

15th September 2014 - Application made to review the Premises Licence.

29th September 2014 - NK (WALES) LTD. (trading at Mumtaz) incorporated. Naheem Kadir appointed sole director.

2nd October 2014 - Application by Naheem Kadir to transfer the Premises Licence from Samsoo Miah to NK (WALES) LTD.

2nd October 2014 - Application made by Naheem Kadir to vary the DPS removing Samsoo Miah and specifying Majnoo Miah.

3rd October 2014 - Officers attend at Momtaj at 23.30 hours and the premise was open for business outside its authorised hours.

22nd October 2014 - Fifth and current Premises Licence issued.

7th November 2014 - Review hearing.

MOMTAJ INDIAN RESTAURANT



Pen-y-bont ar Ogwr
Mwy Diogel



Safer Bridgend

www.saferbridgend.org.uk

**APPLICATION FOR A REVIEW OF THE
PREMISES LICENCE**

**HOME OFFICE CHECKS TO ASCERTAIN IF
SOMEONE CAN WORK IN THE UK**

HOME OFFICE CHECKS TO ASCERTAIN IF SOMEONE CAN WORK IN THE UK

The following information was freely obtained from: -

- 1) Prevention of illegal working – This is the link to the Home Office employers guidance. The 'Comprehensive Guidance for Employers on Preventing illegal working' contains details of all the documents to prove entitlement to work:
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/>
- 2) Document verification – This site contains the information on forged & counterfeit documentation:
http://www.cpni.gov.uk/documents/publications/2007/2007044-gpg_document_verification_guidance.pdf?epslanguage=en-gb
- 3) Right to work (SEE BELOW) – This site guides you through the process of establishing whether or not a person has permission to work in the UK:
www.gov.uk/legal-right-to-work-in-the-uk

If employers are unsure of the steps required to avoid employing illegal workers there is also a UKBA help line available: 03000 123 4699

3) RIGHT TO WORK CHECK IF SOMEONE CAN WORK IN THE UK

1. Does the worker have a UK passport?

Yes/No

2. Is the worker:

A British citizen? Yes/No

From Channel Islands, Isle of Man, Republic of Ireland? Yes/No

From EU, EEA or Switzerland? Yes/No

From somewhere else? Yes/No

3. Does the worker have a permit or visa showing their ongoing right to work in the UK? Yes/No

A permit or visa would show one of these:

They're exempt from immigration control

They have indefinite leave to remain

They have no time limit to their stay in the UK

They have a Certificate of Entitlement to Right of Abode (in a current, valid passport)

4. Does the worker have documents entitling them to work in the UK? Yes/No

The worker should have both of these documents to work in the UK:

An official document from a UK government agency (e.g. HM Revenue & Customs, Department for Work and Pensions, or the Social Security Agency in Northern Ireland) showing their National Insurance number

Either an 'immigration status document'

Or

A letter from the Home Office saying that they have a right to permanent residence

5. Does the worker have a visa, biometric permit or residence document? Yes/No

The worker needs one of these:

*Visa for the relevant type of work

*Biometric residence card for the right type of work (or a 'Certificate of Application' for a card less than 6 months old)

*Document issued by the Home Office to a family member of an EU/EEA/Swiss national showing that they can work in the UK

The worker MAY NOT be currently entitled to work in the UK.

If the worker can't produce any of these documents, they may not be entitled to work in the UK. They might need to be sponsored.

BEFORE YOU CAN SPONSOR AN EMPLOYEE

Before you can apply for a sponsorship licence you need to know which type of licence you need.

There are different categories (or tiers) of sponsorship for employees:

Tier 2 - skilled workers with a job offer

Tier 5 - temporary workers

TIER 2 - Skilled workers with a job offer

Tier 2 sponsorship can be:

*General - for people coming to work in the UK with a skilled job offer which is National Qualifications Framework (NQF) level 6 or above.

*Intra-company transfer - for multinational companies sending their employees to the UK for jobs of NQF level 6 or above

*Sportsperson - for elite sportspeople and coaches that will be based in the UK

*Minister of religion - for people coming to work for a recognised religious organisation (for up to 3 years)

TIER 5 - Temporary workers

Tier 5 sponsorship can be:

*Creative and sporting - to work as a sportsperson (up to 12 months), entertainer or artist (up to 24 months)

*Charity worker - includes both paid and voluntary workers (up to 12 months)

*Religious worker - for those doing preaching, pastoral and non-pastoral work (24 months)

*Government authorised exchange - for those coming to the UK through an approved scheme (24 months)

*International agreement - for those coming to the UK for a job that is covered under

*international law, e.g. employees of overseas governments