

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON WEDNESDAY, 23 NOVEMBER 2016 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

E Dodd

CJ James

Officers:

David Barrett	Licensing Enforcement Officer
Katie Brook	Senior Licensing Technical Officer
Andrea Lee	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Yvonne Witchell	Team Manager Licensing

Representing the Responsible Authorities

PC S Rowlatt	-	South Wales Police
PC K Ellis	-	South Wales Police
F Colwill	-	Licensing Enforcement Officer, BCBC

Representing Premises Licence Holder and Designated Premises Supervisor

Ms E Hawkley	-	Solicitor, Representing Premises Licence Holder
Mr HS Johal	-	Designated Premises Supervisor
Mrs H Malhi	-	Company Secretary, H&G Trading Limited

31. DECLARATIONS OF INTEREST

None.

32. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE COSTCUTTER, 175-176 CAERAU ROAD, CAERAU, MAESTEG

An application was made by Elen Hawkley of Hutton's Solicitors, representing Mr Hardev Johal of H&G Trading Limited, the Premises Licence Holder of Costcutter, 175-176, Caerau Road, Caerau, Maesteg seeking an adjournment as her client was visiting India until 15 December 2016 as she required to take instructions from him and could not make representations on his behalf. She stated that the extent of her instructions was a witness statement made by Mr Johal of 22 November 2016 which confirmed that he owns the business at 175-176 Caerau Road, Caerau, Maesteg and is a limited company registered as H&G Trading Limited and he is a Director. Mr Johal in the witness statement confirmed that he is the DPS of the premises and has day to day running of the business, his duties involve book keeping, weekly outgoing and incoming of all monies, VAT and tax returns, ordering goods, stock taking, dealings with other companies and reps visiting the shop. In his absence, the registered company secretary, Harminder Malhi had been given full authority to run the business with all the legal requirements put into place by Mr Johal.

The Premises Licence Holder's representative informed the Sub-Committee that it were to proceed with the hearing today, Mr Johal would not be able to be represented which would be an infringement on his civil rights. She stated that to revoke the premises licence would have a negative effect on sales at the premises and staff employed at the

premises would have to be laid off. The Premises Licence Holder's representative also informed the Sub-Committee that the premises is inextricably linked to Caerau Village Stores which is also subject to the review procedure and she requested that the review of both premises licences be dealt with together.

PC Ellis was invited by the Sub-Committee to present his objection to the application for an adjournment.

PC Ellis commenced his submission by stating that the basis of the request for an adjournment was that 2 letters had been served on the Licensing Authority from Hutton's Solicitors, both dated 15 November 2016 detailing that their client's director is away on a pre-arranged vacation. The same request was made last year when he was also away and he would not be able to attend a hearing until 20 December 2016. He stated that their client was not put on notice until 4 November 2016 and it was essential that he attends.

PC Ellis informed the Sub-Committee that South Wales Police received further documentation yesterday at 5.15pm which was not seen until this morning. He stated that to serve documentation at such a late hour in response to an application served on 30 September 2016 was not acceptable. Among those documents is a statement from Hardev Johal, what was significant about the statement that he has day to day running of the business, but it made no mention of the fact that he resides in London. PC Ellis stated that by not including such a vital fact, he wanted to keep it from the Sub-Committee.

PC Ellis also referred to a further document relating to a Form of Judgement or Order, but there was no covering report with it to highlight the exact relevance of it. He stated that if it concerned an appeal against the fine of £30,000 imposed by the Home Office, which was referred to in page 15 of the bundle, then the Sub-section 11.24 of the Guidance dictated that it was of no relevance to this Sub-Committee.

PC Ellis made observations in relation to the documentation served by Hutton's, in that the director was not named in the original documentation yet Hutton's are effectively representing Mr Johal and therefore, South Wales Police has trawled through the Companies House for the records of H&G Trading. He stated there are only 2 persons responsible for the actual company, one being the sole director, Hardev Johal who was appointed on 6 January 2010, the other being Harminder Malhi, the Company Secretary who was appointed on 27 January 2010. PC Ellis stated that the company address is the address of Costcutter. Hardev Johal is named as the DPS on the Premises Licence, a role he adopted on 30 July 2010. However, South Wales Police has evidence to suggest that he is DPS in name only and certainly does not have day to day control of the premises. PC Ellis stated that Hardev Johal resides in London and his home address on the Premises Licence of Costcutter detailed a Middlesex address.

PC Ellis informed the Sub-Committee that the address which Harminder Malhi resides at and the address she has given on the Premises Licence of Caerau Village Stores in Costcutter. He informed the Sub-Committee that the licensing guidelines dictate that a DPS must have day to day responsibility for the premises and must also be available to the authorities should they wish to contact them. In this respect, PC Ellis stated there is no telephone number detailed on the premises licence for which the authorities can contact Hardev Johal, which is extremely uncommon. The local authority can only place on a premises licence those details they have been provided with. He stated that when this had been highlighted previously to Harminder Malhi, she has refused to provide the police with the telephone number saying she is not authorised to disclose it. PC Ellis informed the Sub-Committee that this is contrary to Mr Johal's statement detailing that

Mrs Malhi “is given full authority to run the business”, which was contrary to the guidance.

PC Ellis informed the Sub-Committee that Caerau Village Stores is also the subject of a review application and the hearing is listed for 28 November 2016. He stated that the solicitor’s letter in relation to Caerau Village Stores also requests an adjournment for that hearing as “the premises are inextricably linked and the outcome of one investigation will likely affect the other”. He stated that a request had been made for both hearings to be listed together, which did not warrant s postponement and South Wales Police will also be strongly opposed to any application for an adjournment. He also stated that it was noticeable that the solicitor’s letter in relation to Caerau Village Stores refers to Harminder Malhi detailing her as being the manager of Costcutter. The point South Wales Police are making is that Harminder Malhi has day to day control of both premises and Hardev Johal.

PC Ellis stated that Harminder Malhi is the main protagonist and is the person who attempted to deceive the authorities when they visited in August 2015. Harminder Malhi is the person to whom the UK Border Agency served a letter indicating that the employment of 2 illegal immigrants was to be referred to their Civil Compliance Unit. She is the person who has been responsible for contacting South Wales Police on a number of occasions via the 999 emergency or 101 systems for calls solely relating to Costcutter. He stated that Harminder Malhi has an association with Costcutter dating back to at least 2007 when she first reported an incident to South Wales Police and the context of the call was “two boys outside our shop – Costcutters. They are banging on our shutters”. PC Ellis drew the Sub-Committee’s attention to Harminder Malhi referring to the premises as “our shop”.

PC Ellis informed the Sub-Committee that Harminder Malhi has reported 45 incidents to South Wales Police, where she is either the reporting person, a victim or a witness. He stated that what is significant, is that 32 relate to Costcutter and only 3 occurrences at Caerau Village Stores. He informed the Sub-Committee that Hardev Johal has not reported a single incident to South Wales Police and significantly does not appear on any South Wales Police databases which is extremely uncommon considering that he is the DPS at an off licence where anti-social behaviour is prevalent.

PC Ellis referred to the solicitor’s letter where it was suggested that Hardev Johal was not put on notice of the review until 4 October 2016; he is away on a pre-arranged 45 day vacation and will not be available to attend a hearing until 20 December 2016. He stated that the same request was made last year when he was also away. PC Ellis informed the Sub-Committee that the review is dated 30 September 2016 and was posted first class that day and as a DPS has licensing accreditations, it was entirely possible for such a person when receiving a review to know of hearing procedures and predict around about the time when a hearing will be listed. He stated that of the 45 days are discounted from 20 December backwards, Hardev Johal was in the UK up to 6 October and was in receipt of the application and he should have postponed his trip. Additionally, South Wales Police stated that “his attendance will be essential so that he can give evidence and address any concerns the Sub-Committee may have regarding the running of the premises, as well as the company’s historical compliance with the current licensing terms and conditions”. South Wales Police consider this to be not relevant as he does not run the premises; the review does not detail contraventions of the conditions of the premises licence and compliance with those conditions is also not relevant to this hearing which concerns the employment of illegal migrants in the main but also the sale of alcohol to children. PC Ellis stated that in short, South Wales Police that Harminder Malhi is in charge and Hardev Johal is DPS in name only. Hardev Johal does not have day to day control of the premises and therefore he cannot give evidence

and address and concerns the Sub-Committee may have regarding the running of the premises, which is down to Mrs Malhi.

PC Ellis stated that the hearing should therefore go ahead and to address any concerns the Sub-Committee may have in relation to the grounds for appeal. He informed the Sub-Committee that should the request be granted then the information disclosed is evidence that the decision is justified and proportionate in allowing the hearing to go ahead without Hardev Johal.

The Legal Officer questioned the frequency which Mr Johal is at the premises. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal is at the premises Monday to Friday. She stated that she had been unable to take detailed instructions from Mr Johal as he is away on a pre-arranged vacation. She informed the Sub-Committee that last year's review application had been withdrawn as the matters in relation to illegal migrants had been dismissed and the same application has again been made this year. The Premises Licence Holder's representative informed the Sub-Committee that she had spoken to the solicitor representing Mr Johal at the time who had informed her that an appeal had been submitted against the conviction relating to the employment of an illegal migrant at the premises and the appeal was successful.

The Legal Officer questioned why Harminder Malhi had not given full instructions to the Premises Licence Holder's representative. The Premises Licence Holder's representative informed the Sub-Committee that she had been given some instructions from Mrs Malhi who runs the premises at weekends, whereas Mr Johal runs the premises Monday to Friday and sometimes stays for the week. PC Ellis stated that the Home Office Illegal Working Civil Penalties Compliance Team had served a Civil Penalty Notice on H&G Trading Limited (trading as Costcutter) for £30,000 in October 2015, however the outcome of the appeal had not yet been finalised. He stated that he was in a possession of a document from the Civil Penalties Compliance Team dated 19 September 2016 which stated that the appeal had been granted but it was not known whether the appeal was in relation to the fine imposed or the conviction. He stated that it had been necessary for South Wales Police to withdraw last year's review as he was not present in work at the time and the police did not wish to proceed without knowing the outcome of the appeal.

The Legal Officer advised the Sub-Committee that it had insufficient information on the outcome of the appeal and that it would have to retire. The Legal Officer advised that in order for the hearing to proceed, both parties would have to obtain detailed information on the outcome of the appeal.

PC Ellis informed the Sub-Committee that the obtaining of further information may not establish the outcome of the appeal. He stated that the Premises Licence Holder's representative had maintained that the appeal was successful which was not compatible with the correspondence the police had received from the Home Office.

In response to a question from the Legal Officer as to how many stores H&G Limited operate; the Premises Licence Holder's representative confirmed that it operated the one store being the premises the subject of this review. The Premises Licence Holder's representative informed the Sub-Committee that it was her understanding from the solicitor representing Mr Johal at the time that Judgment was made in favour of the appellant. PC Ellis informed the Sub-Committee that one stage of the appeal was dismissed and there had been an appeal to a higher court. He stated that he had correspondence from the Civil Penalties Compliance Team dated 10 June 2016 which stated that the £30,000 had been maintained which was subject to an appeal by Mr Johal and which was ongoing. The Premises Licence Holder's representative informed

the Sub-Committee that it was her understanding that the appeal had been dealt with, but outcome of the Judgment was bland. The Legal Officer advised the Sub-Committee that it needed more information from the Home Office on the outcome of the appeal before it could proceed with the hearing.

PC Ellis informed the Sub-Committee that South Wales Police could prove that a person had been working illegally at Costcutter as a result of an enforcement visit by the Immigration Compliance and Enforcement Team, although they were not able to serve a Referral Notice as neither the DPS of Harminder Malhi were present. The Legal Officer asked PC Ellis for evidence that the persons arrested at Costcutter and Caerau Village stores were illegal migrants. PC Ellis confirmed that the police have evidence that there were illegal migrants at both premises, one of whom was a student who was an over stayer.

The Licensing Enforcement Officer informed the Sub-Committee that Licensing Enforcement of Bridgend County Council supports the application made by South Wales Police on 30 September 2016 to review the premises licence of Costcutter. She stated that on 29 July 2015 she undertook a joint routine licensing visit with South Wales Police to Costcutter. She stated that Harminder Malhi had advised at the visit that she ran the Costcutter premises as well as being the Premises Licence Holder and Designated Premises Supervisor of Caerau Village Stores. The Licensing Enforcement Officer informed the Sub-Committee that she had not seen the Premises Licence Holder and Designated Premises Supervisor Hardev Johal at the premises which contradicts the comment made by the Premises Licence Holder's representative. The Licensing Enforcement Officer objected to the request for adjournment and requested that the hearing proceed.

The Legal Officer questioned PC Ellis in relation to how the licensing objectives would be undermined if the hearing were to proceed. PC Ellis commented that the licensing objectives would not be undermined if the hearing were to proceed and that Hardev Johal could not add to the proceedings if it were adjourned to a later date. PC Rowlatt informed the Sub-Committee that she had visited the premises on a week day and had not seen Mr Johal at the premises. The Premises Licence Holder's representative could not explain the reason for Mr Johal not being seen at the premises and asked how many visits had been undertaken to the premises. The Licensing Enforcement Officer informed the Sub-Committee that 3 licensing enforcement visits had been made to the premises. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal could have been at the cash and carry at the time of the enforcement visits. She stated that Mr Johal does have day to day management of the premises. She also stated that the documentation in relation to this hearing had been served on Mr Johal and as he was away on a pre-arranged vacation she did not have full instructions to represent him. She informed the Sub-Committee that if Mr Johal knowingly employed illegal migrants at the premises it would change matters.

The Licensing Enforcement Officer informed the Sub-Committee that at the time of the licensing enforcement visit Mrs Malhi confirmed that she ran the premises, although there was no licence displayed and neither was there authority in place by Mr Johal. The Licensing Enforcement Officer also informed the Sub-Committee that during the visit in which she accompanied the UK Border Agency in August 2015; Mrs Malhi confirmed that she ran both premises.

PC Ellis informed the Sub-Committee that the premises had been problematic and there was no record of Mr Johal on the police data base. He stated that Mrs Malhi had been the subject of an assault while at the premises and there had been 35 reported incidents at the premises, none of which were reported by Mr Johal.

In response to a question from the Legal Officer as to Mr Johal's presence at the premises, Mrs Malhi stated that Mr Johal is physically present at the premises. She stated that his English is not very good and he requires an interpreter, which explains the reason for her making all the telephone calls to the police. She informed the Sub-Committee that she has no need of an interpreter, but her husband and uncle do. She stated that Mr Johal buys at the cash and carry and uses a scanner, which Mrs Malhi then uploads. She informed the Sub-Committee that she and Mr Johal run the business together and book keeping is done at Costcutter.

The Sub-Committee adjourned at 10.52am and reconvened at 11.12am.

The Legal Officer advised all parties that the Sub-Committee will adjourn the hearing due to there being insufficient evidence for it come to a conclusion. She stated that when the hearing is reconvened, the Sub-Committee requires evidence of the County Court decisions in relation to the immigration matters at the premises. The Premises Licence Holder's representative informed the Sub-Committee that a request had been made to the Court for information in relation to the appeal but it would not disclose the information as she was not the instructing solicitor.

The Legal Officer informed the Sub-Committee that the police will need to obtain information from the UK Border Agency in relation to the Court Judgment on the appeal to establish the immigration issues.

The Premises Licence Holder's representative informed the Sub-Committee that an interpreter speaking Punjabi would need to be present at the reconvened hearing to assist Mr Johal.

RESOLVED: That the Sub-Committee stand adjourned and reconvene on Monday 9 January 2017 at 10.00am.

The meeting closed at 11.18am.

The meeting re-convened at 10.40am on Monday 9 January 2017.

Present:-

Councillors
DRW Lewis -
Chairperson
E Dodd
CJ James

Officers:

Y Witchell - Team Manager Licensing
A Lee - Legal Officer
A Rees - Senior Democratic Services Officer - Committees

Representing the Responsible Authorities

PC S Rowlatt - South Wales Police
PC D Rees - South Wales Police
F Colwill - Licensing Enforcement Officer, BCBC

Representing Premises Licence Holder and Designated Premises Supervisor

Mr L Charalambides - Barrister, Representing Premises Licence Holder
Mr HS Johal - Designated Premises Supervisor
Mrs H Malhi - Company Secretary, H&G Trading Limited

The Team Manager Licensing reported that this was a continuation of a hearing which was adjourned on 23 November 2016 which is an application for a review of a premises licence submitted by the Chief Officer of South Wales Police in relation to the premises known as Costcutter, 175-176 Caerau Road, Caerau, Maesteg. A number of bundles were served at the hearing on 23 November 2016 by South Wales Police containing Court Judgments and Orders.

The Premises Licence Holder's representative stated that the Court Judgments and Orders relate to immigration matters with the premises receiving a fine of £20k and which had now been concluded with the Home office and were now irrelevant. PC Rowlatt stated that evidence of the premises receiving a fine of £20k from the Home Office had not been served on the parties. The Premises Licence Holder's representative clarified that this was the outcome of the immigration matters which resulted in a fine given by the Home Office.

The Sub-Committee adjourned at 10.54am and reconvened at 11.12am.

PC Rowlatt commenced her submission by stating that this was a simple case of bad management in relation to selling alcohol to underage persons and offences under the Immigration Act. She stated that both are weighted very heavily by the Section 182 Guidance and that revocation should be considered even in the very first instance. Certain criminal activity that may arise in connection with licensed premises that should be treated particularly seriously and knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of that persons leave to enter. She stated that South Wales Police believe that those circumstances applied to both premises.

PC Rowlatt stated that if the crime prevention objective is being undermined, South Wales Police believe that it is in relation to the type of calls that have been received in connection with the premises. The Guidance states that the Sub-Committee should revoke the licence. PC Rowlatt informed the Sub-Committee that paragraph 11.30 of the Guidance deals with persistent sales of alcohol to children in quick succession and also the suggestion to revoke. She stated that the police did not have evidence of any successful test purchases at the premises, only intelligence. Only 5 visits have been recorded, 3 in 2008, 1 in 2011 and 1 in 2015. No visits have been conducted at the premises since August 2015 being the immigration arrest of 2 persons. She stated that the lack of enforcement was not due to a lack of intelligence, but for safety reasons and the safety of our test purchasers. Operations conducted in the area had not been successful, as the test purchasers stick out like sore thumbs as do enforcement officers. Enforcement visits are conducted at the premises in the evening when illegal workers are not working alone and when local children are out and about in the street. PC Rowlatt recalled one visit, where officers got out of a car and children started asking questions. The Sgt son who was a test purchaser went into another store and the seller said to him that he was supposed to tell him he is 18. Any potential enforcement was put in jeopardy.

PC Rowlatt informed the Sub-Committee that the premises have not operated due diligence, in that from intelligence and occurrence reports that a sale had been made to a child. When the seller was questioned, he stated that he had asked for id. Where the police had confiscated alcohol from children, they had stated they had bought it from Costcutter. It had also been established from crime reports where children have been drinking alcohol; they claim it had been purchased from Costcutter. She stated that

when police question retailers, retailers reply that they know they have to ask for id. PC Rowlatt stated that this is not operating an appropriate due diligence defence and sellers have to understand the consequences and that asking for id is a mandatory condition contained in every licence.

PC Rowlatt informed the Sub-Committee that children can use other people's id, and they can purchase fake driving licenses on the internet for £20 and they have been known to forge validate cards, passports etc. by altering their date of birth. She stated that in order to have an appropriate due diligence, the documents must be examined and understood. The seller must ask questions of the user and understand the answers, if there is any doubt they must refuse the sale. Retailers' stating that they always ask for ID is not good enough. It does not stop the sale of alcohol to children and the police believe this to be the case.

PC Rowlatt referred to a visit she had undertaken to the premises in July 2015 when she encountered subject 2 (referred to in the papers before the Sub-Committee) who found it difficult to answer questions in English regarding her name and identity. PC Rowlatt stated that she had little faith in the person working at the premises to be able to carry out appropriate checks to a significant level, especially when the language spoken to each other is not English and that instructions given were in Punjabi or other languages. PC Rowlatt stated that this came down to who is in day to day control at the premises in regard to alcohol sales and under the Licensing Act this responsibility lies with the DPS. She informed the Sub-Committee that whoever has day to day control is irrelevant on the decision it has to take where revocation was the recommended step to take. She stated that the licence holder will be held accountable this being a limited company and the DPS is responsible for sales. PC Rowlatt informed the Sub-Committee that South Wales Police have never encountered Mr Johal at the premises, which speaks volumes which gives the Sub-Committee an understanding as to where things are going wrong with the management decisions. PC Rowlatt stated that Mr Johal has never been present on any licensing visits he has also not been present when police are investigating crime at the premises and has never made a call to the police. He has never been visible to the local community or the local policing teams and have never met him.

PC Rowlatt informed the Sub-Committee that immigration has two definitions in the Guidance. Firstly, the definition of knowingly employing, where South Wales Police believe this has been met as subject 1 was arrested at the premises by immigration but was still allowed to work after that arrest and still linked to the business. The shop would know he was arrested and would also know that immigration controls were in error. The Premises Licence Holder's representative stated that if the police have evidence then it was incumbent on them to provide that evidence in advance to the Sub-Committee in accordance with the Guidance. He also stated that the police could not introduce new evidence at this stage. PC Rowlatt stated that subject 1 was referred to in the list of reported incidents to have taken place at the premises and which had been provided to the Sub-Committee at page 22 of the bundle. The Premises Licence Holder's representative commented that the list of incidents was not evidence and was unfair, wrong and highly prejudicial. PC Rowlatt stated that Occurrence 62110285252 of 25 August 2011 relate to subject 1 having been arrested for being in the UK illegally. Additional documents had been served which link the 3 subjects arrested at the premises and Caerau Village Stores to the list of incidents reported. The Premises Licence Holder's representative stated that the police have raised very significant allegations in linking subject 1 to the premises. PC Rowlatt stated that occurrence which was an assault on a member of staff on 14 August 2016 related to subject 1 which evidenced that subject 1 was still at the premises. The Premises Licence Holder's representative stated that there were names linking the subjects to the occurrences.

The Legal Officer advised that the absence of names against the occurrences was due to the requirement to have the documentation published on the Council's website.

The Premises Licence Holder's representative informed the Sub-Committee there was no way of testing the evidence of the police and that they had been ambushed particularly as the police were seeking revocation of the premises licence. He believed the police were taking the most draconian of measures for which he had not received had instructions and he could not challenge the evidence of the police. He stated that the police had reviewed the CCTV and could find no trace of an incident, but were relying on an incident they have no proof of. He also stated that he felt ambushed at the way the review was being advanced by the police. The Legal Officer stated that it was matter for the police as to how they presented their evidence. PC Rowlatt stated that she did not believe the Premises Licence Holder's representative to have been ambushed as the Sub-Committee had been provided with information clearly linking occurrences to subjects. PC Rowlatt stated that witness statements had been provided for occurrences 5 (which related to a complaint of racially aggravated assault) and 10 (which related to an assault on a staff member and criminal damage to premises). CCTV of the assault had been reviewed which found no evidence of a person entering the premises carrying a knife. The Sub-Committee questioned why this had not been removed from the police system. PC Rowlatt stated that the occurrences had to remain on the police system. She also stated that the police had attempted to link the 3 subjects to the 12 occurrences at the premises and Caerau Village Stores.

The Sub-Committee questioned the outcome of occurrence 9. PC Rowlatt stated that she was unaware of the outcome of that complaint. The Legal Officer stated that the Sub-Committee that it could not place any weight on that evidence.

PC Rowlatt informed the Sub-Committee that South Wales Police believe that in relation to knowingly employing this had been met as subject 1 was arrested from the premises by immigration, but was still allowed to work after that arrest. She stated that the premises would know he was arrested and that any persons need permission to be employed in this country to work by holding a work visa or student visa. PC Rowlatt informed the Sub-Committee that subject 1 had never had permission at any point in time to work in this country. If subject 1 had permission to work, he would be in possession of papers to work. This is not the case as subject 1 entered the UK illegally without papers. If subject 1 had entered with an Indian visa, passport, he would be on the system and his fingerprints would have been taken even if under a different name. If he entered legally records would be kept of his visa and passport. His passport had never been produced to immigration services and he had never been truthful with who he really is. PC Rowlatt stated that subject 1 has proven to be problematic for the authorities and especially in deportation rights. He is also on the police system several times, showing changed dates of birth and being evasive. PC Rowlatt stated that subject 1 is linked to the premises as a reporting person from 2009 up until 2016.

PC Rowlatt also informed the Sub-Committee that the release address for subject 1 after being in detention was the sister premises Caerau Village Stores. PC Rowlatt stated that if he is not staff then why he reported an assault on a member of staff in August 2016, occurrence 1600309024. He also reported incidents of theft of alcohol from the premises, occurrence 62130267704 in August 2013. PC Rowlatt questioned what other purpose could possibly be given for him to be in the shop when he had entered the country illegally and could not work. PC Rowlatt stated that subject 1 had given false details in that Indian immigration could not support emergency travel documents being issued to him as his country of origin was not India. The Indian authorities had no record of him leaving India and would therefore not allow him to return. Subject 1 was arrested on 11 February 2012 and kept in a detention centre for several months and was kept in custody until 23 January 2013 with several bail application being denied. He was

eventually released on bail and this time complied with the bail arrangements. PC Rowlatt informed the Sub-Committee that subject 1 kept on returning to the premises where he reported incidents or was involved in incidents in April 2016 and August 2016, despite all documentation clearly stating that he had no right to work in the UK.

PC Rowlatt informed the Sub-Committee that management at the premises know that subject 1 had been arrested and was also arrested at the premises. He also did not show for several months and then returned to the premises and had never had permission to work in the UK. PC Rowlatt referred to the witness statement which relates to occurrence 14000823325 and subject 1 working at the premises. Subject 1 took over working at the premises alone despite never having had papers to work in the country and neither had he provided the authorities with any documentation.

PC Rowlatt stated that if the Sub-Committee was not satisfied that subject 1 was knowingly employed; it must consider who cannot lawfully be employed as a result of that person's leave to enter. She stated that subject 1 was arrested at the premises in 2011 and any reasonable person would ask questions and would have carried out proper checks and refused to employ him, knowing this to be the case. PC Rowlatt informed the Sub-Committee that subject 1 has never had permission to work in the UK.

PC Rowlatt informed the Sub-Committee that subjects 2 and 3 were easier to deal with, in that arrests were made by immigration officers in August 2015 and both had now returned to their home country. Subject 2 was originally allowed entry into the UK on a student visa and could work for 16 hours a week up until December 2012. Subject 2 re-applied for an extension of the visa in November 2012, which was granted up until 13 April 2014. Subject 2 overstayed and was found working at the premises in July 2015. On further investigation by immigration officers, it was found on 2 June 2014 that the application was refused. Papers were served in June 2014 and subject 2 was found to be working at the premises in July 2015. Subject 2 was arrested and removed on 18 September 2015. PC Rowlatt informed the Sub-Committee that subject 3 entered the UK illegally arriving in a lorry, which evidenced a person who cannot lawfully be employed.

PC Rowlatt also informed the Sub-Committee that there had been no other instances of crime and disorder to have taken place at the premises. In relation to the licensing objective of the prevention of children from harm, there had been incidents involving children linking the sales of alcohol to children from the premises. PC Rowlatt stated that these facts alone would not warrant a revocation application, however together, they show that a revocation of the premises licence should be considered as no other measure could be suitably engaged.

The Sub-Committee how the police had been able to identify the same person had given different dates of birth and names. PC Rowlatt explained that the police use a system which uses finger print identification which establishes the police have the right person. The system is linked and shared with other agencies and countries.

The Sub-Committee questioned why a person who is in the UK illegally contact the police. PC Rowlatt stated that this was due to naivety on their part.

The Licensing Enforcement Officer informed the Sub-Committee that on 29 July 2015 a joint routine licensing inspection was carried out by Licensing enforcement and South Wales Police. On entering the premises, a lone female worker was present behind the counter. The female worker was asked if the Premises Licence Holder or Designated Premises Supervisor was present and she proceeded to get another female, the manager of the premises who identified herself as Harminder Malhi, who advised that she lived above the premises and ran Costcutter as well as being the Premises Licence

Holder and Designated Premises Supervisor of Caerau Village Stores. Harminder Malhi advised that the DPS was not present at the premises but did visit it on a regular basis and she confirmed that she ran both businesses.

The Licensing Enforcement Officer stated that during the inspection enquiries were made as to the personal details of the lone female worker and it was suspected that both females were being evasive. It was also noted that there was no authorisation list from the DPS and no paperwork could be produced to show any authorisation for staff that did not hold a personal licence. The lone female worker had served alcohol during the time of the inspection. It was also noted that the Premises Licence displayed was a copy and not certified, however during the inspection the original licence was produced and displayed.

The Licensing Enforcement Officer informed the Sub-Committee that concerns regarding the immigration status of the lone female worker were passed to the UK Border Agency on 6 August 2015. On 20 August 2015, the Licensing Enforcement Officer accompanied the UK Border Agency on a visit to the premises.

The Licensing Enforcement Officer informed the Sub-Committee that there had been no further visits to the premises, mainly due to not interfering or hampering any immigration investigation. She stated that the PLH and DPS Mt Hardev Johal lives in Middlesex and is rarely at the premises and therefore impossible for him to have day to day control of the sale of alcohol and he cannot fulfil his duties as DPS.

The Licensing Enforcement Officer also informed the Sub-Committee there was no DPS authorisation in place for staff who were not personal licence holders. Also, it was discovered that the female working at the premises and Harminder Malhi had given false details regarding the status and name of the female serving who was in the country illegally, yet was being left on her own at the premises for long periods of time and serving alcohol to customers.

The Premises Licence Holder's representative questioned the number of enforcement visits which had taken place at the premises. The Licensing Enforcement Officer stated that 3 visits had been undertaken at the premises, the PLH and DPS was not present at any of the visits. The Premises Licence Holder's representative asked whether test purchases had been carried out at the premises. The Licensing Enforcement Officer stated that Trading Standards would usually conduct test purchase exercises. The Premises Licence Holder's representative questioned the authorisation for the enforcement visits undertaken at the premises. The Licensing Enforcement Officer stated that the visit undertaken on 29 July 2015 was carried out with the police and the visit on 20 August 2015 with the UK Border Agency. Verbal advice was given at the premises on the visit in July which was subsequently followed by letter in relation to there being no authorisation in place to non-personal licence holders to sell alcohol; neither were there any training records available for inspection. It was also observed that alcohol was sold by a person who had not been trained and who also was not legally entitled to be in the UK. The Licensing Enforcement Officer stated that this cast doubt on the way the premises were being managed and revocation of the premises licence was sought.

The Sub-Committee asked where Mr Johal lives as he did not seem to be present at the premises when visits had been undertaken there. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal lives in London, but is in Wales from Monday to Friday. He stated that there was no requirement for the DPS to be at the premises and that he proposed to address that issue by removing Mr Johal as DPS. He commented that it was unfortunate that Mr Johal had not been at the premises when visits had been undertaken there.

The Premises Licence Holder's representative informed the Sub-Committee that the point of the review of the premises licence is to highlight problems and to seek solutions. He referred to Section 182 of the Guidance and to a recent case which related to the employment of a person who was not entitled to work in the UK. He also referred to the problems encountered by officers during the course of visits to the premises where officers had been lied to and given false dates of birth and found a person to have overstayed in the UK. He stated that the premises had received a fine of £20k.

The Premises Licence Holder's representative informed the Sub-Committee that the police had placed reliance on immigration issues but were no longer relying on that evidence. He stated that CCTV images had been reviewed at the premises which had found that a false complaint had been made to the police. He also stated that the evidence submitted by the police was misleading in that it had incorrectly placed reliance on the prevention of crime and disorder and protection of children from harm licensing objectives, when no test purchases had been carried out at the premises. He stated that the premises must be tested for it to be regulated properly.

He informed the Sub-Committee that measures need to be put in place to prevent further problems at the premises and solutions were needed. He stated that Mr Johal lives in London and he did not feel he could fulfil the role of DPS while commuting between South Wales and London. It was proposed to remove Mr Johal as DPS and insert Mrs Malhi as DPS instead as she and her husband live above the premises, her children attend the local school and she speaks fluent English. Mrs Malhi is also company secretary of H&G Trading Limited, runs the company and operates as manager and is the single point of contact for the business.

The Premises Licence Holder's representative also proposed to that a personal licence holder will be present at all times at the premises, with Mrs Malhi having responsibility for setting the work rota. All current members of staff will undergo personal license holder training to be provided by a specialist licensing training company. He stated that the premises do not at present have conditions in place and this was an opportunity to do that. The proposed condition relating to the appointment of Mrs Malhi as DPS will result in the removal of Mr Johal. He stated that a certified copy of the licence was now on display at the premises and the importance of such would be covered at the licensing training to be provided. He also stated that the immigration matters had been dealt with and punishments administered. Appropriate training records and a record of employees will be kept for validation by the police, licensing enforcement and immigration.

The Premises Licence Holder's representative stated that no warnings, disciplinary measures or test purchases had taken place at the premises which was not in accordance with the licensing policy and that the police had gone straight for revocation. He also stated that the police did not have regard for the Statement of Licensing Policy with regard to working together to develop the local economy as it had not worked in partnership with the premises, neither had the police offered to the premises. He stated that the police had accepted that they were misleading in their evidence which was wrong. The Premises Licence Holder's representative commented that the police and the premises have to be criticised for not promoting the licensing objectives. He stated that a warning needed to be given if there were breaches in the future and the police need to check the premises and undertake test purchases. He requested that the Sub-Committee grant the conditions proposed and impose a warning on the premises.

PC Rowlatt requested assurances that the premises would not transgress again. The Premises Licence Holder's representative stated that the fine of £20k to be paid over 3 years was a deterrent and that the DPS would check that every employee working at the premises had the right to work in the UK. PC Rowlatt stated that the police are

committed to working in partnership with the premises and requested an assurance that the premises would work with the police. The Premises Licence Holder's representative stated working in partnership was about having dialogue with the police and that his clients had recognised police officers visiting the premises but they had never introduced themselves. PC Rowlatt stated that no visits had taken place to the premises since the enforcement visit in 2015 not to prejudice the review application. The Premises Licence Holder's representative stated that the police should engage with the premises despite the review application. PC Rowlatt commented that assurances were needed in relation to the proposed conditions as the police were of the view that Mrs Malhi was always in control of the premises. The Premises Licence Holder's representative commented that a licencing conversation had never taken place at the premises. He stated that the premises need a chance and the opportunity to work together with the police and if people were employed at the premises without the right to work in the UK then it would face revocation.

The Legal Officer asked if Mrs Malhi was present in 2015 why had she been obstructive during the enforcement visit. The Premises Licence Holder's representative stated that concerns had been reported to the police as to racially aggravated attacks to have taken place at the premises. He informed the Sub-Committee that what needs to happen is for the parties to go away and give the proposed conditions a chance to operate and that relationships need to be built. He stated that Mrs Malhi had attempted to establish a relationship with the police when she had made calls to inform of problems at the premises.

The Licensing Enforcement Officer informed the Sub-Committee that she had major concerns with the management of Costcutter in that false information had been given to licensing enforcement and the police on a few occasions. She questioned who the fine had been issued to and Mrs Malhi's position within H& G Trading Limited. The Premises Licence Holder's representative confirmed that the fine had been issued to H&G Trading Limited and Mr Malhi's position within the company is that of secretary. He stated that this is her and her family's only source of income. The Licensing Enforcement Officer asked who would have authority for the sale of alcohol from the premises. The Premises Licence Holder's representative stated that the authority for sales of alcohol would be rectified through the proposed conditions. The Licensing Enforcement Officer asked where Mr Johal resided when he was in South Wales. The Premises Licence Holder's representative stated that the flat above the premises has 4 bedrooms and Mr Johal resided in one of the bedrooms. The Licensing Enforcement Officer questioned why Mr Johal was not at the premises during the visit with the police and UK Border Agency which took place in July and August 2015 respectively. The Premises Licence Holder's representative stated that Mr Johal did not have to be present at the premises during the visits. The Premises Licence Holder's representative also stated that Thursday was the day when Mr Johal went to the cash and carry.

The Chairperson invited all parties to sum up.

PC Rowlatt commenced her summing up by stated that she did not feel the respondent would change and that a change or variation of DPS would not improve matters at the premises as Mrs Malhi was already the contact at the premises. PC Rowlatt did not feel that the implementing the proposed conditions would be the correct course of action and that Section 136 licensing breach would be the most appropriate response. She stated that great weight had been placed on Section 182 of the Guidance and for the partnership to work well it has to work both ways. PC Rowlatt concluded that the most appropriate action for the review was revocation of the premises licence.

The Licensing Enforcement Officer commented on the concerns relating to the management of the premises and the fact that as Mrs Malhi already manages the

premises, a change in DPS would not change the way in the premises are managed. The Licensing Enforcement Officer also commented that there had been a number of breaches of the licence when Mrs Malhi has been in charge of the premises.

The Premises Licence Holder's representative referred to the Statement of Licensing Policy which encouraged working together and that in this case the one strike and out approach had been taken with no engagement with the premises. He stated that there are issues with the premises but which had been met negatively. He also stated that the role of the Sub-Committee was to promote the licensing objectives and that the premises had been found lacking and had received a significant fine. The premises had been licensed since 2007 and there had been no visits until the enforcement visits in 2015. He stated that the request for the revocation of the licence is the wrong course of action and he hoped that the premises would be given the opportunity to work with the Responsible Authorities. He stated that if the proposed conditions did not work the Sub-Committee would have the option of revoking the licence in the future.

The Sub-Committee adjourned at 12.55pm and reconvened at 4.21pm.

RESOLVED: That the Sub-Committee considered an application for a review of a Premise Licence in respect of Costcutter in Caerau, Maesteg.

The Sub-Committee has heard representations from the Police that the Premises Licence Holder was visited by the Immigration and Enforcement Team in August 2011 and arrested a male Indian Migrant and checks found that he had illegally entered the Country and had previously been served immigration papers and was liable to be removed from the UK.

In addition on the 21 August 2015 there was a further warrant executed at the Premises and officers found a female working at the Premises who had overstayed their Visa to work in this Country and then a further Indian Migrant was found in Caerau Village Stores who had entered the Country illegally in the rear of a vehicle. The gentleman admitted working at Caerau Village Stores which is also run by Harminder Malhi. There were in total 3 migrants between the two stores who were not entitled to work in this Country.

The Police informed the Sub-Committee that during a visit in July 2015 the female migrant could not answer any questions in English and would not be able to question a child about their age when serving alcohol.

The Police also stated that the Indian Migrant arrested in August 2011 still had links with the premise and was still reporting incidents to the Police. The Police confirmed that their representations were only in relation to the employment of migrants who were not entitled to work in this Country and the Protection of children from harm.

The Police made representations that they had found under age children with alcohol who informed officers that they had obtained the alcohol from the premises.

The Police also stated that during an enforcement visit in July 2015 Harminder Malhi was working at the premises along with the suspected illegal migrant and when questioned by officers was found to be obstructive and untruthful concerning the immigration status and details of the employee. The Licensing Enforcement

Officer who was also present during the visit also made the same allegation.

The Licensing Enforcement Officer also stated that there were no training records at the premise and was concerned that the employees were not correctly trained and persons unlawfully in this Country were often left to run the premises. The Officer also made representations that there was no authorisation list of those persons authorised to sell alcohol at the premise.

The representative of the Premise Licence Holder and DPS advised the Sub-Committee that the Company had admitted they had employed the migrants who were not entitled to work and they had now been fined £20,000 which they had agreed to pay off over a period of 3 years. Representations were made that the fundamental point of a review is to highlight problems at the premise and where possible seek solutions. The fine of £20,000 is a deterrent and the Licence holder was aware of the consequences if they employed anyone in future who is not entitled to work in this Country.

The representative also advised the Sub-Committee that if the Police and the Licensing Authority were so concerned about the protection of children from harm then they should have carried out test purchases on the premises which they had not done.

The representative proposed that Mr Johal the DPS be removed and Mrs Malhi who lives above the Premise becomes the DPS who will authorise the sale of alcohol and be the single point of contact.

It was also proposed that a condition be added to the Licence that all members of staff undergo a refresher course in Licensing and produce certificates confirming that training within three weeks and thereafter attend refresher training every six months.

In addition a further condition be imposed on the licence that each and every member of staff have their ability to work in this country checked and their documents copied and made available upon request to the Police, the Licensing Enforcement Officer and border control.

The representative also referred to the Council's statement of Licensing Policy at 2.5 where it states that the Council will work closely with the South Wales Police, local businesses, and local people in meeting the Licensing objectives. The Representative stated that neither the Police nor the Licensing section has attempted to work with Mrs Malhi and that both sides had failed to act in a way that would promote the licensing objectives. The Police stated that they were not happy with the proposals as Mrs Malhi had always had day to day control of the premise when the offences of employing illegal migrants were committed.

The Police stated that they still feel that revocation is the only option and referred to the Home Office Guidance at 11.27 and that the Police have had concerns over Mrs Malhi's management of Costercutter since 2010 and she was present when all the illegal migrants were working at both premises. The representative of the Licence holder stated that revocation was contrary to the Council's

own Corporate Police of working together and that the Licence holder should be given a chance and to close the door on such narrow issues was plainly wrong.

The Sub-Committee has looked at the Licensing Act, the Council's statement of Licensing Policy and the Home Office Guidance under Section 182 of the Licensing Act.

The Sub-Committee has noted that under 11.27 that certain criminal activity that may arise which should be treated particularly seriously and one of the grounds is "for 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". It further states that if the crime prevention objective is being undermined through the premise being used to further crimes, it is expected that revocation of the Licence even in the first instance should be seriously considered.

The Sub-Committee has considered the representations made by the Licence Holder and the proposal that additional conditions would resolve the problems at the premises. The Sub-Committee note that once of the suggestions is to remove the DPS and Mrs Malhi would then apply to become the DPS, the Committee note however that Mrs Malhi appeared to be running both premises when the offences of employing illegal migrants were committed. However the Sub-Committee are prepared in accordance with the representations made to give the Licence Holder another chance to rectify the problems at the premises and in order to do this have decided to suspend the Licence for a period of 6 weeks, to enable the Licence holder to comply with the new conditions that the Sub-Committee has decided to impose of the licence as follows:-

1. Each and every member of staff will undertake Licensing/refresher training within the next six weeks and will produce the training certificates to the Police and the Licensing Enforcement Officer and thereafter will undergo refresher training every six months and keep a training log of all training undertaken by the members of staff at the premises.
2. The Premises Licence Holder and DPS will check each and every employee at the premises that they are legally entitled to work in the UK and will keep copies of their documentation and produce the same on request to the Police, Licensing Enforcement Officers and Border Control. In addition to the suspension and the additional conditions on the Licence the Sub-Committee has also resolved to remove the DPS at the premises.

The meeting closed at 4.28 pm