

Licensing Act 2003 Sub Committee Agenda



9.30 am Monday, 19 April
2021

Via Microsoft Teams

In accordance with Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held on a virtual basis. Members of the Public can view a live stream of the meeting at:

<https://www.darlington.gov.uk/livemeetings>

Members of the public wanting to raise issues/make representations at the meeting can do so by emailing Allison.hill@darlington.go.uk 24 hours before the meeting begins.

1. Election of Chair
2. Introductions/Attendance at Meeting
3. Declarations of Interest
4. Application to Review Premises Licence on the grounds of the Prevention of Crime and Disorder - Akbar Dynasty Restaurant –
Report of the Director of Economic Growth
(Pages 3 - 104)
5. EXCLUSION OF THE PUBLIC AND PRESS –
To consider the exclusion of the Public and Press :-

RECOMMENDED – That pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing items on the grounds that they involve the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A of the Act



Luke Swinhoe
Assistant Director Law and Governance

Friday, 9 April 2021

Town Hall
Darlington.

Membership

Councillors Donoghue, C L B Hughes and B Jones

If you need this information in a different language or format or you have any other queries on this agenda please contact Allison Hill, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: allison.hill@darlington.gov.uk or telephone 01325 405997

FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
FOR 19 APRIL 2021

**APPLICATION TO REVIEW PREMISES LICENCE ON THE GROUNDS OF THE
PREVENTATION OF CRIME AND DISORDER**

Licence holder Mr Abdul Mannan Shabul Ali **Ref No:** DL09/00823/PREMIS

Premises: AKBAR DYNASTY
A66 Stockton Road,
Sadberge,
Darlington,
DL2 1SZ

Licensable Activities: 1. **Sale of Alcohol** for consumption **ON & OFF** the Premises
2. **Regulated Entertainment** (recorded music)
3. **Late Night Refreshment**

Current Hours:

Sale of Alcohol:	18.00 to 23.30	Every Day
All Regulated Entertainment:	18.00 to 23.30	Every Day
Late Night Refreshment	23.00 to 23.30	Every Day

Premises opening Times 18.00 to 24.00 Every Day

Home Office Application Review of Premises Licence on the grounds of Crime and Disorder

Notification to Responsible Authorities/Other Persons:

Home Office (Immigration Enforcement) has served notice of this application to the following:

Environmental Health	Chief Fire Officer
Durham Constabulary	Trading Standards
Planning	Public Health
The Licence Holder	The Licensing Authority
Darlington Safeguarding Partnership	

Information on the Premises 1st March 2021
Information on Council's web site: 1st March 2021

LEGISLATION:

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

DESCRIPTION OF PREMISES

When the Premises Licence application was originally made the applicant described the premises as follows:

“The restaurant is located on ground floor premises on the main A66 Eastbound Road (Formerly “Little Chef”). Restaurant has 50 covers and car parking available.”

PURPOSE OF REPORT

To invite Members to consider an application for a review of the Premises Licence submitted by the Home Office (Immigration Enforcement) based on the grounds that it undermines the prevention of crime and disorder objective.

Members are requested to consider any appropriate action, which may include the revocation of the licence.

BACKGROUND OF THE PREMISES

On 26 May 2009 an application was properly made for a Premises Licence, by Burr Sugden Solicitors who were acting on behalf of Mr. Abdul Mannan Shabul Ali in respect of the building formally know as “Little Chef”, A66 Stockton Road, Sadberge, Darlington in accordance with Section 17 of the Licensing Act 2003. The application was advertised as required by the 2003 Act and no representations were made. The Premises Licence was granted from 23 June 2009.

On 24 June 2010 a Licensing Enforcement Officer carried out an inspection of the premises and found that the premises were not complying with the Premises Licence requirements, namely not making Part A of the Premises Licence available to the Officer and not displaying the Part B of the Premises Licence, which is a requirement of the 2003 Act. A written warning was issued to the Premises Licence Holder. When the premises were re-inspected on 16 August 2010, they were found to be compliant and no further action was taken.

On 19 October 2011 a Licensing Enforcement Officer carried out an inspection of the premises and found that the premises were not complying with the Premises Licence requirements, namely not making Part A of the Premises Licence available to the Officer and not complying with this mandatory licensing condition. A written warning was issued to the Premises Licence Holder. When the premises were re-inspected on 23 October 2011, again they were found not to be complying with the mandatory licensing condition and a further (final) written warning was issued to the Premises Licence Holder.

On 15 December 2011 the premises was re-inspected where it was found to be compliant and no further action was taken.

On 10 July 2012 and 28 February 2013, a Licensing Enforcement Officer carried out inspections of the premises and on both occasions the premises were compliant.

On 23 November 2016 a Licensing Enforcement Officer carried out an inspection of the premises and found that the premises were not complying with the Premises Licence requirements, namely not making Part A of the Premises Licence available to the Officer. A member of staff informed the officer that there had been a burglary and Part A of the Premises Licence was stolen. A new licence was purchased from the Licensing Department on 13 December 2016 and no further action was taken.

On 15 November 2017, a Licensing Enforcement Officer carried out an inspection of the premises and were found to be compliant.

On 5 March 2018, H M Revenue and Customs made a request for information under the terms of Section 29 Data Protection Act (1988). The request pertained to the assessment or collection of any tax or duty or of any imposition of a similar nature and required details of the licence holder, terms attached to the Premises Licence and the history of the premises. On the same date a response was sent to H M Revenue and Customs with the relevant information.

A copy of the current licence and plan is appended for Members' attention at **Appendix 1**.

APPLICATION TO REVIEW THE PREMISES LICENCE

On 26th February 2021 an application was properly made by Home Office (Immigration Enforcement) to **review** this Premises Licence on the grounds of crime and disorder.

In summary, this representation is in response to intelligence led visits to the premises by Immigration Compliance & Enforcement Officers, where named individuals were found to be working illegally. The Home Office has requested that the licence be revoked to reflect the serious nature of these incidents. The application has been reproduced in at **Appendix 2**. A comprehensive Premises Licence Review pack has been provided by the Home Office (**Appendix 3**) along with authority for entry from the Assistant Director (**Appendix 4**) and supporting statements by Immigration Compliance & Enforcement Officers at **Appendix 5**.

THE LICENCE HOLDER'S RESPONSE

The Licence Holder has confirmed his attendance at the hearing on the 19th April 2021 following emails that were sent on 29th March 2021 and a follow up email on the 7th April 2021 with information about the hearing which are recorded at **Appendix 6**.

THE LICENSING POLICY

Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 7**

Section 1.2 – 1.3	Purpose
Section 6 – 7.3	Premises licence and impact of licensable activities
Section 11.3 to 11.5	Steps to address Crime and Disorder

A full copy of the policy will be accompany this report for Members to refer to.

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime and disorder and the review process. A full copy of the guidance is provided in this review pack and the relevant sections of the Guidance are reproduced at **Appendix 8**.

ADDITIONAL INFORMATION

Members should note that Home Office Immigration Officers are protected in law from revealing their identities for the purpose of a review, which is why their details have been redacted.

MEMBERS' OPTIONS

Members may consider the following options:

1. To modify the conditions on the licence – i.e. to alter, remove or add additional conditions that they consider appropriate to promote the crime prevention, public nuisance prevention, public safety or child protection licensing objectives
2. Exclude a licensable activity from the scope of the licence.
3. To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management.
4. To suspend the entire licence for a period not exceeding 3 months.
5. To revoke the licence.
6. To take no action against the licence.

If Members are minded to add additional conditions, they must be appropriate to promote the licensing objectives detailed above. Members are reminded that any such conditions should not duplicate existing legislation.

Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Sub Committee (i.e. Premises Licence Holder or Home Office) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the sub committee will not take effect until the appeal is disposed of.

Contact Officer: Colin Dobson x 5988

Ian Williams
Director of Economic Growth

For admin use only:
Sub Committee Decision:

Date of Sub Committee:

Reasons:

APPENDIX 1



Licensing

Town Hall, Feethams, Darlington. DL1 5QT
 Tel: (01325) 388562 Fax: (01325) 388555
<http://www.darlington.gov.uk>

PART A

Licensing Act 2003 Premises Licence

Akbar Dynasty

Premises Licence Number	DL09/00823/PREMIS
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PART 1 – PREMISES DETAILS

Premises Details:	AKBAR DYNASTY A66 Stockton Road, Sadberge, Darlington,DL2 1SZ
Telephone number:	01325337337

Licence effective from:	23 June 2009	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours	
Retail sale of alcohol (for consumption ON AND OFF the premises)	18:00 - 23:30	Every Day
Regulated Entertainment: Recorded Music	18:00 - 23:30	Every Day
Late Night Refreshment:	23:00 - 23:30	Every Day

Premises Opening Hours:	18:00 - 24:00	Every Day
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PART 2

Premises Licence Holder:	Mr Abdul Mannan Shabul Ali, 14 Ward Street, Keighley, BD21 1JE
Telephone Number:	01535 611871

Designated Premises Supervisor:	Mr Abdul Mannan Shabul Ali, 14 Ward Street, Keighley, BD21 1JE
Personal Licence No:	BD/PER1998
Issuing Authority:	Bradford Metropolitan District Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
3. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:-
 - i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - i) the outcome of a race, competition or other event or process, or
 - ii) the likelihood of anything occurring or not occurring;
 - e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
 5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
 6. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

7. The responsible person shall ensure that—

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

b) customers are made aware of the availability of these measures.

8. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

9. For the purposes of the condition set out at 8 —

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- b) “permitted price” is the price found by applying the formula—

$$P = D + (P \times D) \text{ where—}$$

- i) P is the permitted price,
 - ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- i) the holder of the premises licence,
 - ii) the designated premises supervisor (if any) in respect of such a licence, or
 - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

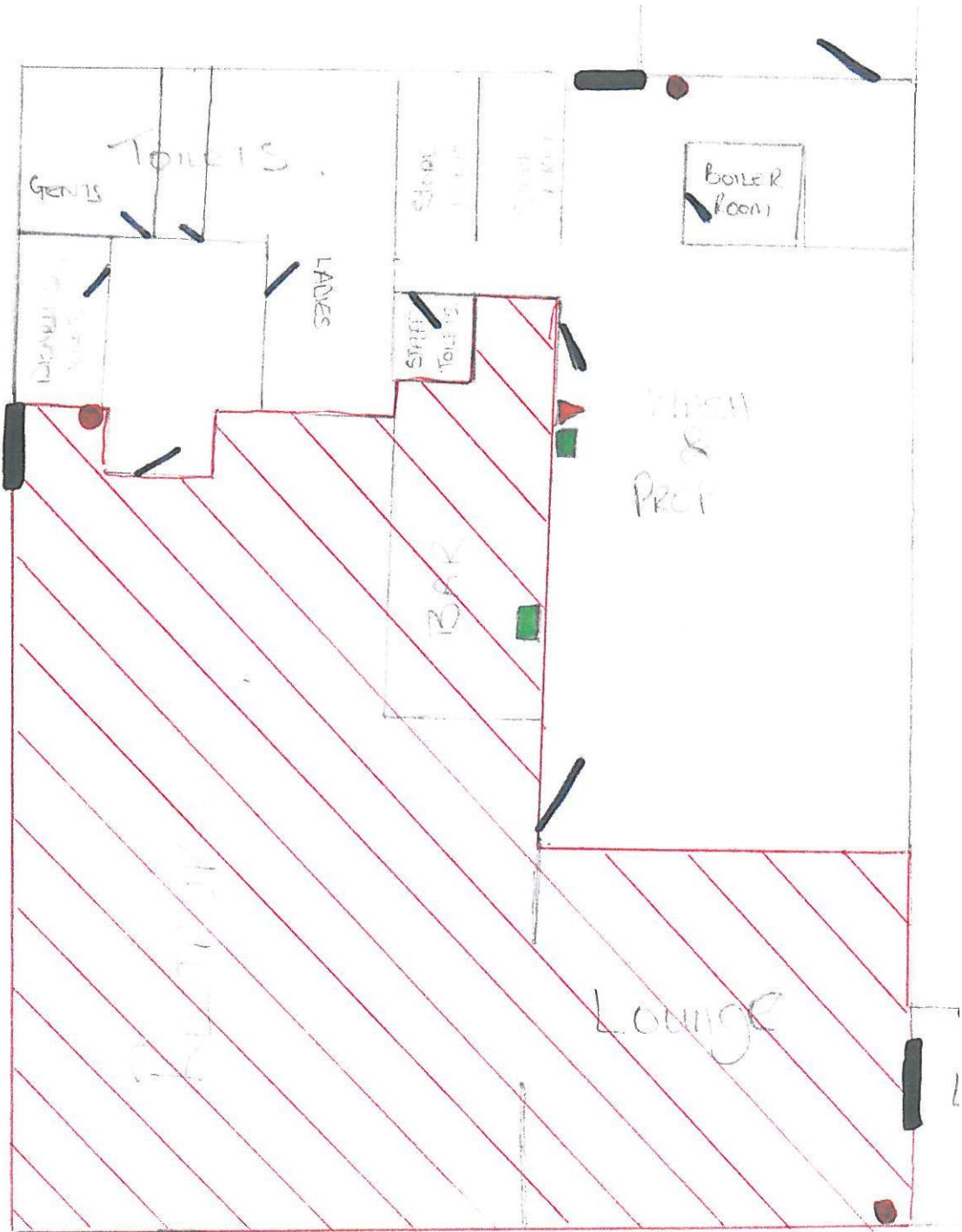
Annex 2 **Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):**

None

Annex 3 **Conditions attached after Licensing Authority Hearing:**

None

Annex 4 Premise Plan



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Authorized Officer

APPENDIX 2

Licensing Authority: Darlington Borough Council
 Address: Town Hall Feethams, Darlington DL1 5QT

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
 If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Home Office Immigration Enforcement

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Akbar Dynasty, Sadberge, Darlington	
Post town Cleveland,	Post code (if known) DL2 1SZ

Name of premises licence holder or club holding club premises certificate (if known) Mr Abdul Mannan Shabul Ali

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

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible

authority (please read guidance note 1, and complete (A) or (B) below)

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

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

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

Please tick ✓ yes

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) IE.Alcoholreviews@homeoffice.gov.uk

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

Please provide as much information as possible to support the application (please read guidance note 3)

An enforcement visit was carried out on 2nd May 2019 at: Akbar Dynasty, Sadberge, Darlington, Cleveland, DL2 1SZ. The visit was conducted by several Immigration Compliance & Enforcement (ICE) officers.

Entry to the premises was gained at the main entrance under Section 28CA Immigration Act 1971.

Information had been received stating that a named male had overstayed his visa in the United Kingdom (UK) and was working illegally as a chef at Akbar Dynasty.

According to our records there has now been more than one visit where civil penalties have been issued. A civil penalty was issued on 24/07/2019 to Brand Style Ltd of £20,000 who were the liable party. The director responsible at the time was Mr ABDUL MANNAN SHABUL ALI.

Following another compliance visit on 15/02/2020, where another illegal worker was identified. A further civil penalty of £15,000 was issued to Asma Star Ltd on 27/02/2020. Director responsible for this penalty was the same, Mr ABDUL MANNAN SHABUL ALI. Further to recent checks on our Home Office systems, both of these civil penalties still remain outstanding, and are appeal rights exhausted.

Full details and review pack to follow.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities

and the premises licence holder or club holding the club premises certificate, as appropriate

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature Home Office

Date 24/02/2021

Capacity **Responsible Authority**.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Alcohol Licensing Team Lunar House 40 Wellesley Road	
Post town Croydon	Post Code CR9 2BY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) IE.Alcoholreviews@homeoffice.gov.uk	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

APPENDIX 6

**LICENSING ACT 2003
NOTIFICATION OF HEARING
(Regulations 6 and 7)**

Date of Notification: 7 April 2021

Type of Hearing: Application to Review a Premises Licence

Premises: AKBAR DYNASTY
A66 STOCKTON ROAD, SADBERGE
DARLINGTON DL2 1SZ

Hearing Details: Monday 19 April 2021 at 9.30 hours

Location (**via Teams**): Darlington Borough Council,
Town Hall, Darlington,
DL1 5QT

Copy of notice sent to: Mr Abdul Mannan Shabul Ali
(Premise Licence Holder)
Home Office Immigration (Responsible Authority)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form and return to the Licensing Section **no later than 15 April 2021**.

Non-attendance: If you notify the Licensing Authority that you will not be attending this hearing and that you will not be legally represented in your absence, the hearing may proceed in your absence. If you do not notify your non-attendance and then do not attend this hearing the Licensing Sub Committee will decide whether it is in the public interest to adjourn the hearing to enable you to attend or whether to hold the hearing in your absence. If the hearing does proceed in your absence your representations will still be considered.

Procedure at the Hearing: You will find attached, the procedure that will be followed at the Hearing. The Hearing will take place in public unless it is deemed in the public interest to exclude the public or any party to the Hearing from all or part of the Hearing. If a party is excluded from the Hearing (s)he will be able to provide written information to cover any verbal representations (s)he may have made if (s)he had not been so excluded. The Hearing will take the form of a discussion and each party will be permitted an equal period of time to provide information, make comment and express their views.

Withdrawal of Representations: Anyone wishing to withdraw representations should do so as soon as possible. Although this can be done at the Hearing, you are requested, where possible, to give at least 24 hours' notice as it may no longer be necessary for the Hearing to proceed.

Outcome of Hearing: A decision will be made at the end of the hearing, although this may take some time.

Akbar Dynasty Review



Economic Growth and Neighbourhood
Services
Licensing
Town Hall
Darlington DL1 5QT
Tel: 01325 405888
Email: licensing@darlington.gov.uk

**NOTICE OF ATTENDANCE
APPLICATION FOR REVIEW OF PREMISE LICENCE**

Please complete the following notice in block capitals and return to the address detailed below:

DATE OF HEARING: Monday 19 April 2021 at 09:30 hours

NAME OF PREMISES: AKBAR DYNASTY
A66 STOCKTON ROAD, SADBERGE
DARLINGTON DL2 1SZ

YOUR NAME:

I will* will not* be attending the meeting

I will* will not* be legally represented

NAME OF LEGAL REPRESENTATIVE
(IF APPROPRIATE):

(*please ✓ where appropriate)

If you wish to be accompanied by any other person please provide details of their name and an outline of what they wish to say and how this will assist you:

Name:

Details:

Please return to: Licensing
Darlington Borough Council
Block D, Town Hall
Feethams
DARLINGTON
DL1 5QT

Or email brian.murray@darlington.gov.uk

LICENSING SUB COMMITTEES

FULL HEARING PROCEDURE FOR APPLICATIONS FOR REVIEWS OF PREMISES LICENCES/CLUB PREMISES CERTIFICATES WHERE RELEVANT REPRESENTATIONS HAVE BEEN RECEIVED

1. The Chair will welcome all parties who are present and introduce the Members. The Chair will explain to the parties at the beginning of a hearing the procedure that it is proposed to follow. The hearing will take the form of a discussion. Cross-examination will not be permitted without the consent of the Chair.

Any Members who know the Premises Licence holder or any of the objectors will declare this fact and not take part in the hearing of the application. This is in addition to the declaration of any personal or prejudicial interest.

(NB. The Secretariat will endeavour to ensure that Ward Members and Members that are personally known to the applicant are not included on the Sub Committee.)

All hearings will usually be in public. The Sub Committee may however exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Licensing Manager will outline the application.

2. **The Application for the Review**

NB: Where the application comes from Interested Parties, i.e. local residents or businesses within the vicinity of the premises, the Sub Committee will expect that wherever possible a spokesperson be elected to speak on behalf of the group. This person will make the application. At the conclusion of the application the Chair will ask the group if there is any information which is additional to the application made by the spokesperson and if so will permit this information to be given.

- [1] The Applicant for the review or their representative will give their reasons for making the application.
- [2] The Applicant for the review or their representative will then call any witnesses and/or give reasons for their objection.
- [3] The Premises Licence Holder or his/her representative may then question the Applicant for the review [if they have given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Applicant for the Review and any witnesses.

If several applications/representations have been received and the Applicants for the Review have not agreed to present the case jointly, this procedure will normally be repeated for each individual Applicant.

Akbar Dynasty Review

3. **The Premise Licence holder's (PLH) Case**

- [1] The PLH or their representative presents their response to the application for review.
- [2] The PLH or their representative will then call any witnesses and/or give evidence in support of his/her response.
- [3] The Applicant(s) for the Review may then question the PLH if they have given evidence] and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the PLH and any witnesses.
- [5] The PLH or their representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The PLH will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the review, they wish to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions, as when they retire, Members will consider only the information before them at that time.

If the PLH wishes to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions the Applicant(s) for the Review will be given the opportunity to comment on the proposal.

5. **Closing Statement or Summary**

- [1] **By or on behalf of the Applicant(s) for the Review.** The Applicant(s) for the review may summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2] **By or on behalf of the PLH.** The PLH will be invited to summarise any points they wish to make and comment briefly on the Applicant for the Review's replies to questions. They cannot introduce new issues

6. **Conclusion**

All decisions will be made in private.

The Legal Officer will repeat, in summary form, any legal advice given to Members when the public is re-admitted.

Once a decision has been reached, the press and public will be re-admitted to the meeting together with the Premises Licence Holder, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.

**EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY
(EFFECTIVE FROM 07 JANUARY 2016)**

1.2 The Licensing Act 2003 supports a number of other key aims and purposes.

These include:

- a) Providing the Police and the Council with powers to effectively manage and police the night-time economy and take action against any premises that are causing problems.
- b) Protecting local residents and visitors to Darlington from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
- c) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises.
- d) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the borough of Darlington; and
- e) Encouraging greater involvement in licensing decisions by local residents the opportunity in respect of licensing decisions which may affect them.

1.3 In addition this Policy also aims to:

- promote more responsible attitudes to alcohol and responsible drinking.
- raise awareness of the level of alcohol related health problems.
- protect children and residents from the negative impact of alcohol.
- reduce the rate of alcohol related crime and disorder and anti-social behaviour.
- promote a responsible licensed trade.

6.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority (see glossary of terms in respect of "grandfather rights" for current licensees).

6.1 Policy: Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community.

In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a "good neighbour" both to residents and other venues and businesses. The applicant will be required to demonstrate that he/she has satisfactorily addressed each

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of the licensing objectives as part of any application to vary the operation of the premises.

Reason: To comply with the legislative requirements of the Licensing Act 2003.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

7.1 **Policy:** When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses.

Applicants should therefore consider the following when making an application:

- a) The proposed hours and days of operation and how often an activity occurs.
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c) The number and type of current and future customers.
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.
- e) The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f) The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g) The need for provision of portable toilet facilities outside of the premises.
- h) The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i) Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j) Public nuisance caused by unauthorised advertising and fly-posting

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- k) Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
- l) If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

7.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will take into account, among other matters:

- The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
- Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.

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7.3 Additional Information:

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives.

In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti-social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti-social way which impacts on local residents and/or businesses.

The Licensing Authority recognises a the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

11.3 Steps to be taken by Licensees to Address Crime and Disorder Issues

Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a) Underage drinking.
- b) Drunkenness on premises.
- c) Public drunkenness.
- d) Drugs.
- e) Violent behaviour.
- f) Anti-social behaviour.

11.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a) Effective and responsible management of premises.
- b) Training and supervision of staff.
- c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
- e) Provision of effective digital CCTV in and around premises.
- f) Employment of Security Industry Authority licensed door-staff.
- g) Provision of plastic or shatter resistant glasses.
- h) Provision of secure, deposit boxes for confiscated items.
- i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder and plans for minimising such risks.
- j) Measures to prevent the use or supply of illegal drugs.
- k) Employment of licensed door supervisors and other appropriately trained staff.
- l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).

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- m) Provision of litterbins and other security measures, such as lighting, outside premises.
- n) Membership of Darlington 'PubWatch' scheme.

11.4 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

11.5 **Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.**

Reason: It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003 (REVISED APRIL 2018)

PURPOSE

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives.
 - must be precise and enforceable.
 - must be unambiguous and clear in what they intend to achieve.
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
 - must be tailored to the individual type, location and characteristics of the premises and events concerned.

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- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- should not replicate offences set out in the 2003 Act or other legislation.
- should be proportionate, justifiable and be capable of being met.
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

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- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder.

A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups.

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These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority.

For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

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POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. **Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.**
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times.
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
 - suspend the licence for a period not exceeding three months.
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

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

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

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

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

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime.
- for the sale and distribution of illegal firearms.
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected.

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- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.
- for prostitution or the sale of unlawful pornography.
- by organised groups of paedophiles to groom children.
- as the base for the organisation of criminal activity, particularly by gangs.
- for the organisation of racist activity or the promotion of racist attacks.
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK.**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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

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Home Office

Premises Licence Review

**Mr Abdul Mannan Shabul Ali
Akbar Dynasty
Sadberge, Darlington
Cleveland
DL2 1SZ**

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Outline of the Circumstances leading to the Review Application

Summary

- 1.1 On Thursday 2nd May 2019 an intelligence led Immigration Enforcement operation took place at the Akbar Dynasty restaurant situated at Sadberge, Darlington, Cleveland, DL2 1SZ. The premises are run as a Bengali cuisine restaurant.
- 1.2 At the time of the operation the premises were operating under a premises licence issued to Mr ABDUL MANNAN SHABUL ALI. This has been the case since 23/06/2009.
- 1.3 The operation was conducted by several Immigration Compliance & Enforcement (ICE) officers. The team was led by Officer in Charge (OIC) [REDACTED] in company with Immigration Officer (IO) [REDACTED], IO [REDACTED], IO [REDACTED], IO [REDACTED] and IO [REDACTED].
- 1.4 Information had been received stating that a named [REDACTED] male aged [REDACTED] years old, [REDACTED] inches tall, of [REDACTED] build with [REDACTED] hair had overstayed his visa in the United Kingdom (UK) and was working illegally as a chef at Akbar Dynasty.
- 1.5 According to our records there has now been more than one visit where civil penalties have been issued. A civil penalty was issued on 24/07/2019 to Brand Style Ltd of £20,000 who were the liable party. The director responsible at the time was [REDACTED].
- 1.6 Following another compliance visit on 15/02/2020, where another illegal worker was identified. A further civil penalty of £15,000 was issued to Asma Star Ltd on 27/02/2020. Director responsible for this penalty is ABDUL MANNAN SHABUL ALI. Further to recent checks on our Home Office systems, both of these civil penalties still remain outstanding, and are appeal rights exhausted.

Occurrence

- 1.7 On the 02/05/2019 at approximately 18:20 hours an Immigration Enforcement team of seven officers arrived at Akbar Dynasty with three officers taking up positions at the rear and side exits of the premises.
- 1.8 OIC [REDACTED] and IO [REDACTED] was granted entry at the main entrance under Section 28CA Immigration Act 1971 and asked to speak to the person in charge. A female stated she will get [REDACTED].
- 1.9 A male then approaches and states to be the manager. Although he was reluctant to give his name he was referred to by staff as "[REDACTED]".
- 1.10 OIC [REDACTED] identifies himself and explains to the manager that officers from Immigration Enforcement had come to investigate an allegation that had been made of an alleged person working illegally.
- 1.11 OIC [REDACTED] gave the manager the name of the person and the manager stated he does not work here, and he doesn't know him. OIC [REDACTED] explains he still needs to investigate the allegation and attempts to gain fully informed consent to be on the premises to speak to staff.
- 1.12 The manager stated he is very busy. OIC [REDACTED] states that approximately six customer tables were occupied, with the majority of the premises being empty. OIC [REDACTED] tells the manager that they do not want to interfere with his business but as previously stated they must investigate the allegation made.
- 1.13 OIC [REDACTED] suggests speaking to staff at the rear kitchen door one by one to minimise any disruption. The manager asks for the paper to say officers can come into the premises. OIC [REDACTED] explains to the manager the notice to occupier form and the manager asks if he has to allow officers to come in. OIC [REDACTED] tells the manager he has the right to refuse officers entry to his business.
- 1.14 The manager states he does not want officers to speak to his staff and wants officers to leave. He does not ask officers to come back at a different time or date.

- 1.15 While OIC [REDACTED] was speaking to the manager, IO [REDACTED] who was standing by the rear kitchen door, radios through that since their arrival she has witnessed several kitchen staff taking off their aprons and chef's whites and are leaving the kitchen.
- 1.16 IO [REDACTED] identifies a [REDACTED] male seen in the kitchen matching the description of the suspected immigration offender. He is identified as wearing a black and white jumper.
- 1.17 IO [REDACTED] who was standing at the side of the business by a glass door, radios through that he has witnessed a [REDACTED] male in a black and white jumper come into the customer area and sit down at a table. On seeing IO [REDACTED] by the glass door, the manager closes the blind on the door, obscuring IO [REDACTED] view inside.
- 1.18 OIC [REDACTED] and IO [REDACTED] leave the business and OIC [REDACTED] goes to the rear door and speaks to IO [REDACTED]. IO [REDACTED] states that on their arrival she counted five males working in the kitchen, but upon seeing immigration officers at the rear door, three males have taken off their aprons and left the kitchen. The kitchen door had then been closed and locked by staff.
- 1.19 Due to the adverse reaction shown by the kitchen staff to their presence and the reluctance of the manager to allow officers to enter the premises, Immigration Compliance & Enforcement (ICE) officers believe immigration offenders to be working at Akbar Dynasty in line with the intelligence received.
- 1.20 At 18:28hrs OIC [REDACTED] contacts Acting Director (AD) [REDACTED] by phone. The circumstances of the visit are explained, and OIC [REDACTED] asks AD [REDACTED] to authorise entry under Section 28CA of the Immigration Act 1971 (as amended by section 153 of the Nationality, Immigration and Asylum Act 2002).
- 1.21 AD [REDACTED] authorises entry under Section 28CA of the Immigration Act 1971 (as amended by section 153 of the Nationality, Immigration and Asylum Act 2002).
- 1.22 OIC [REDACTED] re-enters the premises and explains to the manager that he has sought and been given permission to enter the premises under Section 28CA of the Immigration Act 1971. OIC [REDACTED] gives the manager a notice to occupier form with the power they are using to enter the premises.

OIC [REDACTED] also explains that he will deliver the formal letter showing their power of entry tomorrow (exhibit A). OIC [REDACTED] asks the manager if the premises are closed can he post the letter, which the manager agrees to.

- 1.23 Officers enter the premises. OIC [REDACTED] goes to the kitchen area and notices a room to the side with a store room and staff toilet. OIC [REDACTED] goes into this room and notices the toilet door is ajar. OIC [REDACTED] enters the toilet and finds a male hiding behind the toilet door. OIC [REDACTED] summons IO [REDACTED] who takes the male from the kitchen to the sterile area in the conservatory area away from customers.
- 1.24 IO [REDACTED] encounters two males in the kitchen area. Home Office checks showed the males to be British Citizens through Naturalisation.
- 1.25 During questioning the manager is constantly talking to four male staff members in a language believed to be [REDACTED]. The manager is told several times not to interfere with officers questioning and not to speak to the men unless it is in English, so officers are aware of what is being said. The manager ignores officers and continues to talk to the men in [REDACTED]. OIC [REDACTED] warns the manager to stop obstructing officers while carrying out their lawful duties.
- 1.26 Checks show that the four staff encountered including the man hiding in the staff toilet were immigration offenders with no permission to work and were subsequently arrested.
- 1.27 IO [REDACTED] spoke to the manager about the employment of the four arrested males. All four males are taken into custody at [REDACTED] Police Stations.
- 1.28 Before leaving the premises OIC [REDACTED] witnesses that an employee first encountered working as a waiter on arrival is now cooking food in the kitchen. Also, that a male seen delivering food to the premises when officers arrived has also started to cut food in the kitchen.
- 1.29 On 03/05/2019, OIC [REDACTED] and IO [REDACTED] attended the business to deliver the AD letter of authority. The business was closed. OIC [REDACTED] posted the AD letter in an envelope through the letterbox.
- 1.30 The immigration enforcement operation identified that four illegal workers were employed at the Akbar Dynasty Restaurant on 02/05/2019.

- 1.31 Further to this visit, another compliance visit was conducted on 15/02/2020 to Akbar Dynasty Restaurant. This visit consisted of several Immigration Officers entering the premises under Section 179 Licensing Act 2003 at approximately 19:56hrs. One waiter was identified as [REDACTED], a [REDACTED] male born on [REDACTED]. This individual was identified as having no permission to work.
- 1.32 During the enforcement visit that took place on 15/02/2020, the licence holder, ABDUL MANNAN SHABUL ALI was present at the premises. Immigration Officers conducted an interview with him and following this a referral notice was served. A civil penalty of £15,000 was issued on 27/02/2020.
- 1.33 The situation regarding each of the illegal workers from both visits is described below. Along with the interviews with the manager of the 2019 visit and the licence holder present on the 2020 visit.

[REDACTED]

1.34 IO [REDACTED] encountered and arrested [REDACTED], [REDACTED] male for working illegally in the UK under 17 (1) Immigration Act 1971 as a section 10 Overstayer on the visit conducted on 02/05/2019.

1.35 IO [REDACTED] asked [REDACTED] the following questions using a [REDACTED] interpreter in relation to his illegal working.

IO [REDACTED]: Why are you at the restaurant?
[REDACTED]: I came today from [REDACTED] and they were busy, so I decided to put some chapati on. I was waiting for someone to come and take me back to [REDACTED].

IO [REDACTED]: Have you been working in the restaurant?
[REDACTED]: I wasn't working I rolled a chapati but that's all.

IO [REDACTED]: So where are you staying tonight and why come all the way from [REDACTED] and then go straight back?
[REDACTED]: I came to see a friend.

IO [REDACTED]: How did you travel here?
[REDACTED]: One of my friends brought me and I am waiting for someone to pick me up.

IO [REDACTED]: Who is your friend you came to see?
[REDACTED]: A friend in [REDACTED] he is coming here to see me

IO [REDACTED]: Are you aware of your immigration status?
[REDACTED]: I had an application, but I don't know what it is

1.36 Checks with the Home Office show that [REDACTED] was granted a visit visa on appeal in 2010. He then claimed asylum in the UK in 2011 which was withdrawn as [REDACTED] absconded. He then put in a fresh claim in 2013 and again absconded. [REDACTED] [REDACTED] is therefore considered an overstayer in the UK and has no valid leave.

RESTAURANT MANAGER

1.37 IO [REDACTED] questioned the manager about the premises and the illegal workers encountered. The manager refused to provide officers with his name and kept referring to the company name and address but was not willing to provide his own name.

IO [REDACTED] conducted an interview with the manager of Akbar Dynasty

IO [REDACTED]: What is your position here?

MANAGER: Manager Akbar Dynasty Ltd own the business

IO [REDACTED]: How long have you been working here?

MANAGER: 8 years as manager

IO [REDACTED]: What are the companies house and VAT numbers of the business?

MANAGER: I don't have that to hand. I can provide those details they are in the office.

IO [REDACTED]: What's the Ltd company address?

MANAGER: This is the main premises?

IO [REDACTED]: How long have they been working here?

MANAGER: All four have been here one week.

IO [REDACTED]: What are their roles here?

MANAGER: They clean, wash up dishes, clean kitchen and front of house.

IO [REDACTED]: What hours do they work.

MANAGER: They start at 17:45 and work until 21:00 - 22:00 depending how busy we are.

IO [REDACTED]: What days do they work?

MANAGER: They come once a week on a Thursday and prepare for the next day.

IO [REDACTED]: Did they provide any documents to show they could work in the UK?

MANAGER: Yes, I've got all the documents to provide they can work. The documents are in my office in [REDACTED]. The boss has access to that.

IO [REDACTED]: What's the bosses telephone number?

MANAGER: I don't have it.

IO [REDACTED]: Do they get paid?

MANAGER: Yes. I don't do wages. The boss pays them through their banks on a Sunday on a weekly basis. They don't live here!

IO [REDACTED]: Do they get food/drink for working here?

MANAGER: Yes. Everything is provided for them.

[REDACTED]

1.38 IO [REDACTED] was tasked with speaking to [REDACTED] after he was caught hiding within a store cupboard. Checks on Home Office systems indicated that [REDACTED] was a failed asylum seeker and had no right to work in the UK. With the assistance of a Big Word interpreter [REDACTED] an illegal working interview was conducted.

1.39 IO [REDACTED] conducted an interview with [REDACTED] who was also encountered on the visit on 02/05/2019.

IO [REDACTED]: How long have you been working here?

[REDACTED]: I'm not working I came here with my friend to visit

IO [REDACTED]: Why is your top stained with curry?

[REDACTED]: I was standing next to the chef when they were serving food and it splashed.

IO [REDACTED]: Show me your hands, why are they red?

[REDACTED]: I touched something that turned it that colour

IO [REDACTED]: What did you touch?

[REDACTED]: I touched a dish, it had something red in it.

IO [REDACTED]: What was the dish and how long had you touched this for as your hands are heavily stained?

[REDACTED]: Just before we arrived, I had Tikka Masala for tea.

IO [REDACTED]: What is your job here?

[REDACTED]: I came here with my friend to see people, social gathering as we see each other every so often.

IO [REDACTED]: Who did you travel with?

[REDACTED]: A friend, he's not here now

1.40 IO [REDACTED] arrested [REDACTED] with a full administrative caution at approximately 19:06hrs and completed a Section 28b search. IO [REDACTED] escorted [REDACTED] to the cell vehicle and departed the scene at 19:26hrs.

[REDACTED]

1.41 IO [REDACTED] conducted an interview with [REDACTED], who was encountered on the visit carried out on 15/02/2020.

IO [REDACTED]: How long have you been working here?

[REDACTED]: One week

IO [REDACTED]: What is your job role and what are your duties?
[REDACTED]: I do takeaway packing and serve drinks to customers
IO [REDACTED]: What days hours do you work each week?
[REDACTED]: I worked Friday last week and this week I have worked Monday and Thursday. I start at 7:30pm until 10:30pm
IO [REDACTED]: Who tells you what days hours to work?
[REDACTED]: My friend [REDACTED]. I can't remember his full name.
IO [REDACTED]: Who tells you what duties to do each day?
[REDACTED]:
IO [REDACTED]: What time did you get here today?
[REDACTED]: 5pm I go here
IO [REDACTED]: How did you get here from [REDACTED] ?
[REDACTED]: [REDACTED] picked me up from [REDACTED] train station and brought me to the restaurant.
IO [REDACTED]: Who else did he pick up?
[REDACTED]: I am not sure.
IO [REDACTED]: How are you paid?
[REDACTED]: Food, whatever is left at the end of the night. [REDACTED] gives a friend that works here also, he isn't allowed to work either but, he is not here tonight.
IO [REDACTED]: Do you have a national insurance number?
[REDACTED]: No
IO [REDACTED]: What names does the employer know you as?
[REDACTED]: He calls me [REDACTED].
IO [REDACTED]: Did you show him documents before being offered the job? If so, what?
[REDACTED]: No as I just started last week, and he said at first, you're just helping me and then give me documents later.
IO [REDACTED]: Who do you know in here?
[REDACTED]: One of my friends, he is called [REDACTED], but he is not here tonight though.
IO [REDACTED]: Do you realise that you are not allowed to work?
[REDACTED]: I do, I am only helping here.

1.42 Further to [REDACTED] being interviewed he was advised that he had no right to work in the UK. He was told to vacate the premises or cease what he was doing immediately. He agreed and was taken back to the station.

ABDUL MANNAN SHABUL ALI

1.43 IO [REDACTED] conducted an interview with ABDUL MANNAN SHABUL ALI, who had been identified as being the premises licence holder on the visit carried out on 15/02/2020.

IO [REDACTED]: What is the name of your business?

ALI: Asma Star LTD.

IO [REDACTED]: What are the Companies House and VAT numbers of the business?

ALI: No.

IO [REDACTED]: What are the Companies House and VAT numbers of the business?

ALI: No.

IO [REDACTED]: We have identified that your employee [REDACTED] does not have permission to work in the UK. Are you aware of this?

ALI: I am not.

IO [REDACTED]: How long has he been working here?

ALI: Just started this Tuesday.

IO [REDACTED]: How many hours a week does he work?

ALI: He is under a trial, it is not fixed he is under a trial. He is looking for 24 hours full time.

IO [REDACTED]: Did you ask him to provide evidence that he can work in the UK?

ALI: Yes, I have asked him to bring his ID. My brother took him on Tuesday.

IO [REDACTED]: How many hours has he worked this week?

ALI: 10 hours this week. 5 hours on Tuesday and 5 today.

IO [REDACTED]: How much will you pay him?

ALI: Minimum wage.

IO [REDACTED]: How did your brother recruit him?

ALI: He phoned up for a job on Monday, decide to give him a try.

IO [REDACTED]: Why did you not check he could work legally before his trial started?

ALI: I was not sure if I would give him a job.

IO [REDACTED]: What job is he doing during his trial?

ALI: Looking to work in the restaurant.

IO [REDACTED]: Have you given him a contract?

ALI: I haven't, no.

IO [REDACTED]: How will you pay him?

ALI: Bank account but cash during trial.

ABDUL MANNAN SHABUL ALI then signed the record to state he understood all the questions and that the details are true and correct.

Reasons for Review

- 2.1 Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person can work. It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ an illegal worker where there is reason to believe this is the case.

- 2.2 The case of *East Lindsey District Council v Hanif* (see 8.11) determined that in such circumstances, even without a prosecution, the crime prevention objective is engaged. The statutory Guidance issued under the Licensing Act provides that certain criminal activity employing illegal workers should be treated particularly seriously and it is envisaged that the police will use the review procedures effectively to deter such activities and crime.
- 2.3 Home Office (Immigration Enforcement) submits that for commercial reasons those engaged in the management of the premises employed illegal workers and a warning or other activity falling short of a review is in appropriate; therefore, Home Office (Immigration Enforcement) has proceeded straight to review.

Outcome Sought

- 3.1 Home Office (Immigration Enforcement) asks that the premises licence is revoked. Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally.
- 3.2 This submission and appended documents provide the licensing subcommittee with background arguments and information pertinent to that contention. These provide the sub-committee with a sound and defensible rationale as to why it should revoke the licence.
- 3.3 It is in such circumstances as this review application that a respondent may suggest that conditions are imposed which would prevent a reoccurrence of the employment of illegal workers in the future; an argument that the subcommittee should take remedial and not punitive action.
- 3.4 However, since 2006 (with the introduction of the Immigration, Asylum and Nationality Act 2006) employers have had a duty to conduct checks to ensure employees and potential employees are not disqualified from working. Only by completing the required checks and maintaining records of such checks can an employer demonstrate a 'statutory excuse' and evade liability for a civil penalty issued by Home Office (Immigration Enforcement). In order to protect themselves, reputable employers have been conducting these checks since 1996 when it first became a criminal offence to employ illegal workers.
- 3.5 The 2006 Act already imposes duties and responsibilities on a company or individual seeking to employ a person—whether in the licensed trade or otherwise - to conduct right to work checks

- 3.6 In seeking revocation, Home Office (Immigration Enforcement) has considered and rejected conditions as an alternative, in part because this is specifically addressed paragraph 1.16 of the Guidance, viz: “(...) Licence conditions should not duplicate other statutory requirements or other duties or responsibilities placed on the employer (my emphasis) by other legislation”.
- 3.7 Conditions requiring an employer (or its agent) to undertake checks that are already mandated and where advice is readily available and clearly set out for employers, keep copies of documentation and to restrict employment until these checks are made etc. replicate the requirements of the 2006 Act and should be discounted.
- 3.8 Home Office (Immigration Enforcement) contends that a licence holder who has himself or through his agents negligently or deliberately failed to conduct right to work checks which have been a requirement since 2006 should not be afforded an opportunity to do so until caught and then merely be asked to do what they should have been doing already. Deterrence and not mere remedy is appropriate and is supported by case law (as set out within section 8 of this submission).
- 3.9 Respondents who fail to convince a subcommittee that the imposition of conditions to undertake proper right to work checks is a suitable alternative to a deterrent outcome often point to the option of suspension of a licence; pointing out that this may be a suitable punitive response instead which will deter others.
- 3.10 Often this will include claims that the business has ‘learnt its lesson’ and that since its criminal activity has been discovered it has reconsidered its position, brought in new procedures, ‘parachuted in’ consultants and new managers etc. On occasion it is hinted that the respondent will ‘accept’ a suspension as an alternative to revocation, assuaging an authority’s concern that an appeal may otherwise be launched. This is not a deterrent - a suspension merely warns other potential perpetrators that they may trade illegally until caught and then suffer only a brief hiatus in carrying out licensable activity before continuing with it. The risk of being caught is low so the consequence of being caught must be stiff in order to qualify as deterrence.
- 3.11 Home Office (Immigration Enforcement) would counter such claims and point to the continuing changes made to both immigration law and the Guidance (paragraphs 11.26 — 11.28) which point to a requirement to send a clear message to potential illegal immigrants that UK authorities will do all they can to prevent them finding illegal employment and a similar message to employers that those employing illegal workers will face severe disruption and penalties. There are simple processes (set out in section 5 of this submission) to avoid the hire of illegal workers and the legislative

thrust is in avoiding the occurrence in the first place—not remedying the situation once discovered.

- 3.12 If it were not for criminally minded or complicit employers; illegal workers would not be able to obtain a settled lifestyle and deprive legitimate workers of employment. The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are often paid below the minimum wage (itself an offence) and National Insurance payments are not paid. The main draw for illegal immigration is work and low-skilled migrants are increasingly vulnerable to exploitation by criminal enterprises; finding themselves in appalling accommodation and toiling in poor working conditions for long hours for little remuneration.
- 3.13 A firm response to this criminal behaviour is required to ensure that the licence holder and/or its agents are not allowed to repeat the exercise and in particular, in the interests of the wider community to support responsible businesses and the jobs of both UK citizens and lawful migrants. It is also required to act as a deterrent to others who would otherwise seek to seek an unfair competitive advantage, exploit workers and deny work to the local community, evade the payment of income tax and (unlawfully) inflate their profits to the expense of others.

Immigration Offences

- 3.14 Illegal workers are those subject to immigration control who either do not have leave to enter or remain in the UK, or who are in breach of a condition preventing them taking up the work in question. It is an employer's responsibility to be aware of their obligations and ensure they understand the immigration landscape to avoid the risk of prosecution, the imposition of a civil penalty or their vocation/suspension of their premises licence.
- 3.15 Since 1996 it has been unlawful to employ a person who is disqualified from employment because of their immigration status. A statutory excuse exists where the employer can demonstrate they correctly carried out document checks, i.e. that they were duped by fake or forged documents.
- 3.16 The Immigration Act 2016 came into force in July 2016 and its explanatory notes state that *“these offences were broadened to capture, in particular, employers who deliberately did not undertake right to work checks in order that they could not have the specific intent required to ‘knowingly’ employ an illegal worker”*.
- 3.17 Since 2016 an employer may be prosecuted not only if they knew their employee was disqualified from working but also if they had reasonable

cause to believe that an employee did not have the right to work: what might be described as wilful ignorance where either no documents are requested, or none are presented despite a request. This means an offence is committed when an employer 'ought to have known' the person did not have the right to work.

- 3.18 Since 2016 it has also been an offence to work when disqualified from doing so. It is obvious that without a negligent or wilfully ignorant employer, an illegal worker cannot work. Such an employer facilitates a criminal offence and Home Office (Immigration Enforcement) highlights this as relevant irrespective of whether a civil penalty is imposed, or a prosecution launched for employing an illegal worker.
- 3.19 In this context, under section 3(1)(C)(i) Immigration Act 1971 (as amended by the 2016 Act) restrictions are not limited simply to employment (i.e. paid work) but now includes all work.
- 3.20 Thus, an individual with no right to work in the UK commits offences if they undertake paid or unpaid work, paid or unpaid work placements undertaken as part of a course etc. are self-employed or engage in business or professional activity. For instance, undertaking an unpaid work trial or working in exchange for a nonmonetary reward (such as board and lodging) is working illegally and is a criminal offence committed by the worker and facilitated by the 'employer'.

Steps to Avoid the Employment of an Illegal Worker

- 3.21 It is a straightforward process for any employer, no matter how small, to prevent themselves employing an illegal worker. If an employer has failed to take even the most basic steps then Home Office (Immigration Enforcement) contends they have chosen to remain ignorant of the immigration status of their workforce and no amount of potential imposed conditions is sufficient, in our opinion, to avoid the legitimacy of revocation in proving a deterrent to others to the employment of illegal workers.
- 3.22 The Home Office has made checklists widely available which set out what a responsible employer should ask for ahead of employing any person in order to demonstrate 'due diligence' and avoid liability for inadvertently employing an illegal worker.
- 3.23 Since April 2017 these checklists have been embedded in the statutory applications for personal licences and premises licences, the transfer of premises licences and designated premises supervisor variations.
- 3.24 The first 4 'hits' on a Google search for "right to work" are links to employer checklists and information on the GOV.UK website.

- 3.25 The first link (<https://www.gov.uk/check-job-applicant-right-to-work>) details general advice, checking the documents, taking a copy of the documents, what if the job applicant can't show their documents and provides details of an employers' telephone helpline. This page has a direct link to what documents are acceptable proofs of a right to work in the UK and also allows an employer to fill out an online enquiry about a named individual they are considering offering employment to.
- 3.26 Appendix A sets the above out in some detail.

Relevance/Irrelevance of a Civil Penalty or Prosecution

- 3.27 An employer found to have 'employed' an illegal worker may, dependent on culpability and the evidence available, be issued with a civil penalty or prosecuted or indeed neither.
- 3.28 Where an illegal worker is detected a civil penalty maybe issued against the employer in accordance with the Home Office Code of Practice on Preventing Illegal Working (May 2014). In the case of a civil penalty the balance of probabilities test applies where as a prosecution requires a higher burden of proof.
- 3.29 However, to issue a civil penalty under section 15 Immigration, Asylum and Nationality Act 2006 the Home Office Code of Practice requires some proof that not only was an illegal worker working at the premises, but they were 'employed'. Usually this is taken as meaning the illegal worker was under a contract of service or apprenticeship, whether express or implied and whether oral or written.
- 3.30 But where an employee has not bothered with the basics of return to work checks, placed an employee on 'the books', paid the minimum wage or paid employer national insurance contributions - it becomes difficult to 'prove' the employment statement where the only evidence maybe the word of an illegal worker who has since been detained or who has 'moved on'.
- 3.31 In such cases where paid employment cannot be demonstrated, a civil penalty may not be issued even where the premises licence holder or his agent has facilitated a disqualified person committing an offence under section 24B Immigration Act 1971 (as amended by Immigration Act 2016) of working illegally.
- 3.32 This does not however prevent the crime prevention objective being engaged with as the premises licence holder has none the less facilitated a criminal offence taking place and the lack of checks suggests that in the past (and is likely in the future) has employed illegal workers. In drawing its conclusion, the subcommittee is entitled to exercise common sense and its

own judgment based on the life experience so fits members. The East Lindsey case (see section 8) provides that action (revocation) to prevent what is likely to happen in the future is legitimate.

Appendix A – Right to Work checks

The first 4 'hits' on a Google search for "right to work" are links to employer check lists and information on the GOV.UK website.

The second link is to the Home Office document; "An Employer's Guide to Right to Work Checks" (published 16th May 2014 last updated 16th August 2017).

Another link provides a site (<https://www.gov.uk/employee-immigration-employment-status>) which guides an employer through the process AND allows an employer to make an online submission to the Home Office to check if the proposed employee is prohibited from working as well as providing a telephone helpline.

Specifically, the first link (<https://www.gov.uk/check-job-applicant-right-to-work>) provides as follows:

General Advice

- You must see the applicant's original documents;
- You must check that the documents are valid with the applicant present; and
- You must make and keep copies of the documents and record the date you made the check.

Checking the Documents

In relation to checking the documents it also adds that an employer needs to check that:

- the documents are genuine, original and unchanged and belong to the person who has given them to you;
- The dates for the applicant's right to work in the UK haven't expired;
- Photos are the same across all documents and look like the applicant;
- Dates of birth are the same across all documents;
- The applicant has permission to do the type of work you're offering (including any limit on the number of hours they can work);
- For students you see evidence of their study and vacation times; and
- If 2 documents give different names, the applicant has supporting documents showing why they're different, e.g. a marriage certificate or divorce decree

Taking a copy of the documents

When you copy the documents:

- Make a copy that can't be changed, e.g. a photocopy

- for passports, copy any page with the expiry date and applicant's details (e.g. nationality, date of birth and photograph) including endorsements, e.g. a work visa
- for biometric residence permits and residence cards (biometric format), copy both sides
- for all other documents you must make a complete copy
- keep copies during the applicant's employment and for 2 years after they stop working for you
- record the date the check was made

If the job applicant can't show their documents

You must ask the Home Office to check your employee or potential employee's immigration employment status if one of the following applies:

- you're reasonably satisfied that they can't show you their documents because of an outstanding appeal, administrative review or application with the Home Office;
- they have an Application Registration Card; or
- they have a Certificate of Application that is less than 6 months old
Application registration cards and certificates of application must state that the work the employer is offering is permitted. Many of these documents don't allow the person to work.

The Home Office will send you a 'Positive Verification Notice' to confirm that the applicant has the right to work. You must keep this document.

Acceptable Documents

A list of acceptable documents can be found via the link to

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441957/employers_guide_to_acceptable_right_to_work_documents_v5.pdf

Appendix B – Statutory Guidance & Caselaw

Statutory Guidance (s182 LA 2003) and the Authority's Licensing Policy

- 3.33 In order to avoid punitive action, respondents to review hearings sometimes refer to both the statutory guidance issued under section 182 Licensing Act 2003 and those parts of the Authority's own policy which replicate paragraph 11.10 of that Guidance, viz:

Where authorised persons and responsible authorities have concerns about problems identified at premises, it/s good practice for them to give licence holder's early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.

- 3.34 Home Office (Immigration Enforcement) submits that in the particular circumstances of cases where Immigration Compliance and Enforcement receive intelligence concerning the employment of illegal workers and act upon it; such warnings are inappropriate.
- 3.35 Not only would advance warning of enforcement activity prevent the detention of persons committing crimes and the securing of evidence; a warning after the event to comply with immigration legislation serves as no deterrent.
- 3.36 In particular; Home Office (Immigration Enforcement) submits that paragraph 11 .10 of the Guidance must be read in conjunction with the more specific paragraphs relating to reviews arising in connection with crime (paras. 11.24 — 11.29).

- 3.37 Paragraph 77.26

Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. (...). The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the

interests of the wider community and not those of the individual licence holder.

3.38 Thus the financial hardship occasioned by the suspension or revocation of the premises licence should not sway the sub-committee but instead it should look at what is appropriate to promote the objective within the wider business and local community given “illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages” (Rt. Hon James Brokenshire, Immigration Minister on the introduction of the 2016 Act).

3.39 In particular; the sub-committee are asked to consider (below) the cases of R (Bassetlaw District Council) v Worksop Magistrates’ Court; [2008] WLR (D)

350 and East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway), [2076] EWHC1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.

3.40 Paragraph 11.27 of the Guidance states:

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises(...)for employing a person who is disqualified from that work by reason of their immigration status in the UK.

Home Office (Immigration Enforcement) would draw the sub-committee’s attention to the change in wording of this paragraph following the April 2017 revision of the guidance, where the previous reference to ‘knowingly employing’ was removed.

3.41 Paragraph 11.28 of the Guidance states:

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

Home Office (Immigration Enforcement) considers this paragraph self-explanatory; where an enterprise employs illegal workers, it is the duty of Home Office (Immigration Enforcement) to bring forward reviews and for the authority to consider revocation in the first instance.

- 3.42 In support of this statement; Home Office (Immigration Enforcement) would draw the subcommittee's attention to the "Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales" (Home Office) [April2017] where at section 4.1 it states;

"It is envisaged that licensing authorities, the police, Home Office (Immigration Enforcement) and other law enforcement agencies will use the review procedures effectively to deter illegal working".

- 3.43 Since the main draw for illegal migration is work, and since low-skilled migrants are increasingly vulnerable to exploitation at the hand of criminal enterprises, the government has strengthened enforcement measures and the statutory Guidance to deter illegal workers and those that employ them.
- 3.44 Deterrence is a key element of the UK government's strategy to reduce illegal working and is supported by both the Guidance and Case Law.

Case Law

- 3.45 Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.
- 3.46 R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350.

This was a case where a premises had sold alcohol to under age persons and subsequently the licensing authority suspended the licence. This was overturned on appeal to the Magistrates' Court and subsequently appealed to the High Court by the authority. The premises licence holder argued that they had a policy in place for checking the age of customers but this was not a perfect policy and had not been adhered to and that rather than revoke the licence, instead stringent conditions on proof of age should instead be imposed on the licence.

- 3.47 Issues relevant to the case before today's sub-committee which were considered in the *Bassetlaw* judgement included whether a licensing authority was restricted to remedial action (as opposed to punitive action such as revocation); and the precedence of wider considerations than those relating to an individual holder of a premises licence when certain criminal activities (as specified in the Guidance) took place.

- 3.48 It specifically examined (and set aside in the case of 'certain activities') those parts of the Guidance now contained within paragraph 11 .20 and 11 .23, viz:

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises.

- 3.49 In her judgement, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

"Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State.(...) However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable."

- 3.50 Having confirmed the legitimacy of punitive measures (suspension/revocation) for offences listed in what is now contained within paragraph 11.27 of the Guidance, Mrs Justice Slade concerned herself with another aspect of the appeal—namely the imposition of conditions which were already present but not properly implemented (paragraph 34.1). In this case the appellant was suggesting that proof of age conditions (rather than revocation) could be imposed to ensure that the legal requirement not to sell alcohol to those under 18 years of age was met by him and his staff.

- 3.51 This has some similarity with any argument that may be put forward in the case before the subcommittee today that the imposition of conditions to check immigration status either directly or through an agency (*essentially a requirement since 2006 under the Immigration, Asylum and Immigration Act 2006*) would serve as sufficient remedy for the employment of illegal workers and negate a deterrent (suspension/revocation) being imposed by the subcommittee despite the wording of the Guidance at paragraph 11.28.

- 3.52 Mrs Justice Slade stated: *"The sixth new provision was acceptable identification to establish the age of a purchaser shall be a driving licence with photographs, passport or proof of age scheme card recognised by or acceptable by the licensing authority. I am told these provisions were*

already in place, but not properly implemented. No doubt those are perfectly sensible and appropriate provisions to be included on a licence. However it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14 year old girls”.

- 3.53 Home Office (Immigration Enforcement) contends that in the case before the subcommittee the facts are similar. In the cited case straight forward, sensible enquiries could have been made as to the age of the children and the imposition of additional conditions as a form of remedy was considered in appropriate by Mrs Justice Slade for ‘those serious cases’ set out in the Guidance.
- 3.54 In the case before the subcommittee, simple steps (set out at Appendix A) were available to prevent the employment of illegal workers -none were taken; the imposition of conditions to remedy this situation is inconsistent with the section 182 Guidance and this case citation. A negligent employer should expect revocation in the first instance.
- 3.55 *East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway), [2076]EWHC 7265 (Admin)*
This is a recent High Court decision (published April 2016) which has similarities with the one before the sub-committee in that it related to the employment of an illegal worker and where a prosecution for such had not been instigated.
Amongst other matters it had been argued for the premises licence holder that the crime prevention objective was not engaged where a prosecution or conviction for the employment of an illegal worker was not in place. Whilst the initial hearing may have suggested several illegal workers being employed, the High Court appeal and decision related to the employment of one individual and is therefore, Home Office (Immigration Enforcement) would argue, indistinguishable from the matter before the subcommittee today.
- 3.56 The case reaffirms the principle that responsible authorities need not wait for the licensing objectives to actually be undermined; that crucially in considering whether the crime prevention objective has been engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor. It also reaffirmed the case of Bassetlaw in concluding that deterrence is a legitimate consideration of a sub-committee. Mr Justice Jay stated: *“The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin*

considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required.” (Paragraph 18)

Mr Justice Jay added: “Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked.” (Paragraph 23)

Appendix C – Supporting Evidence

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Tel



www.homeoffice.gov.uk

EV17-13,140

AD Letter: Entry to Business Premises Without a Warrant.

Date: 02 May 2019

Dear Sir/Madam,

ENTRY WITHOUT WARRANT TO BUSINESS PREMISES, namely: Akbar Dynasty, Sadberge, Darlington, DL2 1SZ.

This letter is to confirm that in accordance with Section 28CA of the Immigration Act 1971 (as amended by Section 153 of the Nationality, Immigration and Asylum Act 2002); I have given my authority for entry to the above business premises in order to assist in the detection of Immigration Offenders believed to be on the premises.

If you would like to discuss any aspect of this visit, please contact ***Duty Chief Immigration Officer*** on [REDACTED] at the above office. Equally, if you have any future concerns about the eligibility of your employees to work, please do not hesitate to contact this office direct or alternatively, you may wish to use the Employer Helpline which can be contacted Monday – Friday (09.00 – 17.00) on 0845 010 6677.

Yours faithfully



Assistant Director

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WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN

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Statement of: [REDACTED]

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Immigration Officer [REDACTED]

This statement (consisting of 2 pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] Date 18 October 2019.....

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named officer and I'm based at [REDACTED] I have been an Immigration Officer since April 2017 and I have been employed by the Home Office since 2016.

I attended Akbars Dynasty, Sadberge, Darlington, Cleveland, DL2 1SZ on Thursday 2 May 2019 as part of a planned enforcement visit. My role was arrest officer with [REDACTED] as cover.

Upon arriving at the premises [REDACTED] asked myself and [REDACTED] to remain at the front entrance whilst himself and [REDACTED] attempted to gain Fully Informed Consent from the manager in the front of house. Whilst they entered the front of the premises, [REDACTED] advised over airwaves that she had observed males in the kitchen area removing their kitchen attire and providing a description of what they were wearing, stating they had disappeared out of officers sight from the rear exit point. [REDACTED] then advised over airwaves he had sight of 1 male sitting in the conservatory area of the restaurant in the attempt to look like a customer.

Following this information, [REDACTED] and [REDACTED] exited the premises stating the manager had refused entry to the premises. [REDACTED] advised officers to remain in position whilst he went to the rear to speak with officers regarding what they had witnessed. [REDACTED] then returned to the front of the premises and contacted the on call AD for the evening, providing full details to her and was able to be granted entry to the premises under Section 28CA Immigration Act 1971, AD Warrant.

Upon entry to the premises I proceeded to the kitchen area and took details of 2x males. Home Office checks conducted showed the males to be British Citizens through naturalisation. I then provided cover to [REDACTED] whilst she started to interview a male. [REDACTED] located a further male hiding in the toilet area behind where [REDACTED] was questioning her subject for which [REDACTED] asked [REDACTED] to attend and deal with the male who had been hiding.

[REDACTED] then asked officers to take the males being questioned into the conservatory area of the restaurant, I attended with officers. Upon reaching this area, [REDACTED] asked me to stand down from within the premises and await out of the front entrance with the vehicles and to ensure the cell van was ready for transportation of arrestees.

Left premises at 18:54

The following day Friday 3 May 2019 I attended the business with [REDACTED] to deliver the AD Letter of Authority to enter the business during the enforcement visit, however the premises was closed. [REDACTED] posted the letter which was in a sealed envelope through the letterbox.

Witness contact details

Home address: Postcode:.....

Home telephone No:..... Work telephone No:.....

Mobile/Pager No:..... E-mail address:....

Preferred means of contact (specify details): ...email.....

Best time of contact (specify details):..... anytime.....

Female Date and place of birth:.....

Former name:..... Ethnicity Code (16 + 1)..... Religion / Belief (Specify.....)

DATES OF WITNESS NON-AVAILABILITY:.....

Witness care

- a) Is the witness willing to attend court? Yes No If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?
Yes No If 'Yes' submit **MG2** with file.
- d) Does the witness have any particular needs? Yes No If 'Yes' what are they? (Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?)

Witness Consent (for witness completion)

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes No
- b) I have been given the Victim Personal Statement leaflet Yes No
- c) I have been given the leaflet "Giving a witness statement to the police – what happens next?" Yes No
- d) I consent to police having access to my medical record(s) in relation to this matter (obtained in accordance with local practice) Yes No N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA: Yes No
- g) The information recorded above will be disclosed to the Witness Service so that they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness:..... PRINT NAME:.....

Signature of parent/guardian/appropriate adult:..... PRINT NAME:.....

Address and telephone number if different from above:.....

Statement taken by (print name):..... Station:.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: Magistrates' Court Act 1980, s.5B

Statement of [redacted] URN: [] [] [] []

Age if under 18 Over 18 (if over 18 insert 'over 18') Occupation: [redacted]

This statement (consisting of: 2... page(s) signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 03/03/2020

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above-named officer, I am an Immigration Officer in the Immigration Enforcement Team, part of the Home Office based in [redacted].

On 27th February 2020 I was Officer-In-Charge for an Illegal Working Enforcement Visit to Akbar's Dynasty, Stockton Road, Sadberge, Darlington DL2 1 SZ. Also in attendance were Officers from [redacted] Licensing and also [redacted].

Entry to the premises was under Section 179 Licensiong Act 2003, with the allegation that illegal working by an Immigration offender was being undertaken.

The team entered the premises at approximately 19:56hrs with one male waiter who I now know to be [redacted], identified as having no permisiion to work.

[redacted] was interviewed regarding his work at the business where he admitted to working Friday last week and Monday and Thursday this week 19:00hrs until 22:30hrs; being paid with leftover food at the end of the night. Following the end of the interview [redacted] was accordingly asked to leave the premises.

The licence holder was present at the time of the visit, a male who I now know to be [redacted] Subject. [redacted] was interviewed regarding [redacted] and claimed that [redacted] was working on trial having started on Tuesday working 5 hours, and 5 hours work tonight and would be paid cash-in-hand for the trial period.

Following the interview a referral notice for a potential Civil Penalty was served and explained on [redacted] and the team thereafter exited the premises.

Signature: [redacted] Signature witnessed by:

Not Disclosable

Home address:

..... Postcode:

Home telephone number Work telephone number

Mobile/pager number Email address:

Preferred means of contact:

Best time of contact

Male / Female (delete as applicable) Date and place of birth:

Former name: Ethnicity Code () Religion/Belief:

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing and likely to attend court? Yes No If 'No', include reason(s) on MG6. What can be done to ensure
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)
Yes No If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes No If 'Yes' what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- c) I consent to police having access to my medical records in relation to this matter: Yes No N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes No N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: Print name

Signature of parent/guardian/appropriate adult: Print name

Address and telephone number if different from above:

This tear off section to be completed and handed to the witness

UKBA – Contact Details

The officer dealing with your case/taking this statement is:

Officer: Rank & Number:

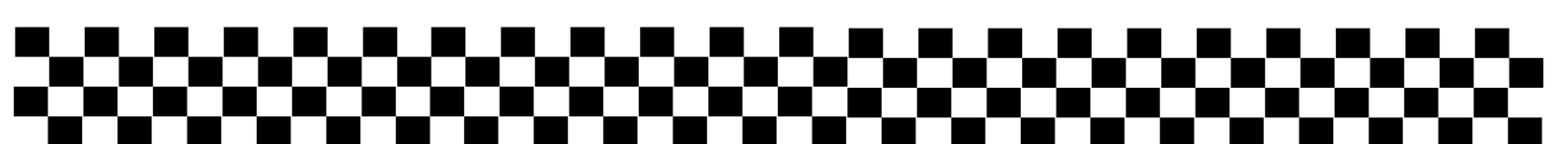
Office:

Telephone:

Contact E-Mail:

Reference No:

The officer dealing with your case can help but may not always be available.



Thank you for coming forward. We value your help and we will do everything we can to help you.

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

Is there anything else I can do?

Yes. It is important to tell UKBA:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front. Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, UKBA, the police and CPS are separate organisations.

Who will read my statement?

Everyone involved with the case will read your statement (e.g. UKBA, the police, CPS, defence and the magistrate or judge).

What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the UKBA in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the UKBA officer dealing with your case.

Will I be told what is happening in the case?

UKBA and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact UKBA at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare).
Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

Where will the case be heard?

Most cases are heard in the magistrates' court. More serious crimes are heard in the crown court before a jury.

Who can help?

Every court has a free and confidential Witness Service and you can contact them before the trial. Their trained volunteers offer:

- information on what happens in court
- emotional support and someone to talk to in confidence
- someone to be with you in court when you give evidence
- a visit to the court before the trial, including where possible, a look around a court room so you know what to expect.

The officer dealing with your case will be able to provide you with contact details.

The Witness Service does not discuss evidence or give legal advice.

Extra Help is available to support vulnerable or intimidated witnesses. If the CPS lawyer thinks that a witness qualifies for this help, known as 'Special Measures', he/she will ask the court for permission to use them. The Witness Service, police or UKBA will tell you what is available and the police or CPS will be able to discuss your needs.

Victim Support and Witness Service

The Victim Support scheme operates from a number of locations across the UK, and their volunteers are specially trained to provide free and confidential information, support and advice.

All victim and witnesses will be offered support from Victim Support's Witness Service, which is **independent**, confidential and free. This support will include someone to talk to, a quiet place in which to wait and a chance to see the court before the day of the trial. Although the Witness Service volunteers will explain the court process to you, they cannot discuss the specific details of the case.

Victim Support Helpline
0845 30 30 900

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: Magistrates' Court Act 1980, s.5B

Statement of [redacted] URN: [redacted]

Age if under 18 Over 18 (if over 18 insert 'over 18') Occupation: Immigration Officer

This statement (consisting of: pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 26/11/19

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named officer and I work as part of the [redacted] Immigration Compliance and Enforcement team, currently part of the [redacted] Unit within [redacted] Police.

On 02/05/19 I attended AKBAR DYNASTY RESTAURANT, SANDBERGE, DARLINGTON, DL2 1SZ. I arrived at the premises at approximately 18:20hrs after receiving a briefing from [redacted] stating that this business was employing suspected illegal immigrants. I was given the role of external cover and on arrival took up position in my dedicated area covering a fire exit at the rear of the premises next to the kitchen area. Whilst officers entered the premises there was a delay in obtaining consent from owners of the business. Whilst [redacted] sought authority for a Section 28CA entry under the Immigration Act 1971, I witnessed a male of Asian appearance exit the kitchen area and dispose of clothing and sit in the conservatory extension. This male refused to make eye contact with me and sat wearing a stripped jumper behind the door of the conservatory entrance. I relayed this information over airwaves to officers and remained in position at the fire escape as instructed.

[redacted] received authority to enter the premises from [redacted] and once the premises were deemed secure, I was called into the premises to assist. I entered the kitchen area via the rear exit point and was asked to speak with a male who had been located hiding in a store cupboard. I was able to ascertain from speaking with the male via big word interpreter [redacted] that he was unlawfully present in the United Kingdom and was a failed asylum seeker. He provided his details and I will refer to this male as subject 1.

I questioned the male asking him the following questions: -

- Q1. How long have you been working here?
A1. Im not working, I came with my friend to visit
Q2. Why is your top stained with curry?
A2. I was standing next to the chef when they were serving food and it splashed
Q3. Show me your hands, why are they red?
A3. I touched something that turned it that colour
Q4. What did you touch?
A4. I touched a dish, it had something red in it

Signature: [redacted] Signature witnessed by: [redacted]

Continuation of Statement of

Q5. What was the dish and how long had you touched this for as your hands are heavily stained?

A5. Just before we arrived I had tikka masala for tea

Q6. What is your job here?

A6. I came here with my friend to see people, social gathering as we see each other every so often

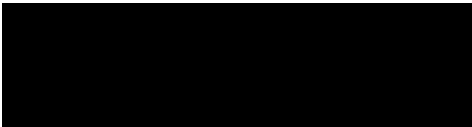
Q7. Who did you travel with?

A7. A friend - hes not here now.

The subject pointed to a male wearing a red and white apron.

The male in question failed to answer any further questions put to him and everything he had said appeared to be rehearsed along with the other males encountered who were of interest to Immigration.

I formally arrested subject 1 providing him with the full administrative caution at approximately 19:06hrs and completed a section 28b search after the male was located hiding within a store cupboard in the kitchen area. I escorted the male to cell vehicle and departed the scene at approximately 19:26hrs playing no further part in this investigation.



Signature: [Redacted] Signature witnessed by:

Not Disclosable

Home address:
 Postcode:
 Home telephone number Work telephone number
 Mobile/pager number Email address:
 Preferred means of contact:
 Best time of contact
 Male / Female (delete as applicable) Date and place of birth:
 Former name: Ethnicity Code (16+1) Religion/Belief:

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing and likely to attend court? Yes No If 'No', include reason(s) on MG6. What can be done to ensure
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)
 Yes No If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
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Signature of witness: Print name

Signature of parent/guardian/appropriate adult: Print name

Address and telephone number if different from above:

Continuation of Statement of

[Empty rectangular box for statement continuation]

Signature: [Redacted] Signature witnessed by:

This tear off section to be completed and handed to the witness

UKBA – Contact Details

The officer dealing with your case/taking this statement is:

Officer: Rank & Number:

Office:

Telephone:

Contact E-Mail:

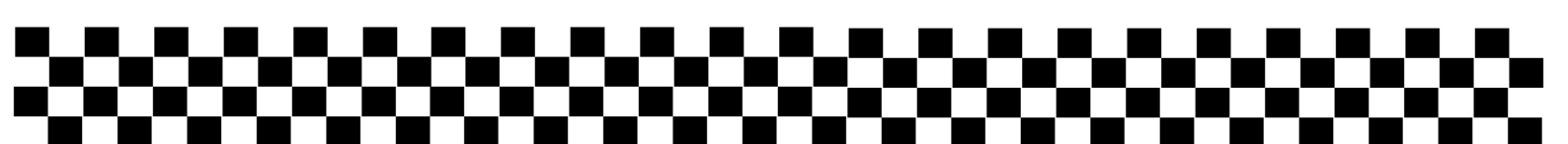
Reference No:

The officer dealing with your case can help but may not always be available.

Continuation of Statement of

[Empty rectangular box for continuation of statement]

Signature: [Redacted] Signature witnessed by:



Thank you for coming forward. We value your help and we will do everything we can to help you.

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

Is there anything else I can do?

Yes. It is important to tell UKBA:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front. Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, UKBA, the police and CPS are separate organisations.

Who will read my statement?

Everyone involved with the case will read your statement (e.g. UKBA, the police, CPS, defence and the magistrate or judge).

What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the UKBA in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the UKBA officer dealing with your case.

Will I be told what is happening in the case?

UKBA and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact UKBA at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare). Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

Where will the case be heard?

Most cases are heard in the magistrates' court. More serious crimes are heard in the crown court before a jury.

Who can help?

Every court has a free and confidential Witness Service and you can contact them before the trial. Their trained volunteers offer:

- information on what happens in court
- emotional support and someone to talk to in confidence
- someone to be with you in court when you give evidence
- a visit to the court before the trial, including where possible, a look around a court room so you know what to expect.

The officer dealing with your case will be able to provide you with contact details.

The Witness Service does not discuss evidence or give legal advice.

Extra Help is available to support vulnerable or intimidated witnesses. If the CPS lawyer thinks that a witness qualifies for this help, known as 'Special Measures', he/she will ask the court for permission to use them. The Witness Service, police or UKBA will tell you what is available and the police or CPS will be able to discuss your needs.

Victim Support and Witness Service

The Victim Support scheme operates from a number of locations across the UK, and their volunteers are specially trained to provide free and confidential information, support and advice.

All victim and witnesses will be offered support from Victim Support's Witness Service, which is **independent**, confidential and free. This support will include someone to talk to, a quiet place in which to wait and a chance to see the court before the day of the trial. Although the Witness Service volunteers will explain the court process to you, they cannot discuss the specific details of the case.

**Victim Support Helpline
0845 30 30 900**

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WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of [redacted] URN: [] [] [] []

Age if under 18 Over 18 (if over 18 insert 'over 18') Occupation: Immigration Officer [redacted]

This statement (consisting of: 3..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 12/11/2019.....

Tick if witness evidence is visually recorded [] (supply witness details on rear)

I am employed by the Home Office as an Immigration Officer at the [redacted] Immigration Compliance and Enforcement (ICE) Team, [redacted].

On Thursday 2nd May 2019, I was on duty and in uniform at Akbar Dynasty Restaurant, Sadberg, Darlington, DL2 1SZ. The power of entry used to enter: AD letter under S28CA Immigration Act 1971 authorised by the duty AD.

I encountered and arrested a male from [redacted] working illegally in the UK under 17(1) Immigration Act 1971 as a Section 10 Overstay and administered the Admin Caution.

I asked the male the following questions using a [redacted] interpreter in relation to his illegal working which are held on my digital PNB on pronto.

- 1. Why are you at the restaurant? I came today from [redacted] and they were busy so I decided to put some chappati on. I was waiting for someone to come and take me back to [redacted]
2. Have you been working in the restaurant? I wasn't working I rolled a chappati but that's all.
3. So where are you staying tonight and why come all the way from [redacted] and then go straight back? I came to see a friend.
4. How did you travel here? One of my friends brought me and I am waiting for someone to pick me up.
5. Who is your friend you came to see? A friend in [redacted] he is coming here to see me.
6. Are you aware of your immigration status? I had an application, but I don't know what it is.

Checks with the Home Office showed that the male was granted a visit visa on appeal in 2010. He then made a

Signature: Signature witnessed by:

Continuation of Statement of [REDACTED]

further claim to remain in the United Kingdom but had which was withdrawn as the male absconded from immigration reporting restrictions. The male had then submitted a fresh claim to remain in the United Kingdom in 2013 which was again withdrawn as the male again absconded. The male was deemed an overstayer in the UK as he has no valid leave. The male was conveyed to [REDACTED] custody suite.

Signature: Signature witnessed by:

RESTRICTED – FOR POLICE AND PROSECUTION ONLY
(when completed)

Home address: [redacted]

Postcode: [redacted]

Home telephone number [redacted] Work telephone number [redacted]

Mobile/pager number [redacted] Email address: [redacted]

Preferred means of contact: e-mail/phone

Male Date and place of birth: [redacted]

Former name: [redacted] Height: [redacted] Ethnicity Code: [redacted]

Dates of witness non-availability

N/A

Witness care

- a) Is the witness willing and likely to attend court? Yes. If 'No', include reason(s) on MG6. What can be done to ensure attendance?
- b) Does the witness require 'special measures' as a vulnerable or intimidated witness? No. If 'Yes' submit MG2 with file.
- c) Does the witness have any specific care needs? No. If 'Yes' what are they? (Healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- c) I consent to police having access to my medical records in relation to this matter: Yes No N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes No N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness:

Statement taken by (print name): [redacted]

Station: [redacted]

Time and place statement taken: [redacted] 12/11/2019

Signature of witness:

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WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: Magistrates' Court Act 1980, s.5B

Statement of [REDACTED] URN:

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Age if under 18 (if over 18 insert 'over 18') Occupation: **Immigration Officer**

This statement (consisting of: 3 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [REDACTED] Date: **07.11.19**

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named officer, I work in the Arrest team based at the [REDACTED], as part of the [REDACTED] Immigration Compliance and Enforcement team.

I was on duty in full uniform on 2nd May 2019 and was tasked to attend AKBAR DYNASTY RESTAURANT, SADBERGE, DARLINGTON, DL2 1SZ for the purpose to investigate the allegation of illegally working at the premises.

I arrived at the premises and the [REDACTED] requested informed consent. This was refused by the manager at around 18.20 hours as he stated the restaurant was too busy. However this was not the case and the restaurant was extremely quiet, with only a handful of customers at that time.

I remained outside the front door of the business. [REDACTED] obtained an Area Directors letter at 18.28 hours and I entered the premises. I remained in a cover role during the visit and assisted with transporting each arrestee to the cell vehicle outside.

I was then asked to speak to the manager of the premises and he stated the following:

- Q1) WHAT IS YOUR POSITION HERE?
- A1) MANAGER. AKBAR DYNASTY LTD OWN THE BUSINESS.
- Q2) HOW LONG HAVE YOU BEEN WORKING HERE?

Signature: Signature witnessed by:

Continuation of Statement of [REDACTED]

A2) 8 YEARS AS MANAGER.

Q3) WHAT ARE THE COMPANIES HOUSE AND VAT NUMBERS OF THE BUSINESS?

A3) I DON'T HAVE THAT TO HAND. I CAN PROVIDE THOSE DETAILS. THEY ARE IN THE OFFICE.

Q4) WHAT'S THE LTD COMPANY ADDRESS?

A4) THIS IS THE MAIN PREMISES.

Q5) HOW LONG HAVE THEY BEEN WORKING HERE?

A5) ALL FOUR HAVE BEEN HERE ONE WEEK.

Q6) WHAT ARE THEIR ROLES HERE?

A6) THEY CLEAN, WASH UP DISHES, CLEAN KITCHEN AND FRONT OF HOUSE.

Q7) WHAT HOURS DO THEY WORK?

A7) THEY START AT 17.45 AND WORK UNTIL 21.00-22.00 DEPENDING HOW BUSY WE ARE.

Q8) WHAT DAYS DO THEY WORK?

A8) THEY COME ONCE A WEEK ON A THURSDAY AND PREPARE FOR THE NEXT DAY.

Q9) DID THEY PROVIDE ANY DOCUMENTS TO SHOW THEY COULD WORK IN THE UK?

A9) YES I'VE GOT ALL THE DOCUMENTS TO PROVE THEY CAN WORK. THE DOCUMENTS ARE IN MY OFFICE IN [REDACTED]. THE BOSS HAS ACCESS TO THAT.

Q10) WHAT'S THE BOSSES TELEPHONE NUMBER?

A10) I DON'T HAVE IT. [REDACTED].

Q11) DO THEY GET PAID?

A11) YES. I DON'T DO WAGES. THE BOSS PAYS THEM THROUGH THEIR BANKS ON A SUNDAY ON A WEEKLY BASIS. THEY DON'T LIVE HERE.

Q12) DO THEY GET FOOD / DRINK FOR WORKING HERE?

A12) YES EVERYTHING IS PROVIDED FOR THEM.

This interview was completed at 19.09 hours and the manager signed my notebook to confirm it was a true reflection of our conversation. I left the premises at 19.25 hours.

The ability to work illegally is a key driver of illegal migration; it encourages people to break the UK's immigration

Signature: Signature witnessed by:

Continuation of Statement of [redacted]

laws and provides the practical means for migrants to remain unlawfully in the UK.

It encourages people to take risks in trying to enter the UK illegally by putting their lives in the hands of people smugglers and leaves them vulnerable to exploitative employers.

We are committed to tackling the economic motivation behind illegal migration and those people who facilitate it. However, employers also have an important role to play in preventing illegal working by undertaking simple checks on their employees' right to work in the UK.

Employers have had a responsibility since 1997 to ensure they do not employ illegal workers. Since 2008, this requirement has been underpinned by civil and criminal sanctions for non compliance, set out in the Immigration, Asylum and Nationality Act 2006 - sections 15 and 21. Under these sanctions, an employer who employs an illegal worker may be liable for a civil penalty of up to £20,000 per illegal worker.

Employers may prevent a liability for a civil penalty by undertaking simple right to work checks on all those they intend to employ and repeating the checks if the employee has time-limited permission to live and work in the UK.

Signature: Signature witnessed by:

Not Disclosable

Home address:

..... Postcode:

Home telephone number Work telephone number

Mobile/pager number Email address:

Preferred means of contact:

Best time of contact

Male / Female (delete as applicable) Date and place of birth:

Former name: Ethnicity Code (16+1) Religion/Belief:

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing and likely to attend court? Yes No If 'No', include reason(s) on MG6. What can be done to ensure
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)
Yes No If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes No If 'Yes' what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- c) I consent to police having access to my medical records in relation to this matter: Yes No N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes No N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: Print name

Signature of parent/guardian/appropriate adult: Print name

Address and telephone number if different from above:

This tear off section to be completed and handed to the witness

UKBA – Contact Details

The officer dealing with your case/taking this statement is:

Officer: Rank & Number:

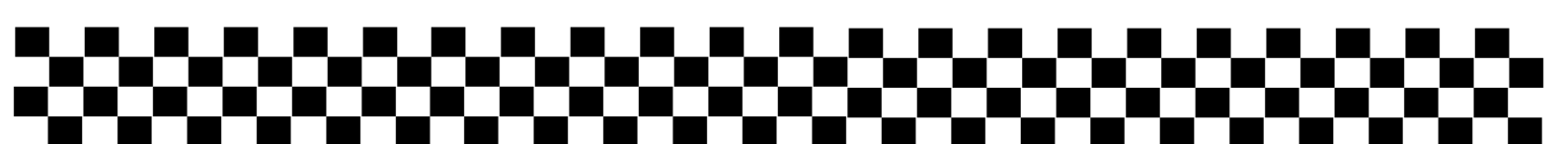
Office:

Telephone:

Contact E-Mail:

Reference No:

The officer dealing with your case can help but may not always be available.



Thank you for coming forward. We value your help and we will do everything we can to help you.

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

Is there anything else I can do?

Yes. It is important to tell UKBA:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front. Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, UKBA, the police and CPS are separate organisations.

Who will read my statement?

Everyone involved with the case will read your statement (e.g. UKBA, the police, CPS, defence and the magistrate or judge).

What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the UKBA in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the UKBA officer dealing with your case.

Will I be told what is happening in the case?

UKBA and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact UKBA at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare).
Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

Where will the case be heard?

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**Victim Support Helpline
0845 30 30 900**

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: Magistrates' Court Act 1980, s.5B

Statement of

[Redacted Name]

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Age if under 18

Over 18

(if over 18 insert 'over 18') Occupation:

Immigration Officer

This statement (consisting of:²..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:

[Redacted Signature]

Date:

10/03/2020

Tick if witness evidence is visually recorded

(supply witness details on rear)

I am the above named officer and I work as part of the [Redacted] Immigration Compliance and Enforcement team, currently part of the [Redacted] Police.

On 15/02/2020 I attended AKBAR DYNASTY RESTAURANT, SANDBERGE, DARLINGTON, DL2 1SZ. After receiving a briefing from [Redacted] I travelled to the business premises, arriving at approximately 19:55hrs to take up my role as external cover officer. I remained as external cover officer until called into the premises by [Redacted] and took up position in the kitchen area, where I acted as a cover officer. At approximately 20:30hrs I received a message via airwaves from [Redacted] asking for an officer to attend the front of house to deal with a waiter who appeared to be evading officers by staying out of sight in the conservatory area of the premises. I attended and my attention turned to a male wearing a white shirt, black tie and black dress pants. I waved the male through from the conservatory towards me and introduced myself to him explaining that I needed to take some details from him to establish his identity and Immigration status. The male who I now know to be [Redacted] provided me with his details and I completed a status checks with my back-office staff. These checks on Home Office systems showed that [Redacted] has an outstanding asylum claim and no permission to work within the UK. I began to ask him the following questions in relation to his employment at AKBAR DYNASTY:

Q1.HOW LONG HAVE YOU BEEN WORKING HERE?

A1. ONE WEEK

Q2. WHAT IS YOUR JOB/ROLE AND WHAT ARE YOUR DUTIES?

A2. I DO TAKEAWAY PACKAGING AND SERVE DRINKS TO CUSTOMERS

Q3. WHAT DAYS/HOURS DO YOU WORK EACH WEEK?

A3. I WORKED FRIDAY LAST WEEK, AND THIS WEEK I HAVE WORKED ONDAY AND THURSDAY. I START AT 7PM UNTIL 10.30PM

Q4. WHO TELLS YOU WHAT DAYS/HOURS TO WORK?

A4. MY FRIEND [Redacted] I CANT REMEMBER HIS FULL NAME

Q5. WHO TELLS YOU WHAT DUTIES TO DO EACH DAY?

A5. [Redacted]

Signature:

[Redacted Signature]

Signature witnessed by:

.....

Continuation of Statement of

Q6. WHAT TIME DID YOU GET HERE TODAY?

A6. 5PM I GO HERE

Q7. HOW DID YOU GET HERE FROM SUNDERLAND?

A7. [REDACTED] PICKED ME UP FROM [REDACTED] TRAIN STATION AND BROUGHT ME TO THE RESTAURANT

Q8. WHO ELSE DID HE PICK UP?

A8. I AM NOT SURE

Q9. HOW ARE YOU PAID?

A9. FOOD, WHATEVER IS LEFT AT THE END OF THE NIGHT. [REDACTED] GIVES A FRIEND THAT WORKS HERE ALSO, HE ISNT ALLOWED TO WORK EITHER, BUT HE IS NOT HERE TONIGHT.

Q10. DO YOU HAVE A NATIONAL INSURANCE NUMBER?

A10. NO

Q11. WHAT NAME DOES THE EMPLOYER KNOW YOU AS?

A11. HE CALLS ME [REDACTED]

Q12. DID YOU SHOW HIM DOCUMENT'S BEFORE BEING OFFERED THE JOB? IF SO, WHAT?

A12. NO AS I JUST STARTED LAST WEEK AND HE SAID AT FIRST YOU'RE JUST HELPING ME AND THEN GIVE HIM DOCUMENTS LATER.

Q13. WHO DO YOU KNOW IN HERE?

A13. ONE OF MY FRIENDS, HE IS CALLED [REDACTED] BUT HE IS NOT HERE TONIGHT THOUGH.

Q14. DO YOU REALISE THAT YOU ARE NOT ALLOWED TO WORK?

A14. I DO, I AM ONLY HELPING HERE.

Following the questions made above, I advised the male that he has no permission to work in the UK and advised him that he should vacate the premises or cease what he was doing immediately. He agreed with me and attempted to shake my hand whilst the owner who was being questioned by [REDACTED] stated that he would take him back to the station. I played no further part in this investigation and departed the scene at approximately 20:20hrs.

[REDACTED]

Signature:

[REDACTED]

Signature witnessed by:

.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of [redacted] URN: [] [] [] []

Age if under 18 (if over 18 insert 'over 18') Occupation: Immigration Officer [redacted]

This statement (consisting of: 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 28.10.19

Tick if witness evidence is visually recorded (supply witness details on rear)

I am an immigration Officer (IO) within the Home office and work for the [redacted] Immigration Compliance and Enforcement team ([redacted] ICE) based at [redacted] I have been employed by the Home Office in the capacity of an arrest trained officer for twelve years. My duties include establishing the immigration status of foreign nationals present in the United Kingdom and investigation of offences under the Immigration Act 1971 (as amended).

On 02 May 2019 I was the officer in charge (OIC) during an intelligence led visit to Akbars Dynasty, Sadberge, Darlington, Cleveland, DL2 1SZ. Information had been received stating that a named [redacted] male aged [redacted] tall of [redacted] build with [redacted] had overstayed his visa in the United Kingdom (UK) and was working illegally as a chef at Akbar's Dynasty. Based on this information an Immigration Enforcement visit was authorised to Akbars Dynasty using fully informed consent to gain entry to the business.

At approximately 18:20 an immigration enforcement team of 7 officers arrived at Akbars Dynasty with 3 officers taking up positions at the rear and side exits of the premises. Myself and IO [redacted] entered the main entrance of the business and I identify myself to a female behind the bar and asked to speak to the person in charge the female states she will get [redacted]. A male then approaches me and identifies himself as the manager. I again identify myself and show my warrant card to this male and explain that an allegation has been made that illegal working is taking place at Akbar's Dynasty and officers from Immigration Enforcement had come to the business to investigate the allegation. The manager immediately asks the name of the person alleged to be working illegally I give the name of the person to the manager and he states he does not work there and he doesn't know him. I explain that I still have to investigate the allegation and attempt to gain fully informed consent to be on the premises to speak to the staff. The manager states he is very busy I look around and count approximately six customer occupied tables the majority of the premises is empty. I tell the manager that we do not want to interfere with his business but as previously stated we must investigate the allegation I suggest to minimise any disruption we can speak to staff at rear kitchen door one by one. The manager asks for the paper to say officers can come into the premises I explain to the manager the notice to occupier form and the manager asks if he has to allow officers to come in I tell the manager he has the right to refuse officers entry to his business.

Signature: [redacted] Signature witnessed by:

Continuation of Statement of [redacted]

The manager says he does not want officers to speak to his staff and wants officers to leave he does not ask officers to come back at a different time or date.

At the same time I'm speaking to the manager IO [redacted] who is standing by the rear kitchen door radios through that since our arrival she has witnessed several kitchen staff taking off their aprons and chef's whites and are leaving the kitchen. IO [redacted] identifies a [redacted] male seen in the kitchen matching the description of the suspected immigration offender and identifies him as wearing a black and white jumper. IO [redacted] who is standing at the side of the business by a glass door radios through that he has witnessed a Bangladeshi male in a black and white jumper come into the customer area and sit down at a table in the conservatory. On seeing IO [redacted] by the glass door the manager has closed the blind on the door obscuring IO [redacted] view inside.

Myself and IO [redacted] leave the business and I go to the rear door and speak to IO [redacted] she tells me that when officers arrived she counted 5 males working in the kitchen but upon seeing immigration officers at the rear door 3 males had taken off their aprons and left the kitchen. The kitchen door had now been closed and locked by staff.

Given the adverse reaction shown by the kitchen staff to our presence and the reluctance of the manager to allow officers to enter his premises I now believe immigration offenders are working at Akbars Dynasty. At 18:28 I contact Acting Director (AD) [redacted] by phone and explain the circumstances of the visit. I explain staff have shown an adverse reaction to officers presence by taking off their work clothing and leaving the kitchen area and 1 male has moved from the kitchen and is sitting at a table in the conservatory customer area. I ask AD [redacted] to authorise entry under Section 28CA of the Immigration Act 1971 (as amended by Section 153 of the Nationality, Immigration and Asylum Act 2002) as I believe suspected immigration offenders are working at the premises in line with the intelligence received. I also believe the manager is aware his staff have no legal basis to work in the UK and has denied fully informed consent for officers to enter the premises.

AD [redacted] authorises officers to enter the premises under Section 28CA of the immigration act 1971 (as amended). I make my way back inside and explain to the manager that given the adverse reaction by his staff we had sought and been given permission to enter the premises under Section 28CA of the immigration act 1971. I give the manager a notice to occupier form with the power we are using to enter the premises and also explain that I will deliver the formal letter showing our power of entry tomorrow (exhibit A). I ask the manager if the premises is closed if I can post the letter which he agrees. Officers enter the premises and make their way to the kitchen area and the conservatory where the male previously seen in the kitchen was sitting. I then go to the kitchen area and notice a room to the side with a store room and staff toilet I go into this room and notice the toilet door is ajar. I push the door but it is blocked from the inside I enter the toilet and find a male hiding behind the toilet door I immediately summon IO [redacted] who takes the male from the kitchen to a sterile area that had been created in the conservatory area away from other customers where staff are being questioned.

During the questioning the manager is constantly talking to 4 male staff members in a language believed to be [redacted] he is told several times not to interfere with officers questioning and not to speak to the men unless in English so officers are aware of what is being said. The manager ignores officers and continues to talk to the men in [redacted] leaving me with no choice but to warn the manager to stop obstructing officers while carrying out their lawful duties.

Signature: [redacted] Signature witnessed by:

Continuation of Statement of

Checks show that the 4 of the staff encountered including the man hiding in the staff toilet were immigration offenders with no permission to work and had been subsequently arrested. IO [redacted] speaks to the manager about the employment of the 4 arrested males. All 4 males are taken into custody at [redacted] Police Stations.

Before leaving the premises I note that an employee first encountered working as a waiter on arrival is now cooking food in the kitchen also a male seen delivering food to the premises when officers arrived has also started to cut food in the kitchen.

The following day 03 May 2019 I attend Akbar's Dynasty with IO [redacted] The premises is closed and I post the AD Letter in an envelope through the letterbox.

Signature:

[redacted signature]

Signature witnessed by:

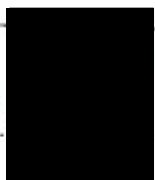
03/2015

Continuation of Statement of



[Large empty rectangular box for statement content]

Signature:



Signature witnessed by:

Witness contact details

URN : / / /

Name of witness:
 Home address: Postcode:.....
 Email address: Mobile:.....
 Home telephone number: Work telephone number:.....
 Preferred means of contact (*specify details for vulnerable/intimidated witnesses only*):.....
 Gender:..... Date and place of birth:.....
 Former name: Ethnicity Code (16 + 1):

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing to attend court? Yes No If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)
 Yes No If 'Yes', submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes No If 'Yes', what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

Witness Consent (for witness completion)

- a) The Victim Personal Statement scheme (victims only) has been explained to me: Yes No
- b) I have been given the Victim Personal Statement leaflet Yes No
- c) I have been given the leaflet "Giving a witness statement to the Home Office...." Yes No
- d) I consent to police having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes No N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA Yes No N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes No N/A

I would like the CPS to apply for reporting restrictions on my behalf. Yes No N/A

I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court.

Signature of witness:..... PRINT NAME:

Signature of parent/guardian/appropriate adult: PRINT NAME:

Address and telephone number if different from above:.....

Statement taken by (*print name*): Station:

Time and place statement taken:

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2: Criminal Justice Act 1967, s.9: Magistrates' Court Act 1980, s.5B

Statement of [REDACTED] URN:

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Age if under 18 OVER 18 (if over 18 insert 'over 18') Occupation: IMMIGRATION OFFICER

This statement (consisting of: 2..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [REDACTED] Date: 05/03/2020.....

Tick if witness evidence is visually recorded (supply witness details on rear)

I am an Immigration Officer with the Home Office and work as part of the [REDACTED]
[REDACTED] On the 27/02/2020 I was tasked to attend an Immigration Enforcement visit at Akbar Dynasty, Sadberge, Darlington, DL2 1SZ.

At 20:22 I was tasked by the Officer in Charge [REDACTED] to interview a male who had been identified as the owner of the business - Abdul MS ALI. [REDACTED] had been encountered in the restaurant area of the business and identified as person who did not have permission to work in the United Kingdom.

I asked Abdul MS Ali "WHAT IS THE NAME OF YOUR BUSINESS?"

He replied "ASMA Star LTD"

I asked "WHAT ARE THE COMPANIES HOUSE AND VAT NUMBERS OF THE BUSINESS?"

He replied "NO"

I asked "WE HAVE IDENTIFIED THAT YOUR EMPLOYEE [REDACTED] DOES NOT HAVE PERMISSION TO WORK IN THE UK ARE YOU AWARE OF THIS?"

He replied "I AM NOT"

I asked "HOW LONG HAS HE BEEN WORKING HERE?"

He replied "JUST STARTED THIS TUESDAY"

I asked "HOW MANY HOURS A WEEK DOES HE WORK?"

He replied "HE IS UNDER A TRIAL IT IS NOT FIXED HE IS ON TRIAL HE IS LOOKING FOR 24 HOURS FULL TIME"

I asked "DID YOU ASK HIM TO PROVIDE EVIDENCE THAT HE CAN WORK IN THE UK?"

He replied "YES I HAVE ASKED HIM TO BRING HIS ID. MY BROTHER TOOK HIM ON ON TUESDAY"

I asked "HOW MANY HOURS HAS HE WORKED THIS WEEK?"

Signature: [REDACTED] Signature witnessed by:

Continuation of Statement of [REDACTED]

He replied "10 HOURS THIS WEEK 5 HOURS ON TUESDAY AND 5 TODAY"
I asked "HOW MUCH WILL YOU PAY HIM?"
He replied "MINIMUM WAGE"
I asked "HOW DID YOUR BROTHER RECRUIT HIM?"
He replied "HE PHONED UP FOR A JOB ON MONDAY DECIDE TO GIVE HIM A TRY"
I asked "WHY DID YOU NOT CHECK HE COULD WORK LEGALLY BEFORE HIS TRIAL STARTED?"
He replied "I WAS NOT SURE IF I WOULD GIVE HIM A JOB"
I asked "WHAT JOB IS HE DOING DURING HIS TRIAL?"
He replied "LOOKING TO WORK IN THE RESTAURANT"
I asked "HAVE YOU GIVEN HIM A CONTRACT?"
He replied "I HAVEN'T NO"
I asked "HOW WILL YOU PAY HIM?"
He replied "BANK ACCOUNT BUT CASH DURING TRIAL"
The above interview was recorded on PRONTO and Abdul MS Ali signed the PRONTO record to confirm that he understood all the questions and that the details are true and correct.

Signature: [REDACTED] Signature witnessed by:

Continuation of Statement of [REDACTED]

[Empty rectangular box for continuation of statement]

Signature: [REDACTED] Signature witnessed by:

Not Disclosable

Home address:
 Postcode:
 Home telephone number Work telephone number
 Mobile/pager number Email address:
 Preferred means of contact:
 Best time of contact
 Male / Female (delete as applicable) Date and place of birth:
 Former name: Ethnicity Code (16+1) Religion/Belief:

DATES OF WITNESS NON-AVAILABILITY:

Witness care

- a) Is the witness willing and likely to attend court? Yes No If 'No', include reason(s) on MG6. What can be done to ensure
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*)
 Yes No If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes No If 'Yes' what are they? (*Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?*)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- c) I consent to police having access to my medical records in relation to this matter: Yes No N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes No N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: Print name

Signature of parent/guardian/appropriate adult: Print name

Address and telephone number if different from above:

Continuation of Statement of [REDACTED]

[Empty rectangular box for content]

Signature: [REDACTED] Signature witnessed by:

This tear off section to be completed and handed to the witness

UKBA – Contact Details

The officer dealing with your case/taking this statement is:

Officer: Rank & Number:

Office:

Telephone:

Contact E-Mail:

Reference No:

The officer dealing with your case can help but may not always be available.

Continuation of Statement of [REDACTED]

[Empty rectangular box for continuation of statement]

Signature: [REDACTED] Signature witnessed by:

Thank you for coming forward. We value your help and we will do everything we can to help you.

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

Is there anything else I can do?

Yes. It is important to tell UKBA:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front. Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, UKBA, the police and CPS are separate organisations.

Who will read my statement?

Everyone involved with the case will read your statement (e.g. UKBA, the police, CPS, defence and the magistrate or judge).

What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the UKBA in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the UKBA officer dealing with your case.

Will I be told what is happening in the case?

UKBA and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact UKBA at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare). Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

Where will the case be heard?

Most cases are heard in the magistrates' court. More serious crimes are heard in the crown court before a jury.

Who can help?

Every court has a free and confidential Witness Service and you can contact them before the trial. Their trained volunteers offer:

- information on what happens in court
- emotional support and someone to talk to in confidence
- someone to be with you in court when you give evidence
- a visit to the court before the trial, including where possible, a look around a court room so you know what to expect.

The officer dealing with your case will be able to provide you with contact details.

The Witness Service does not discuss evidence or give legal advice.

Extra Help is available to support vulnerable or intimidated witnesses. If the CPS lawyer thinks that a witness qualifies for this help, known as 'Special Measures', he/she will ask the court for permission to use them. The Witness Service, police or UKBA will tell you what is available and the police or CPS will be able to discuss your needs.

Victim Support and Witness Service

The Victim Support scheme operates from a number of locations across the UK, and their volunteers are specially trained to provide free and confidential information, support and advice.

All victim and witnesses will be offered support from Victim Support's Witness Service, which is **independent**, confidential and free. This support will include someone to talk to, a quiet place in which to wait and a chance to see the court before the day of the trial. Although the Witness Service volunteers will explain the court process to you, they cannot discuss the specific details of the case.

**Victim Support Helpline
0845 30 30 900**