



Home Office

Premises Licence Review

**Mr MD Hafizur Rahaman
Tale of Spice, Malmesbury Road,
Chippenham, Wiltshire
SN15 1QA**

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Outline of the Circumstances leading to the Review Application

Summary

- 1.1 For the third time in five years, an immigration enforcement operation has discovered multiple persons working at these premises whilst they have no right to do so.
- 1.2 This premise has previously been visited by Immigration Enforcement on two previous occasions; 16 April 2015 and 12 June 2015. A total of 8 arrests were made during these visits.
- 1.3 MD HAFIZUR RAHAHAM has been the Premises Licence Holder (PLH) and the Designated Premises Supervisor (DPS) since October 2016.
- 1.4 During the most recent visit on 19 September 2019, Immigration Enforcement arrested a further five individuals for illegally working, bringing the total number of individuals employed for working illegally to 13. This clearly demonstrates MD HAFIZUR RAHAHAM flagrant disregard for the legalities of employing responsibly as well as the failure to heed prior warnings and advice.
- 1.5 The illegal workers provided different accounts of how long they had worked at the premises. It is the experience of Home Office (Immigration Enforcement) that often illegal workers seek to minimise their criminality by understating the truth of how long they have worked illegally at a premise.
- 1.6 There have been previous civil penalties issued for the employment of illegal workers; Civil Penalty fines totalling £70,000 have been issued however the previous company, Oaklands Eateries Limited have now dissolved. Civil Penalties Team are currently investigating the most recent referral.
- 1.7 Succeeding parts of this application explore relevant legislation and the statutory guidance and Home Office (Immigration Enforcement) ask the sub-committee to revoke the premises licence as a deterrent to others and the management/owner of this premises in particular.
- 1.8 Copies of all the witness statements or pocket notebook (PNB) entries made by relevant immigration officers are appended; should the sub-committee wish to read these.
- 1.9 Home Office (Immigration Enforcement) ask the subcommittee to consider the flagrant disregard for the legalities of employing responsibly, the failure

to head prior warnings and advice and ask that the subcommittee revoke the premises licence as a deterrent to others and the management/owner of this premises in particular.

Occurrence

- 1.10 At 6.15pm on Friday 20th September 2019 a multi-agency operation with Immigration Enforcement and Wiltshire Licencing Authority took place at the Tale of Spice restaurant situated at Malmesbury Road, Chippenham, Wiltshire SN15 1QA.
- 1.11 The visit was conducted following an allegation of illegal working at Tale of Spice in Chippenham and the Tale of Spice Restaurant in Pewsey. Intelligence received indicated that twelve staff work on site and 6 or 7 of those are working illegally which does not correlate with the number of workers the business has declared.
- 1.12 At the time of the operation the premises were operating under a premises licence issued by Wiltshire Licensing Authority to MD HAFIZUR RAHAHAM as the Designated Premises Supervisor and Premises Licence Holder. This had been the case since November 2005.
- 1.13 The operation was conducted by a number of Immigration Compliance & Enforcement (ICE) officers. The team was led by Immigration Officer (IO) [REDACTED] in company with IOs [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].
- 1.14 The operation was undertaken under the authority of an Immigration Enforcement Assistant Director under Section 179 of the Licensing Act 2003 which permits Immigration Enforcement ICE officers to investigate immigration offences being committed in connection with licensable activity.
- 1.15 The premises and its management were already well known to the immigration authorities because of three previous visits where illegal workers were discovered, viz:
 - April 2014 — six immigration offenders discovered.
 - April 2015 — seven illegal immigration offenders discovered.
 - June 2015 — one illegal immigration offender discovered.
- 1.16 Anticipating that immigration offenders may attempt to escape detention, the uniformed ICE officers deployed to contain the main restaurant building with IO's covering the rear of the premises. Once these were in place, OIC [REDACTED], Wiltshire Licencing Officer and other IO's entered the premises and served the authority by Assistant Director document on the PLH and DPS MD HAFIZUR RAHAHAM.

1.17 The ICE officers subsequently identified that four persons had been working illegally in the restaurant, these were:

- [REDACTED], a national of [REDACTED] with no right to remain in the UK or work here (and who had attempted to evade capture);
- [REDACTED], a national of [REDACTED] with no right to remain in the UK or work here;
- [REDACTED], again a national of [REDACTED] with no right to remain in the UK or work here (and who had attempted to evade capture); and
- [REDACTED], a national of [REDACTED] with no right to remain in the UK or no right to work.
- [REDACTED], a national of [REDACTED] with an outstanding asylum claim but does not have a right to work in the UK.

1.18 The PLH and DPS MD HAFIZUR RAHAHAM was served a notice of potential liability (NOPL) in respect of all the illegal workers.

1.19 The situation regarding each of the illegal workers is described below.

[REDACTED]

1.20 IO [REDACTED] was instructed by the OIC to cover the rear of the property. As the officers gained entry to the premises, IO [REDACTED] identified a male running out of the premises and attempting to escape over a 6ft wall at the rear of the property. IO [REDACTED] apprehended the male, arrested him as a person suspected of immigration offences and placed in to handcuffs using the approved Home Office front stack technique and took the male back to the premises.

1.21 IO [REDACTED] questioned the individual and it was established that this individual was [REDACTED], a [REDACTED] national. [REDACTED] informed IO [REDACTED] that he was not working at the premises and was sitting at the table when the Immigration Officers entered the premises.

1.22 [REDACTED] asked the following questions to [REDACTED];
[REDACTED]: How long have you lived here?
[REDACTED]: 4 (four) years
[REDACTED]: Does the owner provide you with food?
[REDACTED]: Yes, everyday
[REDACTED]: Do they provide you with clothes?
[REDACTED]: Yes, they provide me with everything.
[REDACTED]: Does he give you any money?
[REDACTED]: No, never.
[REDACTED]: Do you spend every day in the restaurant?
[REDACTED]: Once or twice.

██████████: Have you ever waited for the employer?
██████████: No, no
██████████: Why did you run from immigration?
██████████: I was scared.
██████████: Are you claiming any benefits?
██████████: No.
██████████: How do you support yourself?
██████████: Friend gives me money.
██████████: Does the manager of the restaurant give you money?
██████████: My friends, the manager of the restaurant doesn't give me money, but gives you things you need clothes, food, train tickets.

1.23 ██████████ concluded the interview and arrested ██████████ for using verbal and documentary deception an offence under S24A (1)(A) of the IA 1971 as amended. and a breach under S26(1)(c) and S26(1)(d). ██████████ was transported to Melksham Police Station.

██████████
1.24 On entering the premises IO ██████████ encountered a male removing his apron. IO ██████████ identified herself and asked the male to confirm his identify.

1.25 The male identified himself as ██████████ and claimed that he was a ██████████ national. ██████████ could not provide IO ██████████ with any documentation to prove that he was from ██████████ and ██████████ stated that he grew up in ██████████ and that he had an outstanding claim with the Home Office.

1.26 ██████████ conducted an immigration check and found that the claim had been concluded. After checking Home Office systems, it was also believed that ██████████ was one of the same persons under an alias of ██████████ ██████████, a ██████████ national who has been an overstayer in the UK since 2011.

1.27 ██████████ arrested ██████████ as a person liable to be detained and removed from the UK under Paragraph 16, Schedule 2 of the Immigration Act 1971 (as amended).

1.28 With the assistance of a Home Office approved ██████████ interpreter, IO ██████████ conducted the following illegal working interview with ██████████;
IO ██████████: How long have you been working here?
██████████: I've been staying upstairs for a week. I've been helping just today, as it's Friday they expect to get busy.
IO ██████████: What is your job role/what are your duties?

██████████: Cleaning dishes and helping in the kitchen, sometimes I help packing the takeaway food.

IO ██████████: What days/hours do you work each week?

██████████: I came downstairs 17:30 until about 20:30. I can't work around hot oil so not too long as I felt a skin allergy from it.

IO ██████████: Do you work the same hours/days every week?

██████████: No, just today.

IO ██████████: Who owns this takeaway/restaurant?

██████████: I don't know, I've come here to see HAFIZ RAHMAN (AHMED then pointed to the male at the bar speaking to the licensing officer. That person was the DPS MD HAFIZUR RAHAHAM)

IO ██████████: What is HAFIZ job here?

██████████: He works at the front as a waiter.

IO ██████████: Who gave you this job?

██████████: HAFIZ RAHMAN

IO ██████████: Who tells you what hours/days to work?

██████████: HAFIZ RAHMAN said help out just Friday, today. I'm going back to my friends address in Birmingham tomorrow.

IO ██████████: Who tells you what tasks/duties to do each day?

██████████: HAFIZ RAHMAN said to help cleaning dishes today.

IO ██████████: Who gave you the apron that you took off when you saw me?

██████████: I asked the kitchen staff for an apron as I didn't want to ruin my clothes.

IO ██████████: How are you paid (money, accommodation, food)?

██████████: There was no agreement to work, help out in exchange for sleeping here for a week.

IO ██████████: How do you support yourself financially?

██████████: My friends help me out, the ones I stay with.

IO ██████████: Has HAFIZ RAHMAN given you any money?

██████████: It's up to HAFIZ RAHMNA if he gives me any money after this week's stay. He has given me free food while I have been staying here though.

IO ██████████: What name does the employer know you as?

██████████: They know me as ██████████. It's my nickname.

IO ██████████: Did you show documents before being offered the job? If so, what?

██████████: No

IO ██████████: Does your employer know that you are not allowed to work in the UK.

██████████: No.

1.29 IO [REDACTED] exited the premises at approximately 21:05hrs and [REDACTED] was transported to Melksham police station. Copies of the interview are exhibited as JL/20092019.

[REDACTED]

1.30 [REDACTED] was one of two persons that attempted to evade the operation but IO [REDACTED], deployed at rear of premises, apprehended a male when he attempted to escape from a first-floor window. IO [REDACTED] detained a male later identified as [REDACTED], a [REDACTED] national with no right to work or remain in the UK. When detained, [REDACTED] was wearing what is described as a 'waiter's uniform'.

1.31 IO [REDACTED] interviewed [REDACTED], who provided the Immigration Officer with his details and current immigration status. Home Office status check confirmed that [REDACTED] does not have permission to work in the UK. IO [REDACTED] informed [REDACTED] of this and [REDACTED] agreed that he did not have permission to work in the UK.

1.32 IO [REDACTED] conducted an illegal working interview with [REDACTED].
IO [REDACTED]: How long have you been working here?
[REDACTED]: I've been working here about nearly 6 months. Maybe a bit more.
IO [REDACTED]: What is your job role / what are your duties?
[REDACTED]: I am a waiter.
IO [REDACTED]: What days do you work each week?
[REDACTED]: Basically I help them just Friday and Saturday as the busiest days.
IO [REDACTED]: What hours do you work each week?
[REDACTED]: I work from six until ten o'clock
IO [REDACTED]: Do you work the same hours/days each week?
[REDACTED]: Yes
IO [REDACTED]: What time did you start?
[REDACTED]: Six o'clock
IO [REDACTED]: What is the name of the business?
[REDACTED]: Tale of Spice
IO [REDACTED]: Who gave you the job (name and role in business)?
[REDACTED]: I got information through my friend and this is how I started. I spoke to the manager and he allowed me to work here. I think his name is Azi.
IO [REDACTED]: Who tells you what days/hours to work?
[REDACTED]: Azi told me what to do and who to serve.
IO [REDACTED]: Who tells you what tasks/duties to do each day?
[REDACTED]: Azi does.
IO [REDACTED]: Who is the owner?
[REDACTED]: I have never seen the owner. Azi or Hafiz is the manager. I can't remember his name.
IO [REDACTED]: How are you paid (money, accommodation, food)?

██████████: Cash in hand. I get given free accommodation, the day I work he gives me free food.

IO ██████████: If money, how much and how do you receive it?

██████████: Sometimes £60 or £80 he gives me each week.

IO ██████████: Who pays you?

██████████: Azi or Hafiz I'm not sure of his name.

IO ██████████: Do you pay income tax or have a National Insurance number?

██████████: No, I do not.

IO ██████████: Has the employer paid you yet?

██████████: Yes, he has paid me before but he normally pays me on Sunday.

IO ██████████: Has the employer paid you today?

██████████: No

IO ██████████: What does the employer know you as?

██████████: ██████████.

IO ██████████: Did you show documents before being offered the job? If so, what?

██████████: No, I just showed him my passport and told him I had a pending application.

IO ██████████: Does your employer know that you're not allowed to work in the UK?

██████████: Because he didn't ask me, I didn't tell him.

IO ██████████: Is there a written or verbal contract between you?

██████████: No, nothing.

1.33 IO ██████████ concluded the questioning and escorted ██████████ to the Home Office vehicle which transported him to the nearest custody facility.

██████████

1.34 IO ██████████ was part of the joint working operation to Tale of Spice and was initially tasked with providing outside cover. At 19:08hrs, IO ██████████ entered the premises and was asked to speak to a male sitting at a table wearing a waiter's uniform.

1.35 IO ██████████ asked the male for his name and Home Office checks showed that the male was ██████████, a Bangladesh national with no right to work in the UK.

1.36 IO ██████████ conducted an illegal working interview with ██████████ in English.

IO ██████████: How long have you been working here?

██████████: Before Christmas 2018.

IO ██████████: What is your job role and your duties?

██████████: Waiter.

IO ██████████: What days / hours do you work each week?

██████████: 5 days. 4 to 5 hours per day.
IO ██████████: Do you work the same hours every week?
██████████: No. Any 5 days.
IO ██████████: Who gave you this job (name and role in business)?
██████████: I just called them. The manager Hafiz. I don't know his surname.
IO ██████████: Who tells you what days/hours to work?
██████████: Hafiz.
IO ██████████: Who tells you what tasks/duties to do each day?
██████████: I am a waiter.
IO ██████████: How are you paid (money, accommodation, food)?
██████████: Cash in hand, free accommodation upstairs.
IO ██████████: If money, how much and how do you receive it?
██████████: Depends on how many hours I work. Between £150-£180 per week. Cash in hand.
IO ██████████: Who pays you?
██████████: Hafiz the manager.
IO ██████████: Do you pay income tax or have a National Insurance number?
██████████: I don't know.
IO ██████████: What day do you get paid?
██████████: Sunday night.
IO ██████████: What name does the employer know you as?
██████████: He knows me by my real name.
IO ██████████: Did you show documents before being offered the job? If so, what?
██████████: I showed him my driving licence I don't know if I showed him anything else.
IO ██████████: Who else works here?
██████████: Everyone here this evening.

1.37 IO ██████████ concluded the interview at 19:18hrs. ██████████ signed a copy of IO ██████████ notebook confirming his answers to the questions above (Exhibit SH01)

██████████

1.38 IO ██████████, who was also part of the illegal working operation, was tasked to assist with any encounters inside the main restaurant area and immediately identified a number of males appearing to be working in smart uniform.

1.39 IO ██████████ spoke with ██████████ who appeared to be working in the kitchen, dressed smartly as a waiter. IO ██████████ introduced himself and displayed his warrant card and asked if ██████████ understood English and ██████████ confirmed that he did.

- 1.40 IO [REDACTED] carried out an immigration check using HO systems which revealed that [REDACTED] has stayed in the UK beyond his permitted leave. Checks showed that [REDACTED] has an outstanding asylum claim but has not got permission to work.
- 1.41 IO [REDACTED] conducted an illegal working interview with [REDACTED] in English;
IO [REDACTED]: How long have you worked here?
[REDACTED]: Less than a month.
IO [REDACTED]: What is your job role / duties?
[REDACTED]: I help being a chef.
IO [REDACTED]: What days/hours do you work per week?
[REDACTED]: When busy but maybe up to but less than an hour.
IO [REDACTED]: Do you work the same hours/days every week?
[REDACTED]: When they are busy but generally Thursday, Friday & Saturday but not guaranteed.
IO [REDACTED]: What documentation did you show your boss about your identity when you started?
[REDACTED]: I know the boss, so I didn't show him any documents.
IO [REDACTED]: How did you get paid?
[REDACTED]: I get free food and sometimes £10 or £15 when I come in for 2 days.
IO [REDACTED]: Who gave you this job?
[REDACTED]: The manager Hafiz
IO [REDACTED]: Who tells you what the duties are each day?
[REDACTED]: The senior person Tuhin.
IO [REDACTED]: Do you pay income tax or have a National Insurance number?
[REDACTED]: No.
IO [REDACTED]: What name does your employer know you as?
[REDACTED]: [REDACTED]
IO [REDACTED]: You are dressed in a smart shirt and shoes, were you going to be serving food tonight?
[REDACTED]: No.
IO [REDACTED]: When I entered the kitchen, I saw you doing things with others cooking, what were you doing?
[REDACTED]: Fetching things for the chef and washing up if they need help.

Reasons for Review

- 2.1 Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises on three separate occasions, 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) [April 2017] 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)*, [2016] 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

Statement from [REDACTED]

- Exhibit JH001

Statement from [REDACTED]

- Exhibit JL20092019

Statement from [REDACTED]

Statement from [REDACTED]

- Exhibit SH01

Statement from [REDACTED]

Statement from [REDACTED]

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: [REDACTED]

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: Immigration Officer (IO)

This statement (consisting of 2 page(s) 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 in it anything which I know to be false, or do not believe to be true.

Signature (witness) [REDACTED] Date: 13/11/2019

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

I am an immigration Officer, warrant number _____ with the Home Office Immigration Enforcement Team, based at General Buildings, 31-33 Newport Road, Cardiff. On Friday 20th September 2019 I was on duty with officers from Bristol and Cardiff Arrests Teams when we attended Tale Of Spice Chippenham, Malmesbury Road, Chippenham, Wiltshire SN15 1QA. Entry to Premises was under Section 179 of licensing Act 2003 as amended by Immigration Act 2016. I arrived at the premises at approx. 18:20 hours and asked to cover the rear of the property. When officers gained entry, Male 1 ran from the rear of the property and tried to escape over the wall to the rear of the property. Male 1 as apprehended and placed in handcuffs using the approved Home Office Front Stack technique and arrested at 18:15 as a person I suspected of Immigration Offences. I took the subject back into the property at 18:20, however, male 1 was adamant that he was not working there and was just sitting at a table when officers entered. Male 1 confirmed he knew the owner and he was his friend, but that he does not work at the property. The following questions were asked of the subject:

- Q. How long have you lived here? _____
- A. 4 years _____
- Q. Does the owner provide you with food? _____
- A. Yes, everyday. _____
- Q. Do they provide any clothes, _____
- A. Yes they provide me with everything _____
- Q. Does he give you any money _____
- A. No never _____
- Q. Do you spend everyday in restaurant _____
- A. Once or twice _____
- Q. Do you have ever wait for the employer _____
- A. No, no. _____
- Q. Why did you run from immigration? _____
- A. I was scared _____
- Q. Are you claiming any benefits? _____
- A. No _____
- Q. How do you support yourself? _____
- A. Friends give me money _____
- Q. Does the manager of the restaurant give you any money? _____
- A. My friends, the manager of the restaurant doesn't give me money, but gives you things you need. _____

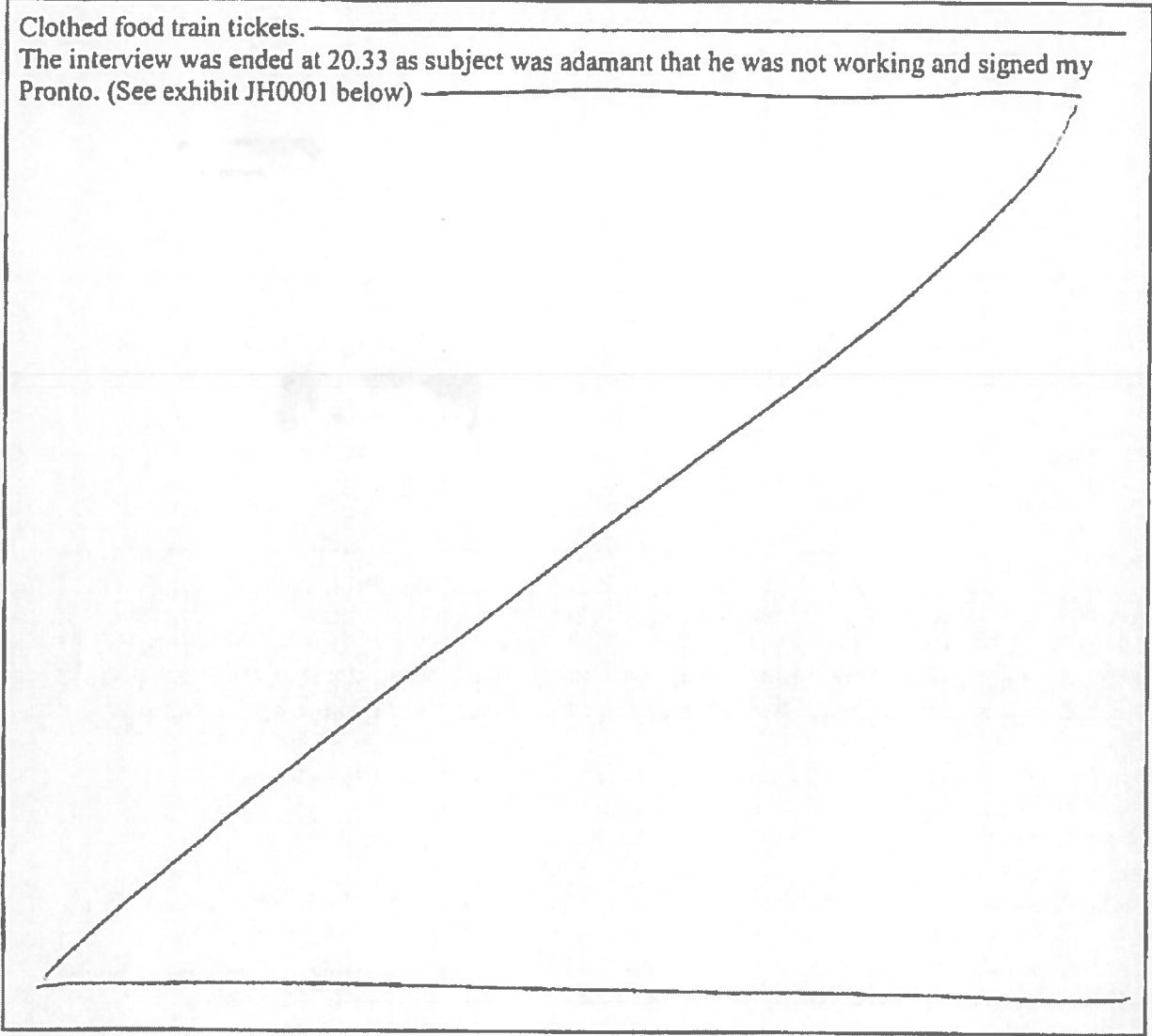
Signature: [REDACTED]

Witnessed by: N/A.

RESTRICTED (when complete)
Approved for UKBA use – December 2011

MG11T

Clothed food train tickets. _____
The interview was ended at 20.33 as subject was adamant that he was not working and signed my Pronto. (See exhibit JH0001 below) _____



Signature: [Redacted]

Witnessed by: N/A

2010/11

RESTRICTED (when complete)





Not Disclosable

Witness contact details

Work address: Cardiff Arrest Team, Immigration, Compliance and Enforcement Team, Floor 2, General Buildings, 31 – 33 Newport Road, Cardiff, Postcode: CF24 0AB

Work telephone No: [redacted] Work Mobile [redacted]

Mobile: [redacted] E-mail address: [redacted]@homeoffice.gsi.gov.uk

Preferred means of contact (specify details): Email

Best time to contact (specify details): Week day

Gender: Male Date and place of birth: [redacted]

Former name: Ethnicity Code (16 + 1): [redacted]

DATES OF WITNESS NON-AVAILABILITY: N/K

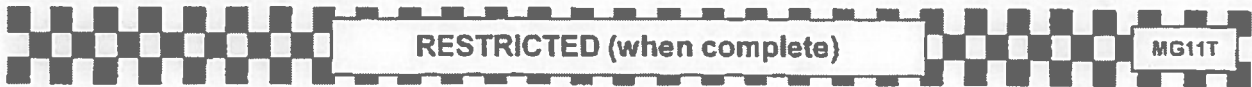
Witness care

- a) Is the witness willing to attend court? YES. If 'No', include reason(s) on form MG6.
b) What can be done to ensure attendance? N/K
c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?
d) Does the witness have any particular needs? NO. If 'Yes' what are they?

Witness Consent (for witness completion)
a) The Victim Personal Statement scheme (victims only) has been explained to me Yes No X
b) I have been given the Victim Personal Statement leaflet Yes No X
c) I have been given the leaflet "Giving a witness statement to the police..." Yes No X
d) I consent to police having access to my medical record(s) in relation to this matter Yes No N/A X
e) I consent to my medical record in relation to this matter being disclosed to the defence Yes No N/A X
f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA Yes No N/A X
Signature of witness: PRINT NAME [redacted]
Signature of parent/guardian/appropriate adult: PRINT NAME:
Address and telephone number (of parent etc.), if different from above: N/A







RESTRICTED (when complete)

MG11T

Not Disclosable

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

HOME OFFICE Immigration Enforcement – Contact Details

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

Office: _____ Rank & Number: _____

Office: _____

Telephone: _____

Contact E-Mail: _____

Reference No: _____

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

Giving a witness statement to the HOME OFFICE – what happens next?



2010/11

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[REDACTED]

[REDACTED]

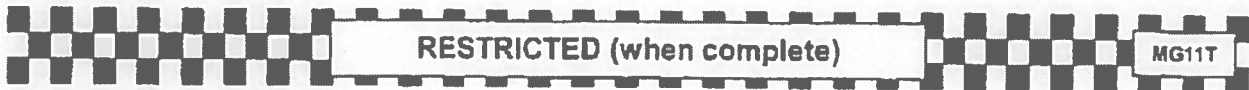
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



RESTRICTED (when complete)

MG11T

Not Disclosable

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.

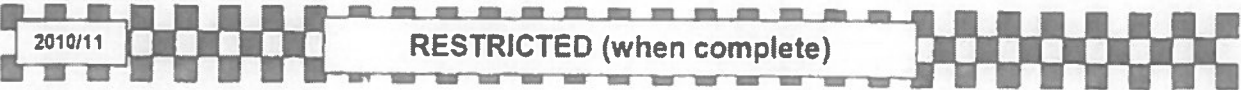
The Witness Service does not discuss evidence or give legal advice.

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.



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Not Disclosable

Victim Support Helpline

0845 30 30 900

The Witness Charter

UKBA is not a signatory of the Witness Charter but adheres to the spirit of charter which sets out the standards of service that witnesses can expect to receive at every stage of the Criminal Justice process from:

- UKBA, if you are a witness to a crime or incident
- Other Criminal Justice agencies and lawyers, if you are asked to give evidence for the prosecution or defence in a criminal court

The standards apply to all witnesses, regardless of whether you are also the victim. If you are a victim of a crime, you have rights that are set out in the Code of Practice for Victims of Crime.

Unlike the Victims Code of Practice, the Witness Charter is not set out in law, and there may be constraints which affect the ability of the Criminal Justice agencies to provide the service to all witnesses in all cases.

Being kept updated on progress during the investigation:

After you have given a statement, if the offence is of a very serious nature and UKBA have told you that you are likely to be called to give evidence in court, UKBA will seek to update you:

- at least once a month on the progress of the case until the point of closure of the investigation or
- at the point at which someone is charged, summoned, or dealt with out of court.

Being kept updated on progress after charge:

If you are a prosecution witness to any offence, UKBA will seek to inform you:

- when the defendant has been charged
- whether the defendant has been released on bail to attend court, or held in custody until the first court appearance
- what relevant bail conditions apply.

Further information about being a witness can be downloaded from the Crown Prosecution Service website at www.cps.gov.uk/victims_witnesses

Application

Refresh Search View Report Logs Visit Report

- Notebook
- Operations
- Packages
- Police Enquiries
- UKVI / BF

EV24-31,935

Q&A

Visits

- Non-Visit Work
- Person Search
- Photos
- Entry to Premises
- Method of Entry
- Encounters
- Arrest
- Search of Premises
- Cash Seizures
- Offers of Voluntary Departure
- Mitigating Circumstances
- Contact Details
- Illegal Working - Employee
- Illegal Working - Employer
- Right to Rent - Tenant
- Right to Rent - Landlord
- Compliant Environment
- Bio Data
- Additional Addresses
- Use of Force
- Documents Served
- Freetext
- Q&A
- Post Visit Work
- Critical Incidents
- Feedback
- Invalid Documents

Details

Type of work

Visit reference

Created by

ProntoID

Subject CID Person ID

Subject name

Subject DOB

Subject nationality

Subject gender

Time

Created at geolocation

Creation date

Visit

EV24-31,935

[Redacted]

[Redacted]

[Redacted]

Male

19:10

Easting 391456
Northing 174783

20-09-2019
20:32:44

Language of Interview

What language is the interview carried out in?

Interpreter used?

No

Q&A

how long have you lived here?

4 years

does the owner provide you with food?

Yes, everyday

do they provide any clothes,

Yes they provide me with everything

does he give you any money

No never

do you spend everyday in restaurant

Once or twice

do you have ever wait for a the employer

No, no

why did you run from immigration?

I was scared

are you claiming any benefits?

No

how do you support yourself?

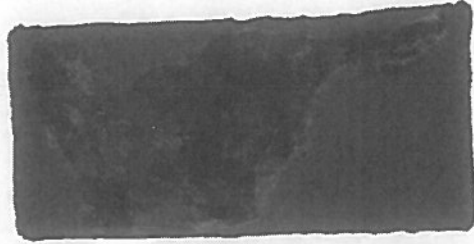
Friends give me money

does the manager of the restaurant give you any money?

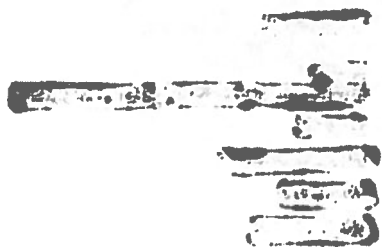
My friends, the manager of the restaurant doesn't give me money you need clothed food train tickets

Declaration

Interviewee
signature



20-09-2019
20:33 07



WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

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Statement of: [REDACTED]

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: Immigration Officer (IO)

This statement (consisting of 3 page(s) 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 in it anything which I know to be false, or do not believe to be true.

Signature (witness) [REDACTED] Date: 19/11/2019

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

I am employed by the HOME OFFICE, IMMIGRATION ENFORCEMENT as an arrest trained Immigration Officer (IO) since 2013. I am currently based in CARDIFF IMMIGRATION, COMPLIANCE AND ENFORCEMENT TEAM, at the office situated at GENERAL BUILDINGS, FLOOR 2, 31 - 33 NEWPORT ROAD, CARDIFF, CF24 0AB. On enforcement visits I wear full P.P.E and am clearly identified as HOME OFFICE IMMIGRATION ENFORCEMENT personnel. I identify myself to all persons I encounter with my warrant identity card and badge prior to speaking to them.

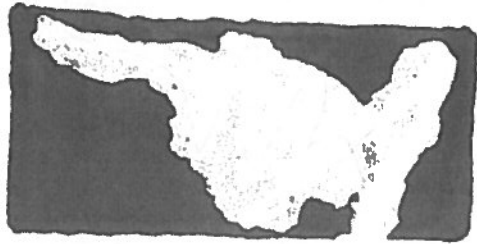
On 20th SEPTEMBER 2019, I was on duty with the CARDIFF & BRISTOL Immigration Enforcement teams, my role on this enforcement visit was as cover officer 1. I attended a restaurant known as Tale of Spice Chippenham, Malmesbury Road, Chippenham, Wiltshire, SN15 1QA. Access was gained via Section 179 of the Licensing Act 2003 at 18:15 and myself my colleagues entered. I encountered PID: [REDACTED] male, who claimed to be a [REDACTED] national. He could not provide any ID or evidence that he was from [REDACTED] and stated he grew up in [REDACTED] he claimed he had an outstanding claim with the Home Office, however a check confirmed this had been concluded. It was also believed that he was one of the same persons on Home Office systems as PID: [REDACTED] male, an overstayer in the UK since 2011. Therefore, I arrested the subject as a person liable to be detained and removed from the UK, under Paragraph 16 of schedule 2 of the 1971 Immigration Act (as amended).

I asked the subject the below questions regarding his suspected employment at the premises using [REDACTED] big word interpreter [REDACTED]

- Q) How long have you been working here?
- A) "I've been here staying upstairs for a week. I've been helping just today, as it's Friday they expect to get busy."
- Q) What is your job role/ what are your duties?
- A) "Cleaning dishes and helping in the kitchen, sometimes I help packing the takeaway food."
- Q) What days/ hours do you work each week?
- A) "I came downstairs 17.30 until about 20.30. I can't work around hot oil, so not too long as I felt a skin allergy from it."
- Q) Do you work the same hours/ days every week?
- A) "No, just today."
- Q) Who owns this takeaway / restaurant?
- A) "I don't know I've come here to see HAFIZ RAHMAN." (Subject pointed to the male at bar speaking to licensing officer. The male is the DPS)
- Q) Who allows you to sleep above the takeaway/restaurant?
- A) "HAFIZ RAHMAN"
- Q) What is HAFIZ job here?
- A) "He works at the front as a waiter."

Signature: [REDACTED]

Witnessed by: N/A



- Q) Who gave you this job (name and role in business)?
- A) "HAFIZ RAHMAN"
- Q) Who tells you what days/ hours to work?
- A) "HAFIZ RAHMAN said help out just Friday, today. I'm going back to my friends address in BIRMINGHAM tomorrow."
- Q) Who tells you what tasks/ duties to do each day?
- A) "HAFIZ RAHMAN said to help cleaning dishes today."
- Q) Who gave you the apron that you took off when you saw me?
- A) "I asked the kitchen staff for an apron, as didn't want to ruin my clothes."
- Q) How are you paid (money, accommodation, food)?
- A) "There was no agreement to work, help out in exchange for sleeping here for a week."
- Q) How do you support yourself financially?
- A) "My friends help me out, the ones I stay with."
- Q) Has HAFIZ RAHMAN given you any money.
- A) "It's up to HAFIZ RAHMAN if he gives me any money after this week's stay. He has given me free food while I've been staying here though."
- Q) What name does the employer know you as?
- A) "They know me as [REDACTED] It's my nickname."
- Q) Did you show documents before being offered the job? If so, what?
- A) "No."
- Q) Does your employer know you're not allowed to work in the UK?
- A) "No."

At approximately 21:05 myself and my team exited the premises and the subject was transported to police custody.

I exhibit JL/20092019, which is a ten page print out of my electronic notes which I made at the time of the Immigration enforcement visit.

Signature: [REDACTED]

Witnessed by: N/A

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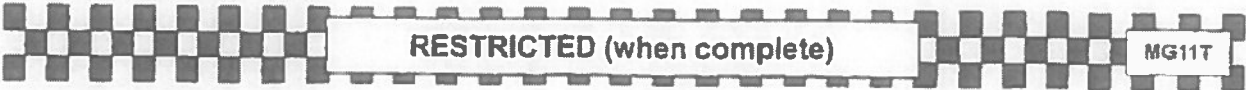
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RESTRICTED (when complete)

MG11T

Not Disclosable

Witness contact details

Work address: Cardiff Arrest Team, Immigration, Compliance and Enforcement Team, Floor 2, General Buildings, 31 - 33 Newport Road, Cardiff, Postcode: CF24 0AB

Work telephone No: [redacted]

Work Mobile: [redacted]

E-mail address: [redacted]@homeoffice.gsi.gov.uk

Preferred means of contact (specify details): Email

Best time to contact (specify details): Week day

Gender: Female [redacted] Date and place of birth: [redacted]

Former name: [redacted] Ethnicity Code (16 + 1): [redacted]

DATES OF WITNESS NON-AVAILABILITY: N/K

Witness care

- a) Is the witness willing to attend court? YES. If 'No', include reason(s) on form MG6.
b) What can be done to ensure attendance? N/K
c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?
d) Does the witness have any particular needs? YES. If 'Yes' what are they?

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..." Yes No
d) I consent to police having access to my medical record(s) in relation to this matter 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, or other proceedings if applicable, e.g. child care proceedings, CICA Yes No N/A

Signature of witness: [redacted] PRINT NAME: [redacted]

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

Address and telephone number (of parent etc.), if different from above: N/A



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OFFICIAL SENSITIVE

Entry to Premises					
Details					
Type of work	Visit				
Visit reference	EV24-31,935				
Created by	[REDACTED]				
Address	Tale Of Spice Chippenham, Malmesbury Road, Chippenham, Wiltshire, SN15 1QA (Visit Address)				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>391453</td> </tr> <tr> <td>Northing</td> <td>174760</td> </tr> </table>	Easting	391453	Northing	174760
Easting	391453				
Northing	174760				
Creation date	20-09-2019 18:20:04				
Power of Entry					
Entry gained	Yes				
Time of entry	18:15				
Are you the officer who gained entry?	No				
Name of officer who gained entry	[REDACTED] - Officer				
Power of entry used	Section 179 Licensing Act 2003				
Subject Declaration					
I confirm that I give consent for Immigration Enforcement to enter the premises. My rights have been explained to me and I understand that I may withdraw the consent.					
No signature provided					
Notice to Occupier					
Are you the officer that served the Notice to Occupier?	No				
Notes					
An arrest was then made after entry under S179, and then an our Statutory powers started. When inviting kitchen workers out from the kitchen when we where on S179, I witness a make in a red tshirt go up to the accommodation above.					

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OFFICIAL SENSITIVE

Encounter	
Details	
Type of work	Visit
Visit reference	EV24-31,935
Created by	[REDACTED]
Prontoid	[REDACTED]
Time	18:22
Created at geolocation	Easting 391467 Northing 174768
Creation date	20-09-2019 18:22:24
Chosen Identity	
Identity source/type	Biographic
Name	[REDACTED]
DOB	[REDACTED]
Gender	Male
Nationality	[REDACTED]
Languages	
Languages spoken	None specified
Interpreter used?	
Encounter	
Type of encounter	Subject
Encountering officer	[REDACTED] Officer
Declared immigration status	Provided me with ARC card
How and when did the subject last enter the UK?	2001
Is this person the subject of the visit?	Yes
Where in the premises was the subject located?	Subject seen trying to avoid immigration by going upstairs to accommodation. Subject wearing red tshirt and was seen wearing an apron over it in the kitchen area.
Do you know the subject's CID Person ID?	Yes
CID Person ID	[REDACTED]
Details of vulnerabilities/ safeguarding issues	No.
Section 55 issues?	No

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OFFICIAL SENSITIVE

Referral to social services?	No
Referral to NRM (National Referral Mechanism)?	No
Duty to Notify/MS1 referral made?	No
References (Person ID, HO Ref, Port Ref, BRP)	
Biographic search results	Systems checked Result of checks Asylum refused April 2016, ARE 16.01.18 PVOT 23.05.19 negative. Reporting - set up on 14.11.15 never showed at Becket house. No Docs. ETD - no trace. Status returned by system checks FAS

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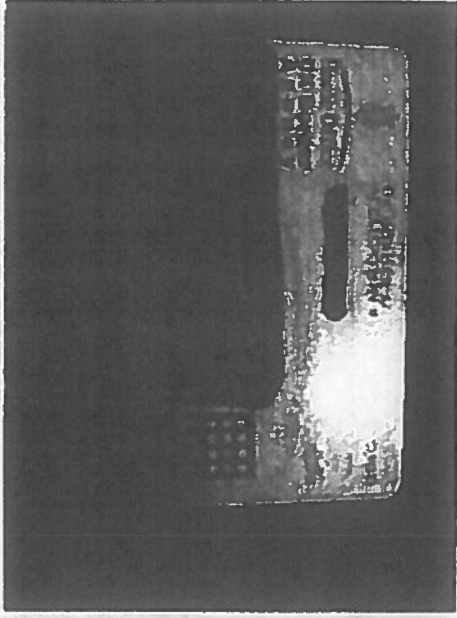
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OFFICIAL SENSITIVE

Identity Documentation

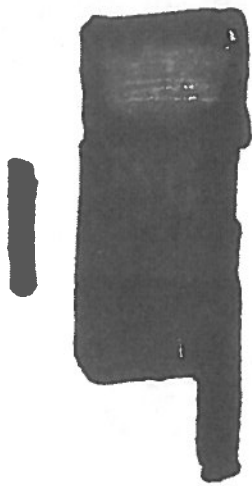
<p>Document 1</p>	<p>Document type BRP</p>	
	<p>Name in document (if different from above)</p>	
	<p>Document reference</p>	
	<p>Document expiry date</p>	
	<p>Country of issue (if different from nationality above) United Kingdom</p>	
	<p>Suspected fraudulent No</p>	
	<p>Notes</p>	
	<p>Photos</p>	
	<p>ARC</p>	

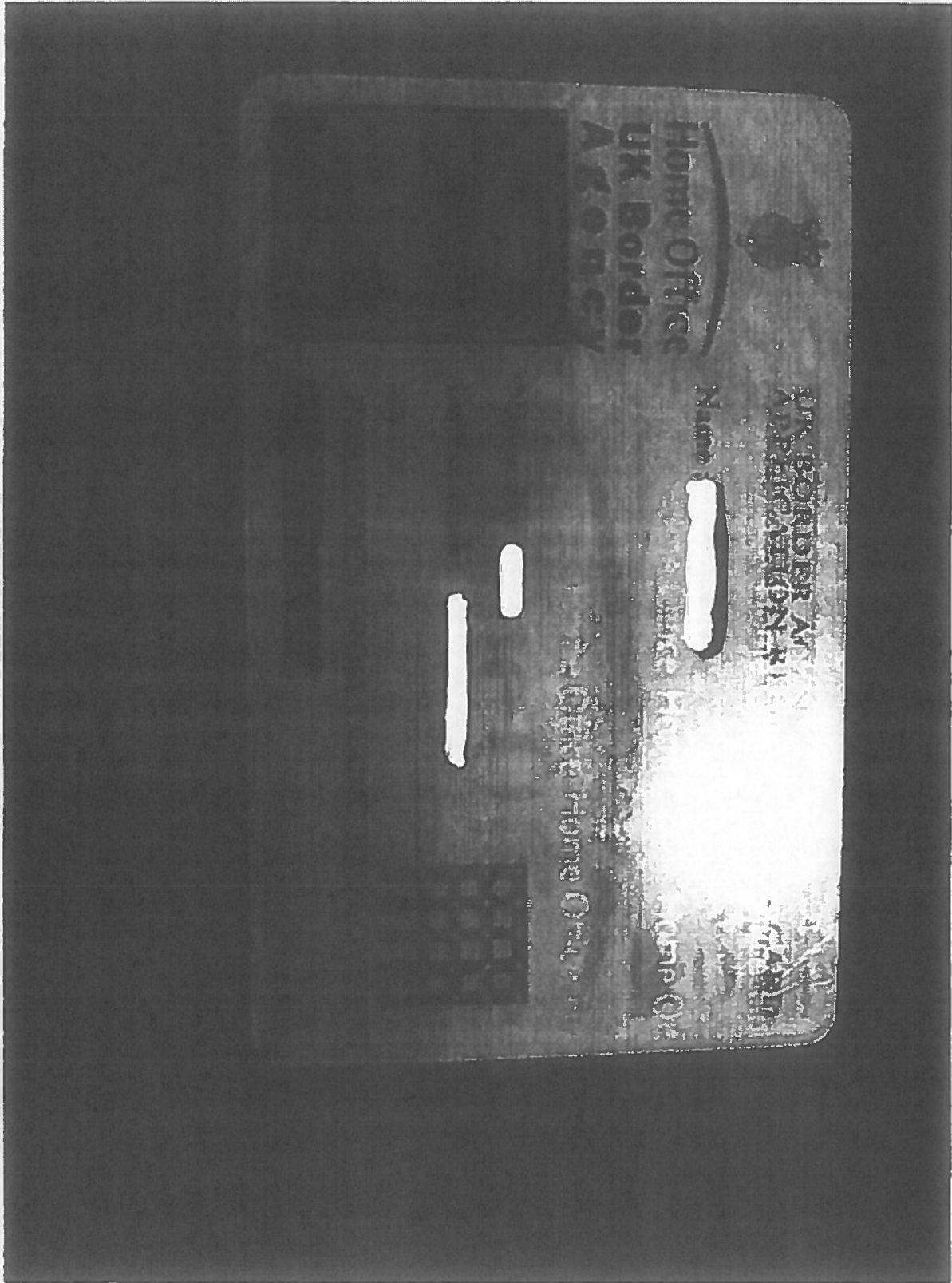
Notes

Is this your permanent address? No
 (sat navs shows address does exit).
 I'm just helping them today.
 Why where you upstairs.
 I needed the toilet so went upstairs.

Management Checks Complete

<p>Date management checks complete</p>	<p>23-09-2019 14:18:38</p>
<p>Reviewer(s)</p>	







OFFICIAL SENSITIVE

Illegal Working - Employee	
Details	
Type of work	Visit
Visit reference	EV24-31,935
Created by	
Prontoid	
Subject CID Person ID	
Subject name	
Subject DOB	
Subject nationality	
Subject gender	Male
Time	18:52
Created at geolocation	Easting 391437 Northing 174772
Creation date	20-09-2019 18:51:59
Language of Interview	
What language is the interview carried out in?	
Interpreter used?	Yes
Details of interpreter	
Obligation	
How long have you been working here?	I've been here staying upstairs for a week. I've been helping just today, as its friday they expect to get busy.
What is your job role/ what are your duties?	Cleaning dishes and helping in the kitchen, sometimes I help packing the takeaway food.
What days/ hours do you work each week?	I came downstairs 5.30 until about 8.30 . I cant work around hot oil so not too long as I felt a skin allergy from it.
Do you work the same hours/ days every week?	No, just today.
Control	
Who owns this takeaway / restaurant?	I don't know i've come here to see Hafiz RAHMAN. (Subject pointed to the male at bar speaking to licensing officer. Male is the DPS)
Who allows you to sleep above the takeaway/restaurant?	Hafiz RAHMAN
What is Hafiz job here?	He works at the front as a waiter.

Who gave you this job (name and role in business)?	Hafiz RAHMAN
Who tells you what days/ hours to work?	Hafiz RAHMAN said help out just Friday, today. I'm going back to my friends address in Birmingham tomorrow.
Who tells you what tasks/ duties to do each day?	Hafiz RAHMAN said to help cleaning dishes today.
Who gave you the apron.	I asked the kitchen staff for an apron, as didn't want to ruin my clothes.
Remuneration	
How are you paid (money, accommodation, food)?	There was no agreement to work help out in exchange for sleeping here for a week.
how do you support yourself financially?	My friends help me out, the ones i stay with.
has Hafiz RAHMAN given you any money.	It's up to Hafiz RAHMAN if he gives me any money after this weeks stay. He has given me free food while I've been staying here though.
Pre-employment Checks	
What name does the employer know you as?	[REDACTED]
Did you show documents before being offered the job? If so, what?	No.
Does your employer know you're not allowed to work in the UK?	No.
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
Interviewee signature [REDACTED]	
20-09-2019 19 14 16	

Observations	
Observations	
Management Checks Complete	
Date management checks complete	23-09-2019 14:18:39
Reviewer(s)	

