

**WITNESS STATEMENT**

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

This statement (consisting of 1 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: ..... [REDACTED] .....

Date 6<sup>th</sup> November 2019 .....

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

I am Arrest Trained Immigration Officer [REDACTED] serving with the IMMIGRATION, COMPLIANCE & ENFORCEMENT TEAM, (EAST OF ENGLAND), UNIT 2, FRANKLIN COURT, PRIORY BUSINESS PARK, BEDFORD MK44 3JZ. My current role is as an arrest officer of the East of England Immigration Enforcement arrest team, responding to intelligence relating to alleged immigration offences in this area, liaising with local police and other law enforcement agencies and supporting other government departments, local authorities and relevant other organisations in enquiries or investigations relating to non British nationals. On 31<sup>st</sup> October 2019 I was assigned the role of Deputy Bronze Commander on an immigration enforcement visit conducted to THE RED ROSE INDIAN RESTAURANT, 1 GEORGE STREET, KETTERING NN16 0AW. At approximately 18:15hrs Along with other officers I entered the front public entrance of the premises and encountered three males dressed in all black Waiters type uniform. One of these males was addressed by the Officer In Charge (OIC) of the visit in order to execute the Warrant on him, he wrote his name down on a piece of paper as [REDACTED] the OIC then asked me to obtain further details from him and conduct immigration status checks, but he then stated to the OIC that he needed to get the premises keys from the kitchen in order to stop any further customers entering the premises, he then made his way to the kitchen followed by the OIC. As there were other officers in that kitchen the OIC allowed him to get the keys on his own, however, he left the restaurant through an unknown route and did not re-enter the restaurant for the entirety of our visit. I subsequently asked other employees and the Manager who this [REDACTED] was, nobody recognised the name. One employee stated that this male, who I suspect had given us a false name, had probably escaped through a Fire Escape accessed via a small doorway in the kitchen leading to a fire escape exit that would not have been readily apparent to our rear cover officers. I assisted the OIC in questioning the Manager "SA" who refused to answer any questions asked of him merely giving us the name of the owner who he stated was currently on holiday in Morocco but would be returning to the restaurant on Monday and field any question we had then. As "SA" would not answer any questions I asked him for the owner's mobile number so that we could call and discuss the staffing at the restaurant with him, "SA" refused to give that number. I conducted status checks on "SA" which confirmed that he had the right to work. All the other five employees encountered in the restaurant had no right to work, four were arrested and I escorted them from the premises to the cell van, "SA" asked each one as they passed if they had the keys to the premises for him to be able to lock the restaurant up. In an earlier conversation I had with "SA" he stated that he and the owner were the two Designated Premises Supervisors for the Alcohol License of the Red Rose Restaurant. Last line of statement.....

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 Immigration Officer [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 4 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: 06/11/2019

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

I am Immigration Officer AR, Warrant number [redacted] a member of the Arrest Team at the Immigration Compliance and Enforcement Team (ICE), EAST OF ENGLAND, IMMIGRATION ENFORCEMENT, HOME OFFICE in BEDFORD.

On the 31/10/2019 I was on shift in full uniform and full personal protective equipment. The visit team was briefed by the Officer In Charge (OIC), IO [redacted] and we were informed that we would be visiting The Red Rose Indian restaurant, 1 George Street , Kettering, NN16 0AW. I was instructed by the OIC to enter the front of the premises and sweep the ground floor to the rear of the premises. The purpose of the search was to locate and arrest MRM and any other persons who are subject to immigration control, who are working in breach of their leave or bail. Or are otherwise present in the UK without leave, or have entered the UK illegally.

At approximately 18:14 the visit team arrived at The Red Rose Indian Restaurant and the team deployed. Entry was gained and a warrant, granted under Schedule 2, Paragraph 17 (2) Immigration Act 1971 (as amended) by South East Magistrates Court, was executed. IO [redacted] and I entered the kitchen and encountered three males. I now know one of these males to be the manager and one of the others to be [redacted] [redacted] and the other male were wearing white chef aprons and when they saw officers they began to take off these aprons. I remained with these three males at the door of the kitchen while my colleagues were sweeping outside and upstairs. It was clear over the radio that there had been someone who had attempted to evade officers. I spoke with the OIC and sought to find a sterile area where the people we had encountered working could be spoken to and their details could be

Signature:

[redacted signature]

Signature witnessed by: .....

Continuation of Statement of .....

ascertained. The three subjects were taken upstairs to the seating area by IO [REDACTED] and I. When the other officers had finished their search and had brought the remaining two subjects to the seating area, I began to ascertain the details of [REDACTED] one of the males encountered in the kitchen.

I was informed by [REDACTED] that he had entered the United Kingdom in 2003 on a work permit which had expired in December 2004. [REDACTED] told me that he had sought no leave to remain following his visa expiring. [REDACTED] was arrested as a person liable to be detained under Paragraph 16 under Schedule 2, Paragraph 17(1) Immigration Act 1971 (as amended).

Checks on Home Office systems showed that [REDACTED] had previously been served immigration paperwork as someone who had entered the United Kingdom illegally exercising verbal deception. He was not permitted to work.

At approximately 18:48 an illegal working Q&A was conducted with [REDACTED] using a [REDACTED] Bigword interpreter via telephone. The interpreter's reference number was [REDACTED]

The Q&A was as follows:

Q How long have you been working here?

A Three weeks.

Q What is your job role/what are your duties?

A I work in the kitchen. I am a second chef.

Q What days/hours do you work each week?

A 5 days a week I work here. I work Tuesday, Wednesday, Thursday, Friday and Saturday. 17:00 – finish, sometimes 23:00 finish.

Q Do you work the same hours/day every week?

A Yes I do. It is the same.

Q How do you know you shifts/when to come to work?

A I came here for a job and they said I could start and stay. I looked for this job.

Signature:

03/2015

Signature witnessed by: .....

Continuation of Statement of .....

Q Who gave you this job (name and role in business)?

A There is a person in charge. I do not know his name. He told me I can work and stay here. He is not here tonight.

Q Who tells you what tasks/duties to do each day?

A This person is not here tonight – the manager.

Q How often do you see the manager?

A The manager will come once or twice a week and doesn't stay long then he will go.

Q Who is in charge when he isn't here?

A I do not know.

Q Are you paid?

A I get paid £100 cash and also accommodation and food. I get paid for five days working.

Q If money, how much and how do you receive it?

A I get £100 in cash.

Q Who pays you?

A I do not know the name of the person who gives me my wages – same person who gave me the job.

Q Do you pay income tax or have a National Insurance number?

A I did have a National Insurance number but I think this is expired now.

Q What name does the employer know you as?

A [REDACTED] Everyone knows me by this name.

Q Did you show documents before being offered the job? If so, what?

A No I did not. My passport is lost.

Q Does your employer know you're not allowed to work in the UK?

A I am not sure. I haven't seen him.

Q Did your employer ask to see any right to work documents?

A They did and I said I will show them my cases papers. I thought I was going to show them but I haven't and they haven't asked to see anything.

Q Where did you put your white apron?

A It is in the kitchen where I was standing.

Signature: [REDACTED]

Signature witnessed by: .....

Continuation of Statement of .....

Q Do you have a contract of employment?

A No.

Q Who gave you the white apron?

A All the employees who work in the kitchen have to wear this kind of apron to protect themselves.

Q Who else works here?

A subject identified the subject dealt with by IO JS as the first chef in the kitchen.

Q Who else do you share accommodation with?

A I live alone in one room.

Q Are you free to leave if you want?

A I am working here on my free will and I can leave if I want to. With my health conditions it is hard to find a job and they let me stay.

Q Are you happy working here?

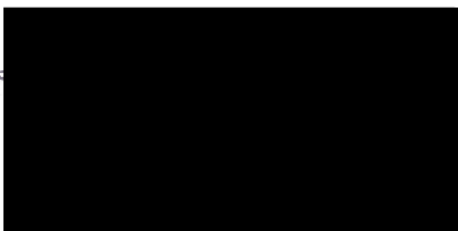
A Yes I am happy that I have accommodation and a job where I get money to use to pay for my prescription.

The subject then digitally signed my phone to confirm that he understood all the questions and that the details are true and correct.

The subject wanted to collect his medication and he was escorted to his room by IO [redacted] and I. The accommodation he was provided with was accessed by a locked door to the left of the customer toilets. This door was locked and [redacted] opened this with a key he had. Upstairs was his room and beyond that another room accessible via a locked door where another member of staff was living.

I have written this statement with reference to PRONTO and from my recollection of events.

Signature >



Signature witnessed by: .....

03/2015

### WITNESS STATEMENT

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

Statement of Immigration Officer [redacted] URN: EV7-38,401 [ ] [ ] [ ] [ ]

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

This statement (consisting of: .....<sup>4</sup>..... 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: 05/11/2019

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

I, officer [redacted] am a member of the IMMIGRATION COMPLIANCE and ENFORCEMENT team (ICE), EAST OF ENGLAND, IMMIGRATION ENFORCEMENT, HOME OFFICE in BEDFORD.

EV7-38,401- On Thursday 31/10/2019 I attended an Enforcement visit to THE RED ROSE INDIAN RESTAURANT, 1 GEORGE STREET, KETTERING, NN16 0AW to conduct a search of the premises for suspected Immigration offenders.

I arrived at the address at 18:15hrs and covered the front entrance with Immigration Officer [redacted] from the outside while Officer In Charge OIC [redacted] entered and served the warrant with IO [redacted] and [redacted] I was then called inside with IO [redacted] and entered the premises at 18:20hrs. I entered the kitchen and covered 3 males with IO [redacted] Two of these males were later arrested by IO [redacted] IO [redacted] IO [redacted] and IO [redacted] also made arrests of subjects in all 5 were arrested and 4 were taken to custody, 1 subject was bailed due to health conditions is not suitable for detention. A sterile area was cleared upstairs at the premises and I interviewed a male national of [redacted] He gave his name as [redacted] born [redacted]. The subject admitted working as a waiter at the business and was wearing a black shirt, black trousers, black shoes and black tie. The subject admitted to me that he had overstayed his

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

Continuation of Statement of

10

work permit visa and was working illegally. I confirmed this through HOME OFFICE checks and arrested the subject at 18:35hrs. I then conducted Mitigating circumstance, Illegal working questions, Questions & Answers, Compliant environment, Bio Data interview and offered the subject Voluntary departure as detailed below.

MITIGATING CIRCUMSTANCES:

No partner or children anywhere in the world

Claimed to have 2x sisters in the UK both married with families.

Father deceased, Mother in with Brother.

Claimed medical condition gastric, no medication

registered with GP in Blackburn but left the area 1 year ago.

No self harm issues

No mental health issues although subject stated he sometimes feels depressed.

Offered Vol but subject refused and claimed political difficulties in and the fact that his Asylum claim is based on him being Homosexual so he cannot return.

ILLEGAL WORKING QUESTIONS:

Q. "How long have you been working here?"

A. "3 months."

Q. "What is your job role/ what are your duties?"

A. "Waiter I serve the food."

Q. "What days/ hours do you work each week?"

A. "6 days a week 4 or 5 hours a day."

Q. "Who gave you this job?"

A. "My friend told me to come here for a job. Manwar gave me the job."

Signature:

Signature witnessed by:

Continuation of Statement of ..... 10 [REDACTED] .....

Q. "Did the manger give you the black shirt and trousers you are wearing and tell you to wear it for work?" \_\_\_\_\_

A. "No i had to buy it from the £60 he gave me and then he said I have to wear it when I work or help out." \_\_\_\_\_

Q. "Do you have to work in order to live here?" \_\_\_\_\_

A. "Yes they help me I help them." \_\_\_\_\_

Q. "If you said you didn't want to work would you have to leave accommodation?" \_\_\_\_\_

A. "Yes." \_\_\_\_\_

Q. "How many meals a day do they give you?" \_\_\_\_\_

A. "I get 2 meals a day lunch and dinner." \_\_\_\_\_

Q. "Do you feel safe here?" \_\_\_\_\_

A. "Yes." \_\_\_\_\_

Q. "Are you happy to work here?" \_\_\_\_\_

A. "Yes I am. But I am not happy I don't have leave to be in UK. I would like to stay here." \_\_\_\_\_

Q. "Has the manager ever hurt you or any other staff?" \_\_\_\_\_

A. "No." \_\_\_\_\_

Q. "Do you think everybody is happy to work here?" \_\_\_\_\_

A. "Yes." \_\_\_\_\_

Q. "How are you paid (money, accommodation, food)?" \_\_\_\_\_

A. "Food and accommodation sometimes I get pocket money. £50-£60 a week." \_\_\_\_\_

Q. "Who pays you?" \_\_\_\_\_

A. "Manwar the manger." \_\_\_\_\_

Q. "How long have you lived here at the restaurant?" \_\_\_\_\_

Signature: ..... [REDACTED] ..... Signature witnessed by: .....



Continuation of Statement of

10

A. "4 months." \_\_\_\_\_

Q. "How many people live here at the restaurant?" \_\_\_\_\_

A. "4 or 5 people". \_\_\_\_\_

Q. "Did the manager Manwar ask you for any proof of right to work?" \_\_\_\_\_

A. "Yes he did and I told him I don't have any so he said just help when I need you to." \_\_\_\_\_

Q. "Does your employer know you're not allowed to work in the UK?" \_\_\_\_\_

A. "Yes he knows I am illegal." \_\_\_\_\_

Staff conformation: \_\_\_\_\_

My subject confirmed that IO [redacted] IO [redacted] and IO [redacted] subjects all work as cooks in the kitchen.

My subject did not see IO [redacted] subject so this question was not asked regarding that subject.

The subject was searched by IO [redacted] as he claimed to not have a wallet or any Identity \_\_\_\_\_

documents on his person but I believed that having previously been a student the subject \_\_\_\_\_

would have some form of Identity documentation even though it may be expired. The search of

person did not reveal any identity documentation. \_\_\_\_\_

Myself and IO [redacted] conducted a search of the subjects bedroom where I found his [redacted]

birth certificate and photocopy of his [redacted] passport. The subject also had a bank card

and 2 bank cards belonging to someone else (these were reported to custody and seized by

police). The subject was taken to Weekly Woods custody Northampton police. \_\_\_\_\_

This statement is made from my recollection of events and with reference to Pronto (Home Office system). \_\_\_\_\_

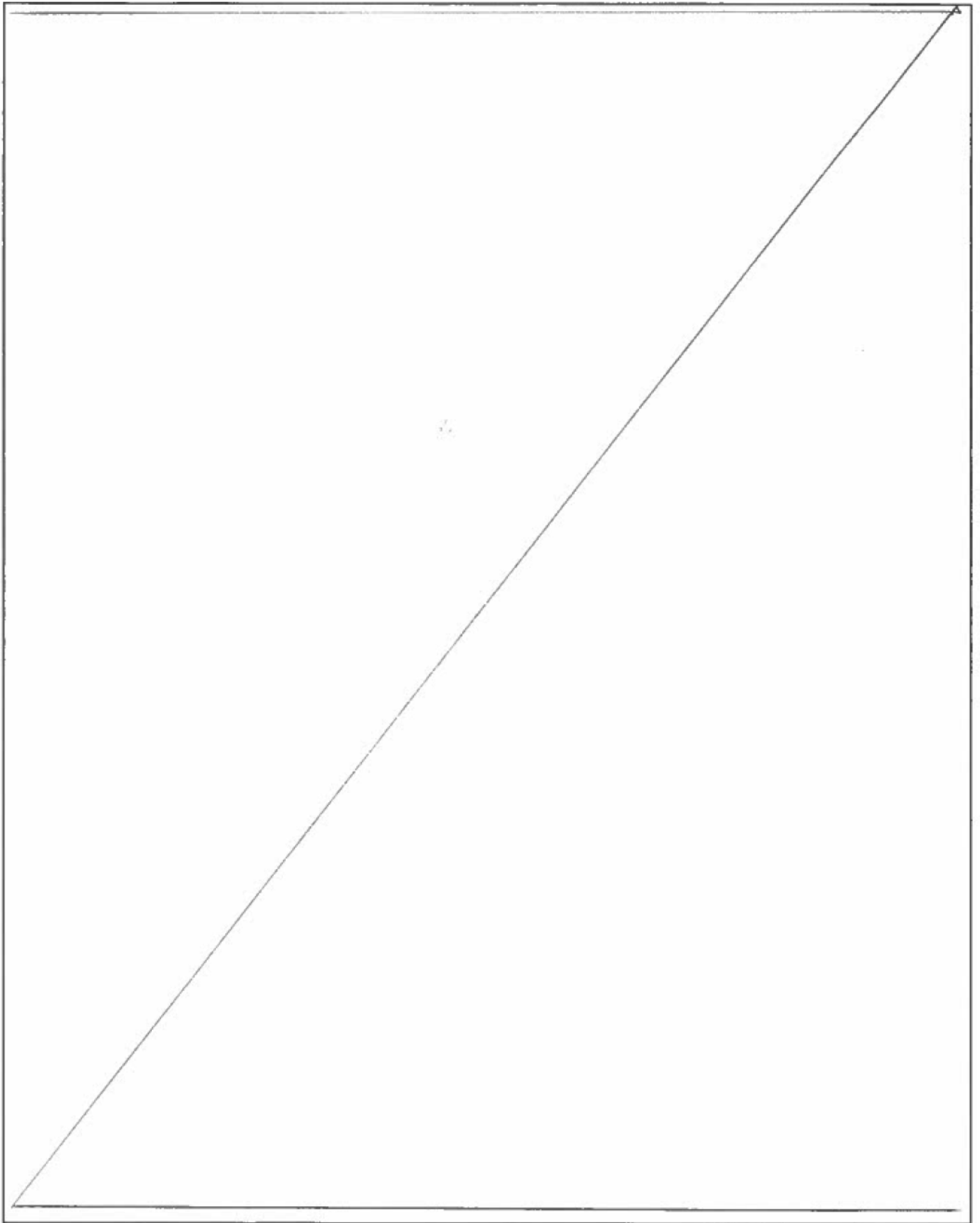
IO [redacted] \_\_\_\_\_

ICE East of England \_\_\_\_\_

Signature: [redacted]

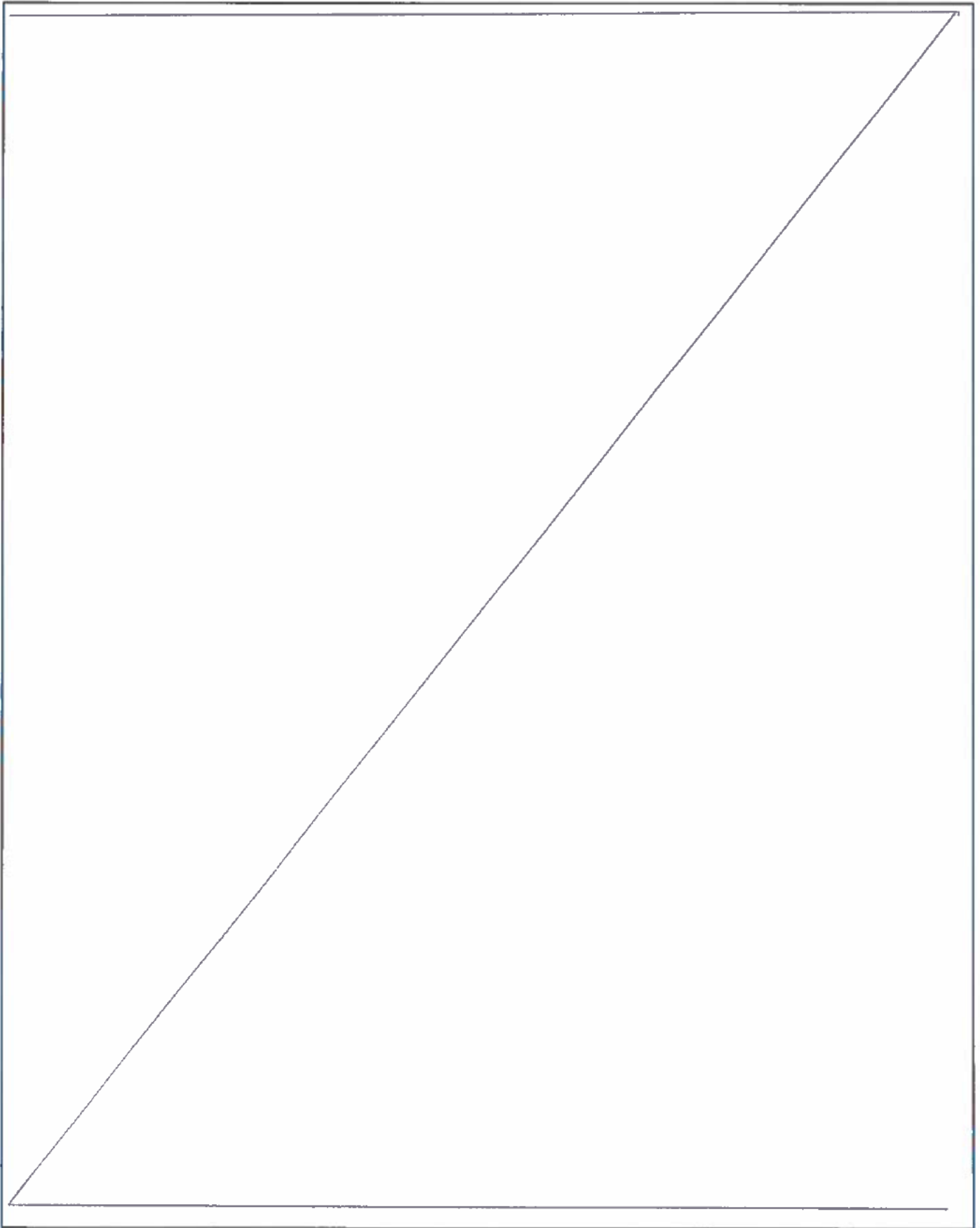
Signature witnessed by: \_\_\_\_\_

Continuation of Statement of ..... 10 [REDACTED] .....



Signature: ..... [REDACTED] ..... Signature witnessed by: .....

Continuation of Statement of ..... 10 .....  
.....



Signature: ..... [Redacted] ..... Signature witnessed by: .....

**Witness contact details**

URN : / / /

Name of witness: Immigration Officer [REDACTED].....  
 Home address: ICE East of England, Unit 2 Franklin court, Priory Business park, Bedford. Postcode:MK44 3JZ  
 Email address [REDACTED]@homeoffice.gov.uk  
 Work telephone number [REDACTED]  
 Preferred means of contact (specify details for vulnerable/intimidated witnesses only):work telephone/ Email  
 Gender [REDACTED] 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' Courts Act 1980, s.5B

Statement of Immigration Officer [redacted] URN: [ ] [ ] [ ] [ ]

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

This statement (consisting of 4 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: ..... Date: 05/11/2019

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

I am Immigration Officer [redacted] Warrant number [redacted] and a member of the Arrest Team at the IMMIGRATION Compliance and Enforcement Team (ICE), EAST OF ENGLAND, IMMIGRATION ENFORCEMENT, HOME OFFICE in BEDFORD.

On the 31/10/2019 I arrived for my shift at FRANKLIN COURT, BEDFORD at approx 16:00pm in my full uniform and arranged my full PPE for the job which included a stab vest, belt which consisted of my handcuffs, baton, first aid mask and my radio.

The team consisted of IO [redacted] as Officer in Charge (OIC), IO [redacted], IO [redacted], IO [redacted] IO [redacted], IO [redacted], IO [redacted] and me. We briefed at approximately 16:45pm. I was given the role of Cover Officer. The premises we visited was a commercial visit to The Red Rose Indian restaurant, 1 George Street , Kettering, NN16 0AW.

At approx 18:13hrs we arrived at the property and entered under a schedule 2 paragraph 17 (2) warrant issued by South East Magistrates Court on 10/10/2019. This warrant was to search for the target [redacted] and any other persons who are subject to immigration control, who are working in breach of their leave or bail, or are otherwise present in the UK without leave, or have entered illegally.

Upon arrival at the premises myself and IO [redacted] covered the front of the premises whilst IO [redacted], IO [redacted], IO [redacted] and IO [redacted] entered the premises. IO [redacted] and [redacted] provided rear cover. I heard over the radio that a male had ran upstairs and confirmed with IO [redacted] that she wanted myself and IO [redacted] to enter the premises. I then entered the premises and walked through the seating area and through to the kitchen where I spoke to three members of staff and asked who else was in the premises. A staff member with glasses said there was another male through the kitchen and my colleague IO [redacted]. I proceeded through the kitchen and spoke to IO [redacted] and he asked for me to

Signature: ..... Signature witnessed by: .....

Continuation of Statement of .....

come with him to search up the stairs.

I proceeded up the stairs and there were a number of rooms on the left hand side which appeared to be bedrooms. There was also a passage way which led to a door with further restaurant seating. Myself and IO [redacted] looked in these rooms for the subject and at first he could not be found. A radio check with colleagues by IO [redacted] confirmed a male had been seen running up the stairs and had not exited the premises. It was then I leant down on one knee and looked under the bed in the second room on the left as you come up the stairs. I saw a persons leg and as I leant further down, I shone my torch and could see a male tucked into a ball in the corned under the bed. I told the male he is under arrest and to show me his hands and to slowly move out from under the bed. The male crawled out and I asked him to sit on the bed. I then gave the subject the administrative caution. The subject then identified himself as AU.

Subject was asked at approximately 18:24hrs:

[redacted] What is your Immigration Status?

[redacted]: In the country illegally.

[redacted] How and when did you enter the UK? On a visa?

[redacted]:1993 on a visa.

[redacted] was then led to the seating area through the passage way and was sat at a table where a Q&A was conducted. This included questions on his mitigating circumstances.

At approximately 19:04hrs an illegal working Q&A was conducted with the subject using a [redacted] interpreter through the Big Word interpreting service. The interpreter's reference number was [redacted].

The Q&A was as follows:

[redacted]: How long have you been working here?

[redacted]: Just came today.

[redacted]: What is your job role/ what are your duties?

[redacted]: I wash all the pans and help the chef.

[redacted]: What days/ hours do you work each week?

[redacted]: I would work today, friday and saturday and then return to london as i have a return ticket. I work from 6:30pm to 22:30pm

[redacted]: Do you work the same hours/ days every week?

Signature: ..... Signature witnessed by: .....

Continuation of Statement of .....

- : Never been here before this is my first time.
- : Who gave you this job (name and role in business)?
- : A friend in northampton said they needed help with work so i came with them to help. SU, he introduced me and told me to get a train and where to go. I only came today.
- : Who were you told to ask for when you first came to the restaurant?
- : SM.
- : Who tells you what tasks/ duties to do each day?
- : A and the other workers who are being spoken to by officers.
- : Who tells you what days/ hours to work?
- : SU told me what days to go there. He told me the hours and i know they close at 22:30 so would finish then.
- : Who provides your equipment?
- : It was already there and i just helped myself.
- : Who provides your clothing?
- : Was already there so just put an apron on.
- : Who else works here?
- : A is the only person i know the name of.
- : How often do you come here?
- : This is the first time.
- : How are you paid (money, accommodation, food)?
- : Cash in hand, i dont know how much they will pay me. I would have something to eat, so free food. I came today and have a room and would have slept upstairs.
- : Who said you can live upstairs?
- : I arrived and one of the workers said you will be staying upstairs and showed me, i dont known his name.
- : If money, how much and how do you receive it?
- : Maybe Saturday night as i would leave Sunday. Between £60-£80.
- : Who pays you?
- : Might be the manager, im not sure.
- : Do you pay income tax or have a National Insurance number?

Signature: ..... Signature witnessed by: .....



Continuation of Statement of .....

█: No i dont pay tax, i have a national insurance number and it is at my home with my wife.

█: Who pays for your travel to work?

█: I did, my wife gave me the money.

█: What name does the employer know you as?

█: █

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

█; No they havent asked for anything.

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

█: Im not sure because they didnt ask.

█: Do you have a contract of employment?

█: No i don't.

█: Why were you hiding under a bed when encountered?

█: I got really scared as everyone started running.

█: Are you currently working anywhere else?

█: No never anywhere else.

█: Are you aware you are not permitted to work?

█: Yes i know.

█: Would part of your earnings pay for you to be allowed to sleep here?

█: For the food and me to stay here, it is all included as part of my work.

The subject then digitally signed my phone to confirm that the answers he gave are true.

I then joined my colleagues in exiting the premises at approximately 21:10hrs.

I made this statement from my contemporaneous notes from my recollection of events at the next available opportunity.

Signature: ..... Signature witnessed by: .....

Witness contact details

URN: / / /

Name of witness: [REDACTED]

Home address: Unit 2, Franklin Court, Priory Business Park, Bedford Postcode:MK44 3JZ

Email address: [REDACTED]

Mobile: [REDACTED]

Home telephone number: N/A

Work telephone number: [REDACTED]

Preferred means of contact (specify details for vulnerable/intimidated witnesses **only**): *email*

Gender [REDACTED]

Date and place of birth: [REDACTED]

Former name: N/A

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: [REDACTED]

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: .....

**RESTRICTED (when complete)****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 9300

This statement (consisting of 4 page 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: 06/11/2019

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

I am an Immigration Officer, warrant number [REDACTED] based at the Immigration Enforcement Office in BEDFORD.

On 31/10/2019 I was part of an Immigration Enforcement team that executed a warrant at The Red Rose Indian Restaurant, 1 George Street, Kettering, NN16 0AW. Visit reference EV7-38, 401.

At approximately 18:15 hours the team arrived at the property and deployed. I was assigned a rear cover role, there were four doors that I could see and three people tried to exit the building and I advised them to return inside.

Over the radio the Officer In Charge asked me to enter the premises.

I entered the premises and over the radio an officer asked where the male in the black shirt and tie had gone. I advised that I would return outside. As I exited the premises I saw a male in a black shirt and tie exiting the rear of the premises. I said 'Immigration, Stop' the male continued to walk away. I quickened my pace and said again 'Immigration, Stop' the male stopped, looked at me, started walking again and then stopped as I came level with him. I placed the male under arrest and using the escort position I escorted him back to the premises. Whilst walking back to the premises the male said he was not working. I advised him I had not asked him any questions and we would speak once back inside the premises.

On entering the premises I saw IO [REDACTED] speaking with a male who I now know to be the manager of the business, at the bar area. OIC [REDACTED] was also present. The manager was not being compliant and had to be asked to calm down and listen to officers and answer questions being put to him.

I asked the male I had arrested to sit down and began to question him, I asked for his name, date of birth and nationality. The male gave details of:

[REDACTED] Male, [REDACTED], checks carried out on these details the male could not be found on Home Office systems. I advised the male that he would be placed on the

Signature... [REDACTED]

'grabba' and his finger print would be scanned which would give his identity as he claimed to have an outstanding case with the Home Office. Once the males fingerprints had been taken he then gave his true identity, he admitted that his date of birth was in fact [REDACTED]. The results of the 'grabba' confirmed this identity. The male was All Rights Exhausted from 02/08/2017 he claimed he did not know this and later on said he did know this. Whilst trying to ascertain the identity of the male the manager kept trying to talk to him and I had to ask him not too. Due to this I moved the male from where he was sitting to another part of the premises so I could speak to him without being interrupted.

[REDACTED] Where do you live?

[REDACTED] I am never there though, I live and work here at the restaurant.

[REDACTED] Do you have any friends or family in the UK?

[REDACTED] No.

[REDACTED] I'm sorry I ran but I was frightened I know I shouldn't be working here, but I have nothing else to do. I know I am working illegally.

[REDACTED] How long have you been working here?

[REDACTED] Six to Seven months.

[REDACTED] What is your job role and your duties?

[REDACTED] I am a waiter.

[REDACTED] What days/ hours do you work each week?

[REDACTED] Five to Six days per week, and I stay here as well.

[REDACTED] Do you work the same hours and days every week?

[REDACTED] Not always the same days, I have to work to get money. Most of the time a full time week. 16.30 to 23.30. Weekends until midnight.

[REDACTED] How much are you paid?

[REDACTED] About 35 to 45 pounds.

[REDACTED] Who pays you?

[REDACTED] Manower (that's the only name I know him by) he is not here today.

[REDACTED] Did you show your passport to manager for the job?

[REDACTED] Manower asked for documents I explained my situation and he agreed to help me. He knows my immigration status.

[REDACTED] How did you get the job/gain employment?

[REDACTED] I saw the job advertised in the job centre, I called the restaurant and explained my situation and Manower took me on.

Signature.. [REDACTED] ..

Can you confirm the managers were aware of your immigration status and that you are here illegally in the UK?

Yes

How are you paid?

Cash, always cash.

Do you receive a pay slip?

No

Are you given food or accommodation by the managers?

I am provided with food and accommodation.

Did the managers ever advise you to contact Immigration?

No.

What time did you start work today?

16.30, I was upstairs before that.

What time were you due to finish today?

23.30.

Who gave you this job (name and role in business)?

Manower he is the business owner.

Who tells you what days and hours to work?

Manower, today it was his brother in law. He pointed to the man the OIC had served the Notice To Occupier and Warrant on. (Sonour ALI – the manager)

Who tells you what tasks and duties to do each day?

Manower or his brother in law. (Sonour ALI)

How are you paid (money, accommodation, food)?

Cash, food and accommodation.

If money, how much and how do you receive it?

35 to 45 cash a day.

Who pays you?

Manower

Signature.....

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

No.

What name does the employer know you as?

The name I have given you.

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

No. He knows my status and said it was ok and he would help me.

Does your employer know you're not allowed to work in the UK?

Yes.

Are you provided with a uniform?

The waiters have to wear black shirt, tie and trousers and we all have to buy them ourselves.

Who else works here?

There are ten people that work here, five front of house staff and five kitchen staff. If you had come on Friday or Saturday night all ten staff would have been on duty. Not everyone is here today but they all live upstairs as well but they are out.

At approximately 21:11 hours I exited the premises with the manager asked if he had his keys for the building and he said he did not have his with him.

IO  
BEDFORD ICE TEAM

[Redacted signature area]

Signature. [Redacted signature]



**RESTRICTED – FOR POLICE AND PROSECUTION ONLY  
(when complete)**

Home address: IMMIGRATION ENFORCEMENT TEAM UNIT 2, FRANKLIN COURT, STANNARD WAY,  
PRIORY BUSINESS PARK, BEDFORD.

Postcode: MK44 3JZ

Home telephone No. N/A

Mobile/Pager No. [REDACTED]

E-mail address (if applicable and witness wishes to be contacted by e-mail):

[REDACTED]

Contact point (if different from above): N/A

Address: N/A

Work telephone No. [REDACTED]

Female

Date and place of birth: [REDACTED]

Maiden name: [REDACTED]

Height: [REDACTED]

Ethnicity Code: [REDACTED]

State dates of witness non-availability:

I consent to police having access to my medical record(s) in relation to this matter: Yes  No

I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No

The CPS will pass information about you 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:

Does the person making this statement have any special needs if required to attend court and give evidence? (e.g. language difficulties, visually impaired, restricted mobility, etc.). If 'Yes', please enter details. Yes  No

Does the person making this statement need additional support as a vulnerable or intimidated witness? If 'Yes', please enter details on Form MG2. Yes  No

Does the person making this statement give their consent to it being disclosed for the purposes of civil proceedings (e.g. child care proceedings)? Yes  No

Statement taken by (print name): SELF WRITTEN

Station: Home Office BEDFORD

Time and place statement taken: 15:40, 06/11/2019- IMMIGRATION ENFORCEMENT TEAM, UNIT 2,  
FRANKLIN COURT, STANNARD WAY, PRIORY BUSINESS PARK, BEDFORD, MK44 3JZ.



Signature... [REDACTED] .....





### WITNESS STATEMENT

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

Statement of Immigration Officer [redacted] URN: [ ] [ ] [ ] [ ]

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

This statement (consisting of 4 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: 06/11/2019

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

I am Immigration Officer [redacted] Warrant number [redacted] and a member of the Arrest Team at the IMMIGRATION Compliance and Enforcement Team (ICE), EAST OF ENGLAND, IMMIGRATION ENFORCEMENT, HOME OFFICE in BEDFORD.

On the 31/10/2019 I arrived for my shift at FRANKLIN COURT, BEDFORD at approx 14:15 in my full uniform and arranged my full PPE for the job which included a stab vest, belt which consisted of my handcuffs, baton, first aid mask and my radio.

The team consisted of IO [redacted] as Officer in Charge (OIC), IO [redacted] IO [redacted] IO [redacted] IO [redacted], IO [redacted] IO [redacted] and me [redacted] We briefed at approximately 16:45pm. I was given the role of Cover Officer. The premises we visited was a commercial visit to The Red Rose Indian restaurant, 1 George Street , Kettering, NN16 0AW.

At approx 18:18hrs we arrived at the property and entered under a schedule 2 paragraph 17 (2) warrant issued by South East Magistrates Court on 10/10/2019. This warrant was to search for the target [redacted] and any other persons who are subject to immigration control, who are working in breach of their leave or bail, are otherwise present in the UK without leave, or have entered illegally.

Upon arrival at the premises myself and IO [redacted] entered the kitchen a total of 3 males were encountered working in the kitchen 2 of the 3 males were in chef whites which they immediately removed upon seeing IO [redacted] and I.

IO [redacted] escorted the 3 males into the restaurant dining area. IO [redacted] who was rear cover with IO [redacted] conveyed over the airwaves that a male had been seen running up the stairs from the kitchen. IO [redacted] IO [redacted] IO [redacted] and IO [redacted] were in the front of house and dining area. IO [redacted] came in to the kitchen and I requested his assistance with the search upstairs. As I entered up the stairs imideaty on my left were 2 bedrooms and there was a passage

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

Continuation of Statement of .....

way which led to a door with further customer seating area. IO [REDACTED] and I searched the accommodation for the male who had been seen going upstairs. I conducted an airwave check with rear cover officers, who confirmed the male seen running up the stairs and had not exited the premises. IO [REDACTED] and I re-entered the bedrooms for another look. IO [REDACTED] got on his knees to look under the beds and shone his torch, I heard IO [REDACTED] shout come out and put your hands where I can see them. A few seconds later a male emerged from under the bed and IO [REDACTED] arrested the man on suspicion of being an illegal entrant. The male was escorted to the upstairs dining area and upon entering I noticed 4 male workers sat down with IO [REDACTED] and IO [REDACTED] IO [REDACTED] took the arrested male and sat him down. I was requested by IO [REDACTED] to take 1 of the males sat down who had yet to be spoken to. I escorted the male who I recognised as being in the kitchen when I first entered and sat him down at a separate table. The male was asked his name which he provided as [REDACTED] along with his date of birth. [REDACTED] confirmed that he had entered the UK on a work permit which had since expired and he stated that he was an overstayer. Checks completed on Home Office systems confirmed [REDACTED] was served Immigration papers as an overstayer, he submitted further applications to regularise his stay in the UK and all applications had been refused. Checks confirmed [REDACTED] to be a absconder since 2015 and also confirmed [REDACTED] had no permission to work.

At approx 18:43 I arrested [REDACTED] as a person liable to be detained and removed from the UK. I gave [REDACTED] the administrative caution and he confirmed he understood. [REDACTED] confirmed he spoke and understood a little English but his main language was [REDACTED]

At approximately 19:03hrs an illegal working Q&A was conducted with [REDACTED] using a [REDACTED] interpreter through the Big Word interpreting service. The interpreter's reference number was [REDACTED]

The Q&A was as follows:

[REDACTED] What is your job role/ what are your duties?

[REDACTED] I don't have any duties, because I live here I sometimes help.

[REDACTED] You said help what help do you do?

[REDACTED] I help with the washing up and cleaning up.

[REDACTED] How often do you help?

[REDACTED] I live here 7 days a week, so I help out 7 days a week.

[REDACTED] How long do you help out for every day?

[REDACTED] I have no set hours, however long I feel like it and then go upstairs and rest.

Signature: [REDACTED] .....

Signature witnessed by: .....

Continuation of Statement of .....

On average how long would you help for?

Half an hour to an hour depends how busy it is.

You say you only help out with cleaning. Why were you seen by me in the kitchen cooking and in chef whites and then took them off when you saw me?

I wasn't cooking I was wearing the chef white because I was cold.

Could you not wear a top or jacket to keep you warm?

I came downstairs to make some food I was cold and didn't bring a jacket so I put in the chef whites.

Why can I see tandoori paste on your hands and under your finger nails?

When I came downstairs I saw there were customers so I decided to help with making food.

When did you come down to the kitchen today?

An hour before you came.

Were you cooking for customers for an hour before we came?

I was getting things ready for the chef.

Who is the chef?

(pointed to Male behind me currently being interviewed by IO)

What is the name of the owner?

Mr R.

Who allows you to help?

Nobody has told me to do anything because I eat and sleep here I help out.

How do you know it is busy, does somebody call you down to help?

Nobody. I come down often so when I see it is busy I help out.

Who tells you to help with the washing, cleaning and prep?

The manager.

Who is the manager?

SA.

Is he on duty today?

Yes he is.

Are you ever forced to help out at the restaurant?

Signature: ..... Signature witnessed by: .....

Continuation of Statement of .....

■ No.

■ Are you aware you have no permission to work?

■ Yes but I need to for food.

■ Does Mr R give you money?

■ No I just get free food and accommodation.

■ How do you support yourself if you don't get money, how do you buy clothes?

■ They give me a little pocket money.

■ Who is they?

■ Mr R.

■ How much pocket money does Mr R give you?

■ £30 - £50 weekly.

■ What name does the employer know you as?

■ [REDACTED]

■ How did you know you could stay here, how did you know there is a room for you?

■ I know Mr R from Milton Keynes, I know from the [REDACTED] community.

■ Does Mr R know your Immigration status?

■ I told him that I was reporting for Immigration. He knew I had Immigration problems and no where to stay.

■ Why did you take off your chef whites when immigration came into the kitchen?

■ Because when you came you said stop everything and come to the side.

■ I asked you to stop what you are doing not to take off items of clothing. Why did you remove your clothing?

■ You came in suddenly and I got confused.

The interview was terminated and [REDACTED] then digitally signed my phone to confirm that the answers he gave are true.

All officers departed the premises and 4 male worker were transported to Kettering Weekley Wood Police Custody.

I made this statement from my contemporaneous notes from my recollection of events at the next available opportunity.

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 Immigration Officer [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 4 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: 05/11/2019

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

I am Immigration Officer (IO) [redacted] Warrant number [redacted] and a member of the Arrest Team at the IMMIGRATION Compliance and Enforcement Team (ICE), EAST OF ENGLAND, IMMIGRATION ENFORCEMENT, HOME OFFICE, UNIT 2 FRANKLIN COURT, BEDFORD, MK44 3JZ.-----

On the 31/10/2019 I arrived for my shift at FRANKLIN COURT, BEDFORD at approx 16:00hrs in my full uniform and ensured I had my full personal protective equipment (PPE) which consisted of a stab vest which secured my radio, a belt which carried my handcuffs, baton and first aid mask.-----

The team consisted of myself as Officer in Charge (OIC), IO [redacted] IO [redacted] IO [redacted] IO [redacted] IO [redacted] IO [redacted] and IO [redacted]

The briefing for the visit took place at FRANKLIN COURT, BEDFORD at approximately 16:30hrs and concluded at approximately 16:50hrs. The premises to be visited was a commercial property named 'RED ROSE INDIAN RESTAURANT', located on 1 George Street , Kettering, NN16 0AW.-----

At approx 18:14hrs we arrived at the premises and entered via the front public entrance under a schedule 2 paragraph 17 (2) warrant issued by South East Magistrates Court on 10/10/2019. This warrant was to search for the the male [redacted] and any other persons who are subject to immigration control, who are working in breach of their leave or bail, or are otherwise present in the UK without leave, or have entered illegally. The arrest team consisting of the various Immigration Officers swept the premises, ensuring the employees on site were gathered together to be questioned. All employees gathered were taken to the first floor seating area to be questioned by the Immigration Officers. As a result of being under the impression that a customer wanted to make a payment, I went upstairs to where the employees were seated and asked if the person in charge was available to make a payment. At that point a subject who I now know to be SA stood up, identifying himself as the person in charge

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

Continuation of Statement of 17381 .....

and followed me downstairs to the bar area to attend to the customer who wanted to make the payment.-----

SA dealt with the customer accordingly and it was at this point that I gave him the warrant which was previously given to another person on site. I explained the purpose of the team's visit.-----

At approximately 18:49hrs illegal Q&A was conducted with SA as a the person in charge of the premises at the time of the visit. SA spoke English to a very high standard and therefore was questioned without the use of an interpreter. The Q&A was as follows:-----

█ "What is the name of the business?"-----

SA: "Masalla LTD- not too sure on the spelling."-----

█ "What are the Companies House and VAT numbers of the business?"-----

SA: "Vat no.324006843".-----

█ "What is your position here?"-----

SA: "Company secretary."-----

█ "How long have you been working here?"-----

SA: "Secretary since June."-----

█ "Have you got a rota here on site?"-----

SA: "No."-----

█ "How do the workers know when they are working?"-----

SA: "I don't know. They must know when they are working. The guy that runs the business is away."-----

█ "What is the manager's name who you are referring to?"-----

SA: "MR."-----

█ "Where are the documents for the employees working here?"-----

SA: "I have nothing. The manager normally has it."-----

█ "Do you know if the documents are stored on the premises?"-----

SA: "I have no idea."-----

█ "How many staff are working here today?"-----

SA: "I just came in a few minutes before your arrival, so I don't know how many staff are on the premises."-----

█ "Do you know if the documents of the five people arrested by the Home Office today have been provided?"-----

SA: "Probably, but I do not know."-----

Signature: █ Signature witnessed by: .....

Continuation of Statement of [REDACTED] .....

[REDACTED] "How are the staff paid?"-----

SA: "I don't know as I don't get involved in that."-----

[REDACTED] "Who provides the five people's uniform who are currently under arrest?"-----

SA: "Maybe they do themselves. I do not know."-----

[REDACTED] "Who is in charge of employing employees?"-----

SA: "MR only".-----

[REDACTED] "What does [REDACTED] do?"-----

SA: "I don't know. If you can wait until Monday you can speak to MR."-----

[REDACTED] "What does [REDACTED] do here?"-----

SA: "I cannot answer regarding any of them."-----

[REDACTED] "What was [REDACTED] doing when the team arrived?"-----

SA: "I cannot answer as I had just arrived."-----

[REDACTED] "What does [REDACTED] do here?"-----

SA: " I don't know."-----

[REDACTED] "How long has he been working here?"-----

SA: "I don't know."-----

[REDACTED] " What does [REDACTED] do here?"-----

SA: "I do not know."-----

[REDACTED] "What was he doing when we arrived?"-----

SA: "I do not know."-----

[REDACTED] "Do you know how long he has been working here?"-----

SA: "I don't know."-----

[REDACTED] "What does [REDACTED] do here?"-----

SA: "I don't know."-----

[REDACTED] "What was he doing when we arrived at the premises?"-----

SA: "I don't know."-----

[REDACTED] "How long has he been working here?"-----

SA: "I don't know."-----

Signature: [REDACTED] ..... Signature witnessed by: .....

Continuation of Statement of [REDACTED]

[REDACTED] "Do you know how any of these get paid?"-----

SA: "No."-----

[REDACTED] "So as the secretary yo do not know how these five individuals are paid?"-----

SA: "No. I think MR will know."-----

[REDACTED] "As the secretary what are you responsible for because you are not responsible for the finances or the admin or the employment according to you? So what does being the business secretary entail?"-----

SA: "I'm just the company secretary."-----

SA then refused to digitally sign my phone to confirm that the answers he gave were true. When questioned as to why he refused, he stated that he did not know why he needs to. It was explained to him that the signature is only required as a means of him confirming his answers are correct but SA continued to refuse despite the fact that the Q&A had been read and out and shown to him.-----

Due to the fact that SA was not forth coming with his responses regarding the illegal workers encountered at the premises IO [REDACTED] informed SA that the fine he received as a result of locating five illegal workers may be minimised if he chose to cooperate during the illegal working Q&A. IO [REDACTED] also informed SA of the fact that it is a criminal offence to obstruct an immigration officer. SA did not respond to these comments nor did he alter his responses to be more forth coming with information. However a little while later he did provide me with the Company number of: 11859383 and was unusually persistent that it was written on the Civil penalty referral notice which had been issued to him. I did not include the Company number SA provided on the Civil penalty notice as his persistency aroused my suspicion. I then joined my colleagues upstairs where the other employees were being questioned. All of the team exited the premises at approximately 21:10hrs taking four out of the five immigration offenders to the nearest available custody.-----

I made this statement from my contemporaneous notes from my recollection of events at the next available opportunity. Last line of statement.-----

[Handwritten signature]

Signature: [REDACTED] Signature witnessed by: .....





Home Office

# Premises Licence Review

**Mr Koysur RASHID,  
Manwar Miah RASHID  
Mothin MIAH  
Red Rose Indian Restaurant  
1 George Street  
Kettering  
NN16 0AW**

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# Outline of the Circumstances leading to the Review Application

## Summary

- 1.1 On Thursday 31<sup>st</sup> October 2019 an intelligence led enforcement visit was made to the RED ROSE INDIAN RESTAURANT, 1, GEORGE STREET, KETTERING, NN16 0AW, by Immigration Compliance & Enforcement (ICE) officers following information that a male named as [REDACTED], born [REDACTED], was working illegally in the United Kingdom.
- 1.2 It was alleged that [REDACTED] had been working at the Red Rose Indian restaurant since 2009 and was being paid £350 per week cash in hand by his employer.
- 1.3 The allegation further stated that the Red Rose restaurant was employing a further five illegal workers who were working Fridays and Saturdays from 18:00hrs until 21:00hrs.
- 1.4 Home Office records show a [REDACTED] male called [REDACTED], born [REDACTED] entered the United Kingdom with entry clearance as a visitor, which was valid from 07 October 2010 until 07 April 2011. Home Office believed that [REDACTED] is the person referred to in the allegation, as he has the same date of birth and his name is almost identical and he is an immigration offender. [REDACTED] has now overstayed his visit visa by over 8 years and has no right to live or work in the United Kingdom.
- 1.5 Staff records held by HMRC show only 2 employees, who are both naturalised British Citizens, work at the restaurant. The holding company has only traded since June 2019, but HMRC believe that just 2 declared employees is not sufficient to staff a business of this size and turnover, that is open 7 days per week from 17:30 hrs to midnight Sunday to Thursday and 17:30 to 01:00 hrs Friday and Saturday.
- 1.6 This Immigration Enforcement operation took place whilst Mr Koyshur RASHID, Manwar Miah RASHID and Mothin MIAH have been joint licence holders since 2006. Immigration Officers conducted checks Registered owners of the business are 'Yasin And Ayesha Ltd'. Director is Manwar Miah RASHID the secretary is Ali SONOUR. Local council is unaware of any accommodation associated with the address
- 1.7 During the enforcement operation, five individuals were encountered, all of which had No Right to Work in the UK.

- 1.8 When interviewed by Immigration Officers, all of the individuals encountered at the premises acknowledged that they had no right to work in the UK and that [REDACTED] was aware of their immigration status but still allowed them to work at the restaurant.
- 1.9 Immigration Officers conducted an interview with the business secretary Sonour ALI due to the fact that he had been identified as the person "in charge". Sonour ALI's position within the business had been noted prior to the visit as the business secretary. Mr ALI did not provide this information initially but confirmed that he was when asked. Sonour ALI stated that he did not know any of the details of the individual's employment in terms of whether any documentation to work had been provided. He also claimed that he did not know what any of their duties were, nor their length of employment or how they knew they were working as he was not aware of any rotas on-site.
- 1.10 Sonour ALI attempted to be disruptive on multiple occasions and had to be constantly reminded to remain in one position whilst officers were attempting to interview him and not to interrupt other immigration officers who were carrying out enquiries with the workers at the premises.
- 1.11 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.
- 1.12 Succeeding parts of this application explore relevant legislation and the statutory guidance Home Office (Immigration Enforcement) ask the subcommittee to consider the flagrant disregard for the legalities of employing responsibly, the failure to heed 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

- 1.13 At approximately 18:14 hours on Thursday 31<sup>st</sup> October 2019 an Immigration Enforcement operation took place at Red Rose Indian Restaurant, 1 George Street, Kettering NN16 0AW. The premise is run as an Indian restaurant.
- 1.14 At the time of the operation the premises were operating under a premises licence issued jointly to Koysur RASHID, Manwar Miah RASHID and Mothin MIAH. This had been the case since 2006.
- 1.15 The operation was conducted by a number of Immigration Compliance & Enforcement (ICE) officers. The team was led by Officer in Charge (OIC) [REDACTED] in company with Immigration Officers (IO's), [REDACTED], [REDACTED], [REDACTED], [REDACTED] AND [REDACTED].

- 1.16 Information had been received that illegal workers were working at the premises and a particular individual, [REDACTED] was said to be illegally working at the premises.
- 1.17 Entry to the premises was gained under a schedule 2 paragraph 17 (2) warrant issued by South East Magistrates Court on 10/10/2019. This warrant was to search for the male [REDACTED] and any other persons who are subject to immigration control, who are working in breach of their leave or bail, or are otherwise present in the UK without leave, or have entered illegally.
- 1.18 The arrest team consisting of the various Immigration Officers swept the premises, ensuring the employees on site were gathered together to be questioned. All employees were taken to the first-floor seating area to be questioned by the Immigration Officers.
- 1.19 The ICE officers subsequently identified that one person had been working illegally in the restaurant
- [REDACTED], a [REDACTED] male who is an overstayer with no right to work in the UK.
  - [REDACTED], a [REDACTED] male who is an overstayer with no right to work in the UK
  - [REDACTED] a [REDACTED] male with no right to work in the UK.
  - [REDACTED], a [REDACTED] male with no right to work in the UK.
  - [REDACTED], a [REDACTED] male who is an overstayer with no right to work in the UK.
- 1.20 IO [REDACTED] entered the front of the premises and encountered three males dressed in black waiter's type uniform.
- 1.21 OIC [REDACTED] addressed one of the males to execute the warrant on him. OIC [REDACTED] wrote the name given by the male on a piece of paper as [REDACTED]
- 1.22 OIC [REDACTED] requested for IO [REDACTED] to obtain further details from [REDACTED] and conduct immigration status checks, [REDACTED] informed OIC [REDACTED] that he needed to get the premises keys from the kitchen in order to stop any more customers from entering the premises.
- 1.23 [REDACTED] made his way to the kitchen followed by OIC [REDACTED]. As there were other officers in the kitchen, OIC [REDACTED] allowed [REDACTED] to collect the keys on his own however he left the premises through an unknown route and did not re-enter the premises for the entirety of the visit.

- 1.24 IO [REDACTED] asked other employees who [REDACTED] was and nobody recognised the name. It is suspected that this was a false name given to officers.
- 1.25 IO [REDACTED] was advised by one of the employees that [REDACTED] had probably escaped through a fire escape accessed via a small doorway in the kitchen leading to a fire escape exit that would not have been apparent to rear cover officers.
- 1.26 OIC [REDACTED] went upstairs to where the employees were seated and asked the employees if there was a person in charge available to take a customer's payment. A person now known to be SONOUR ALI stood up, identifying himself as the person in charge and followed OIC [REDACTED] downstairs to the bar area to attend to the customer who wanted to make the payment.
- 1.27 SONOUR ALI dealt with the customer accordingly and it was at this point that OIC gave ALI the warrant which was previously given to another person on site and OIC explained the purpose of the team's visit.
- 1.28 At approximately 18:49hrs OIC [REDACTED] conducted an interview with ALI as the person in charge of the premises at the time of the visit. OIC [REDACTED] asked what the name of the business was called and the Companies House and VAT numbers of the business. ALI replied that the name of the business was Masalla Ltd, and the VAT number was 324006843. ALI was not sure on the spelling of the company.
- 1.29 ALI confirmed to OIC [REDACTED] that he was the company secretary and has been in the role since June 2019.
- 1.30 OIC [REDACTED] asked ALI if they had a staff rota, ALI stated that they do not have a staff rota and said that the workers must know when they are working.
- 1.31 ALI confirmed that the manager, Manwar RASHID knows when the workers are working and has documents for them, and that RASHID is in charge of hiring employees.
- 1.32 ALI claimed he did not know what any of the five illegal employees do at the premises or how long they have been working at the premises.
- 1.33 IO [REDACTED] assisted OIC [REDACTED] in questioning ALI and asked for the owner's mobile number so that the officers could call and discuss the staffing at the premises. ALI refused to provide officers with the owners mobile number.
- 1.34 IO [REDACTED] conducted a status check on Sonour ALI and it was confirmed that ALI had the right to work in the UK.

- 1.35 ALI was not forthcoming with his responses to OIC [REDACTED] and refused to digitally sign OIC [REDACTED] phone to confirm that the answers that he gave were true.
- 1.36 When questioned by OIC [REDACTED] as to why he refused, ALI stated that he did not know why he needs to. It was explained to ALI that the signature is only required as a means of him confirming his answers are correct, but ALI continued to refuse despite the fact that the Q&A had been read out and shown to him.
- 1.37 IO [REDACTED] informed Mr ALI that the fine he received as a result of locating five illegal workers may be minimised if he chose to cooperate during the illegal working Q&A. IO [REDACTED] also informed Mr ALI of the fact that it is a criminal offence to obstruct an Immigration Officer. Mr ALI did not respond to these comments nor did he alter his responses to be more forthcoming with information. However, a little while later he did provide me with the Company number of: 11859383 and was unusually persistent that was written on the Civil penalty referral notice which had been issued to him.
- 1.38 OIC [REDACTED] did not include the Company number Mr ALI provided on the Civil penalty notice as his persistency aroused his suspicion. OIC [REDACTED] joined the other Immigration Enforcement colleagues upstairs where the other employees were being questioned.
- 1.39 All of the five employees encountered in the restaurant had no right to work in the UK and four were arrested.
- 1.40 Despite ALI informing IO [REDACTED] that he and the owner were the Designated Premises Supervisor for the Red Rose Restaurant, ALI asked each arrested individual being escorted to the cell van for the keys to the restaurant for him to be able to lock the premises up.
- 1.41 All of ICE team exited the premises at approximately 21:10hrs taking four out of five immigration offenders to the nearest available custody.
- 1.42 The situation regarding the illegal workers are described below.

[REDACTED]

1.43 IO [REDACTED] arrived at the premises and covered the front entrance with another officer from the outside, Once OIC [REDACTED] entered the premises and served the warrant, IO [REDACTED] was called inside to assist and entered the premises at 18:20hrs.

1.44 IO [REDACTED] entered the kitchen and covered three males with another officer. Two males were arrested by other officers. IO [REDACTED] interviewed the other male in a sterile area upstairs at the premises.

1.45 The male gave his name as [REDACTED], a [REDACTED] national born [REDACTED]. [REDACTED] admitted to IO [REDACTED] that he was working as a waiter at the premises and was wearing a black shirt, black trousers, black shoes and a black tie.

1.46 [REDACTED] admitted to IO [REDACTED] that he had overstayed his work permit and was working illegally.

1.47 IO [REDACTED] confirmed [REDACTED] admission through Home Office checks and arrested [REDACTED] at 18:35hrs.

1.48 IO [REDACTED] conducted an interview with [REDACTED]. The interview proceeded as follows;

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

Mr [REDACTED]: Three months.

IO [REDACTED]: What is your job role/what are your duties?

Mr [REDACTED]: Waiter, I serve the food.

IO [REDACTED]: What days/hours do you work each week?

Mr [REDACTED]: Six days a week or 5 hours a day.

IO [REDACTED]: Who gave you this job?

Mr [REDACTED]: My friend Mahmon told me to come here for a job. Manwar gave me the job.

IO [REDACTED]: Did the manager give you the black shirt and trousers you are wearing and tell you to wear it for work?

Mr [REDACTED]: No, I had to buy it from the £60 he gave me and then he said I have to wear it when I work or help out.

IO [REDACTED]: Do you have to work in order to live here?

Mr [REDACTED]: Yes, they help me I help them.

IO [REDACTED]: If you said you didn't want to work would you have to leave accommodation?

Mr [REDACTED]: Yes.

IO [REDACTED]: How many meals a day do they give you.

Mr [REDACTED]: I get 2 meals a day, lunch and dinner.

IO [REDACTED]: Do you feel safe here?



Mr [REDACTED]: Yes.  
IO [REDACTED]: Are you happy to work here?  
Mr [REDACTED]: Yes, I am. But I am not happy I don't have leave to be in the UK. I would like to stay here.  
IO [REDACTED]: Has the manager ever hurt you or any other staff?  
Mr [REDACTED]: No.  
IO [REDACTED]: Do you think everybody is happy to work here?  
Mr [REDACTED]: Yes.  
IO [REDACTED]: How are you paid (money, accommodation, food)?  
Mr [REDACTED]: Food and accommodation, sometimes I get pocket money. £50-£60 a week.  
IO [REDACTED]: Who pays you?  
Mr [REDACTED]: Manwar the manager.  
IO [REDACTED]: How long have you lived here at the restaurant?  
Mr [REDACTED]: Four months.  
IO [REDACTED]: How many people live here at the restaurant?  
Mr [REDACTED]: Four or five.  
IO [REDACTED]: Did the manager Manwar ask you for any proof of right to work?  
Mr [REDACTED]: Yes, he did, and I told him I don't have any, so he said just help when I need you to.  
IO [REDACTED]: Does your employer know you're not allowed to work in the UK?  
Mr [REDACTED]: Yes, he knows I am illegal

1.49 [REDACTED] confirmed to IO [REDACTED] that four males encountered at the premises were working as cooks in the kitchen.

1.50 [REDACTED] was searched by officers as he claimed not to have a wallet or any identity documents on his person. IO [REDACTED] believed that having previously been a student, the search of [REDACTED] did not reveal any identification.

1.51 IO [REDACTED] conducted a search of [REDACTED] bedroom where [REDACTED] birth certificate and a photocopy of his [REDACTED] passport were located. IO [REDACTED] also located a bank card in [REDACTED] name and two bank cards belonging to someone else. These banks cards were reported to custody and seized by Police.

1.52 [REDACTED] was transferred to Weekly Woods custody Northampton Police.

[REDACTED]

1.53 IO [REDACTED] was assigned to cover the rear role, there were four doors and IO [REDACTED] saw three people attempt to exit the building by the rear door and IO [REDACTED] advised them to return to the building.

- 1.54 IO [REDACTED] was requested by an officer over the radio to enter the premises. As IO [REDACTED] entered the premises, an officer asked where the male in the black shirt and tie had gone. IO [REDACTED] advised that they would return outside.
- 1.55 As [REDACTED] exited the premises, they identified a male in a black shirt and tie exit the rear of the premises. IO [REDACTED] said 'Immigration, stop' and the male continued to walk away. IO [REDACTED] quickened their pace and repeated 'Immigration, Stop'. The male stopped, looked at IO [REDACTED] and began to walk again. The male stopped when IO [REDACTED] came level with him.
- 1.56 IO [REDACTED] placed the male under arrest and using the escort position, escorted the male back to the premises. Whilst walking back to the premises, the male said to IO [REDACTED] that he was not working. IO [REDACTED] advised that male that they had no asked any questions and would speak to the male once they were back inside the premises.
- 1.57 Upon entering the premises, IO [REDACTED] identified IO [REDACTED] and OIC [REDACTED] speaking with male now known as SONOUR ALI. IO [REDACTED] observed ALI not being compliant and had to be asked to clam down, listen to officers and answer questions being put to him.
- 1.58 IO [REDACTED] asked the male that was arrested outside to sit down, and IO [REDACTED] began to question him.
- 1.59 The male informed IO [REDACTED] that his name was [REDACTED], a [REDACTED] national born [REDACTED]. IO [REDACTED] conducted checks on Home Office systems, but he could not be found on any Home Office system.
- 1.60 IO [REDACTED] advised [REDACTED] that his fingerprint would be scanned using a Home Office 'grabba' scanner which would give his identity.
- 1.61 [REDACTED] fingerprints were taken. [REDACTED] gave his true identity and confirmed that his date of birth was [REDACTED] and the results from the 'grabba' confirmed his identity.
- 1.62 Whilst trying to obtain [REDACTED] true identity, Sonour ALI continuously attempted to talk to [REDACTED] IO [REDACTED] had to ask him not to. IO [REDACTED] moved [REDACTED] to another part of the premises to continue the interview.
- 1.63 The interview proceeded as follows;  
IO [REDACTED]: Where do you live?

Mr [REDACTED]. I am never there though, I live and work here at the restaurant.

IO [REDACTED]: Do you have any friends or family in the UK?

Mr [REDACTED] No.

Mr [REDACTED] I'm sorry I ran, but I was frightened, I knew I shouldn't be working here, but I have nothing else to do. I know I am working illegally.

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

Mr [REDACTED] Six to seven months.

IO [REDACTED] What is your job role and your duties?

Mr [REDACTED] I am a waiter.

IO [REDACTED] What days/hours do you work each week?

Mr [REDACTED] Five to six days per week, and I stay here as well.

IO [REDACTED] Do you work the same hours and days every week?

Mr [REDACTED] Not always the same days, I have to work to get money. Most of the time a full-time week, 16.30 to 23.30. Weekends until midnight.

IO [REDACTED] How much are you paid?

Mr [REDACTED] About 35 to 45 pounds.

IO [REDACTED] Who pays you?

Mr [REDACTED] Manowar (that's the only name I know him by) he is not here today.

IO [REDACTED] Did you show your passport to the manager for the job?

Mr [REDACTED] Manowar asked for documents, I explained my situation and he agreed to help me. He knows my immigration status.

IO [REDACTED] How did you get the job/gain employment?

Mr [REDACTED] I saw the job advertised in the job centre, I called the restaurant and explained my situation and Manowar took me on.

IO [REDACTED] Can you confirm the managers were aware of your immigration status and that you are here illegally in the UK?

Mr [REDACTED] Yes.

IO [REDACTED]-PROWSE: How are you paid?

Mr [REDACTED] Cash, always cash.

IO [REDACTED] Do you receive a pay slip?

Mr [REDACTED] No.

IO [REDACTED] Are you given food or accommodation by the managers?

Mr [REDACTED] I am provided with food and accommodation.

IO [REDACTED] Did the managers ever advise you to contact Immigration?

Mr [REDACTED] No.

IO [REDACTED]-PROWSE: What time did you start work today?

Mr [REDACTED] 16.30, I was upstairs before that.

IO [REDACTED] What time were you due to finish today?

Mr [REDACTED] 23.30.

IO [REDACTED] Who gave you this job (name and role in business)?

Mr [REDACTED] Manowar, he is the business owner.

IO [REDACTED] Who tells you what days and hours to work?

Mr [REDACTED] Manower, today it was his brother in law. He pointed to the man the OIC had served the Notice to Occupier and Warrant on. (Sonour ALI – the manager).

IO [REDACTED] Who tells you what tasks and duties to do each day?

Mr [REDACTED] Manower or his brother in law. (Sonour ALI).

IO [REDACTED] How are you paid (money, accommodation, food)?

Mr [REDACTED] Cash, food and accommodation.

IO [REDACTED] If money, how much and how do you receive it?

Mr [REDACTED] 35 to 45 cash a day.

IO [REDACTED] Who pays you?

Mr [REDACTED] Manower.

IO [REDACTED] Do you pay income tax or have a National Insurance number?

Mr [REDACTED] No.

IO [REDACTED] What name does your employer know you as?

Mr [REDACTED] The name I have given you.

IO [REDACTED] Did you show documents before being offered the job? If so, what?

Mr [REDACTED] No. He knows my status and said it was ok and he would help me.

IO [REDACTED] Does your employer know you're not allowed to work in the UK?

Mr [REDACTED] Yes.

IO [REDACTED] Are you provided with a uniform?

Mr [REDACTED] The waiters have to wear black shirt, tie and trousers and we all have to buy them ourselves.

IO [REDACTED] Who else works here?

Mr [REDACTED] There are ten people that work here, five front of house staff and five kitchen staff. If you had come on Friday or Saturday night, all ten staff would have been on duty. Not everyone is here today but they all live upstairs as well but are out.

1.64 At approximately 21:11hrs IO [REDACTED] - [REDACTED] exited the premises with [REDACTED] ALI asked [REDACTED] if he had his keys for the building and he said he did not have his with him

[REDACTED]

1.65 IO [REDACTED] entered the premises as requested by OIC [REDACTED] following a radio message received that a male had ran upstairs in the premises. IO [REDACTED] walked through the seating area and through to the kitchen where they spoke with three members of staff and asked who else was in the premises.

1.66 A staff member, wearing glasses, informed IO [REDACTED] that there was another male through the kitchen. IO [REDACTED] proceeded through the

kitchen and was requested to accompany another officer to search upstairs.

- 1.67 IO [REDACTED] proceeded upstairs and immediately noticed that there were a number of rooms on the left hand side which appeared to be bedrooms. There was a passageway that which led to a door with further restaurant seating.
- 1.68 IO [REDACTED] and a fellow officer looked in these rooms for the male that ran but he was not located. IO [REDACTED] conducted a radio check with colleagues confirmed a male had been seen running up the stairs and had no exited the premises.
- 1.69 IO [REDACTED] leaned down on one knee and looked under the bed in the second room on the left and saw a person's leg. IO [REDACTED] leaned further down and shone their torch and identified a male tucked in to a ball in the corner under the bed.
- 1.70 IO [REDACTED] told the male that he was under arrest and to show his hands and move out slowly from under the bed. IO [REDACTED] gave the male an administrative caution. The male identified himself as [REDACTED].
- 1.71 IO [REDACTED] conducted an interview with [REDACTED]. The interview proceeded as follows;
- IO [REDACTED] How long have you been working here?  
Mr [REDACTED] Just came today.
- IO [REDACTED] What is your job role / what are your duties?  
Mr [REDACTED] I wash all the pans and help the chef.
- IO [REDACTED] What days /hours do you work each week?  
Mr [REDACTED] I would work today, Friday and Saturday and then return to London as I have a return ticket. I work from 6.30pm to 10.30pm.
- IO [REDACTED] Do you work the same hours / days every week?  
Mr [REDACTED] Never been here before this is my first time.
- IO [REDACTED] Who gave you this job (name and role in business)?  
Mr [REDACTED] A friend in Northampton said they needed help with work, so I came with them to help. SU, he introduced me and told me to get a train and where to go. I only came today.
- IO [REDACTED] Who were you told to ask for when you first came to the restaurant?  
Mr [REDACTED] SM.
- IO [REDACTED] Who tells you what tasks/ duties to do each day?  
Mr [REDACTED] A and the other workers who are being spoken to by officers.
- IO [REDACTED] Who tells you what days/ hours to work?  
Mr [REDACTED] SU told me what days to go there. He told me the hours and I know they close at 22:30 so would finish then.
- IO [REDACTED] Who provides your equipment?  
Mr [REDACTED] It was already there, and I just helped myself.

IO [REDACTED] Who provides your clothing?  
Mr [REDACTED] Was already there so just put an apron on.  
IO [REDACTED] Who else works here?  
Mr [REDACTED] A is the only person I know the name of.  
IO [REDACTED] How often do you come here?  
Mr [REDACTED] This is the first time.  
IO [REDACTED] How are you paid (money, accommodation, food)?  
Mr [REDACTED] Cash in hand, I don't know how much they will pay me. I would have something to eat, so free food. I came today and have a room and would have slept upstairs.  
IO [REDACTED] Who said you can live upstairs?  
Mr [REDACTED] I arrived and one of the workers said you will be staying upstairs and showed me, I don't know his name.  
IO [REDACTED] If money, how much and how do you receive it?  
Mr [REDACTED] Maybe Saturday night as I would leave Sunday. Between £60-£80.  
IO [REDACTED] Who pays you?  
Mr [REDACTED] Might be the manager, I'm not sure.  
IO [REDACTED] Do you pay income tax or have a National Insurance number?  
Mr [REDACTED] I don't pay tax, I have a National Insurance number and it is at home with my wife.  
IO [REDACTED] Who pays for your travel to work?  
Mr [REDACTED] I did, my wife gave me the money.  
IO [REDACTED] What name does the employer know you as?  
Mr [REDACTED] [REDACTED]  
IO [REDACTED] Did you show documents before being offered the job? If so, what?  
Mr [REDACTED] No, they haven't asked for anything.  
IO [REDACTED] Does your employer know you're not allowed to work in the UK?  
Mr [REDACTED] I'm not sure because they didn't ask.  
IO [REDACTED] Do you have a contract of employment?  
Mr [REDACTED] No, I don't.  
IO [REDACTED] Why were you hiding under a bed when encountered?  
Mr [REDACTED] I got really scared as everyone started running.  
IO [REDACTED] Are you currently working anywhere else?  
Mr [REDACTED] No never anywhere else.  
IO [REDACTED] Are you aware you are not permitted to work?  
Mr [REDACTED] Yes, I know.  
IO [REDACTED] Would part of your earnings pay for you to be allowed to sleep here?  
Mr [REDACTED] For the food and me to stay here, it is all included as part of my work.

1.72 [REDACTED] digitally signed IO [REDACTED] phone to confirm that the answers he gave was true. IO [REDACTED] exited the premises at 21:10hrs with other officers.

[REDACTED]

1.73 IO [REDACTED] entered the kitchen and encountered three males. One of the males was identified as SONOUR ALI and the other was identified as [REDACTED]

1.74 [REDACTED] and the other male were wearing white chef aprons and when they saw officers, they began to remove the aprons.

1.75 IO [REDACTED] remained with the three males while other officers swept outside and upstairs of the premises to identify if any more individuals were located.

1.76 IO [REDACTED] heard over the radio that a person had attempted to evade officers and spoke with OIC [REDACTED] and sought to find a sterile area where the people encountered working could be spoken to and their details taken.

1.77 All three males were taken to the upstairs seating area by IO [REDACTED] and another officer. IO [REDACTED] began to ascertain the details of one of the males encountered in the kitchen.

1.78 The male identified himself as [REDACTED] and confirmed that he had entered the UK on a work permit in December 2004. [REDACTED] confirmed to IO [REDACTED] that he had no sought to regularise his status once his work permit had expired.

1.79 IO [REDACTED] arrested [REDACTED] [REDACTED] as a person liable to be detained under Paragraph 16, Schedule 2, Paragraph 17(1) of the Immigration Act 1971 (as amended).

1.80 Home Office checks confirmed that [REDACTED] [REDACTED] had previously been served immigration paperwork as person who had entered the United Kingdom illegally exercising verbal deception. [REDACTED] [REDACTED] is not permitted to work

1.81 IO [REDACTED] conducted an interview with [REDACTED] [REDACTED] with the aid of an interpreter. The interview proceeded as follows;

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

[REDACTED]: Three weeks.

IO [REDACTED] What is your job role/what are your duties?

IO [REDACTED] I work in the kitchen. I am a second chef.

IO [REDACTED] What days/hours do you work each week?

[REDACTED] Five days a week I work here. I work Tuesday, Wednesday, Thursday, Friday and Saturday. 17:00 finish, sometimes 23:00 finish.

IO [REDACTED] Do you work the same hours/days every week?

[REDACTED] Yes, I do. It is the same.

IO [REDACTED] How do you know your shifts/when to come to work?

[REDACTED] I came here for a job and they said I could start and stay. I looked for this job.

IO [REDACTED] Who gave you this job (name and role in business)?

[REDACTED] There is a person in charge. I do not know his name. He told me I can work and stay here. He is not here tonight.

IO [REDACTED] Who tells you what tasks/duties to do each day?

[REDACTED] This person is not here tonight – the manager.

IO [REDACTED] How often do you see the manager?

[REDACTED]: The manager will come once or twice a week and doesn't stay long, then he will go.

IO [REDACTED] Who is in charge when he isn't here?

[REDACTED] I do not know.

IO [REDACTED] Are you paid?

[REDACTED]: I get £100 cash and also accommodation and food. I get paid for 5 days working.

IO [REDACTED] If money, how much and how do you receive it?

[REDACTED] I get £100 in cash.

IO [REDACTED] Who pays you?

[REDACTED] I do not know the name of the person that gives me my wages – same person who gave me the job.

IO [REDACTED] Do you pay income tax or have a National Insurance number?

[REDACTED] I did have a National Insurance number, but I think this is expired now?

IO [REDACTED] What name does the employer know you as?

[REDACTED]. Everyone knows me by this name.

IO [REDACTED] Did you show documents before being offered the job? If so what?

[REDACTED] No, I did not. My passport is lost.

IO [REDACTED] Does your employer know you're not allowed to work in the UK?

[REDACTED] I am not sure. I haven't seen him.

IO [REDACTED] Did your employer ask to see any right to work documents?

[REDACTED] They did, and I said I will show them my cases papers. I thought I was going to show them, but I haven't, and they haven't asked to see anything.

IO [REDACTED] Where did you put your white apron?

[REDACTED] It is in the kitchen where I was standing.

IO [REDACTED] Do you have a contract of employment?

[REDACTED] No.

IO [REDACTED] Who gave you the white apron?



[REDACTED]: All the employees who work in the kitchen have to wear this kind of apron to protect themselves.

IO [REDACTED]: Who else works here?

[REDACTED]: Mr M ALI identified the subject dealt with by IO SMALL as the first chef in the kitchen.

IO [REDACTED]: Who else do you share accommodation with?

[REDACTED]: I live alone in one room.

IO [REDACTED]: Are you free to leave if you want?

[REDACTED]: I am working here on my free will and I can leave if I want to. With my health conditions it is hard to find a job and they let me stay.

IO [REDACTED]: Are you happy working here?

[REDACTED]: Yes, I am happy that I have accommodation and a job where I get money to use to pay for my prescription.

1.82 [REDACTED] [REDACTED] digitally signed IO [REDACTED] phone to confirm that he understood the questions and that the details were true and correct.

1.83 [REDACTED] [REDACTED] requested to collect his medication and was escorted to his room by IO [REDACTED] and IO [REDACTED]. The accommodation [REDACTED] [REDACTED] was provided with was accessed by a locked door to the left on the customer toilets. This door was locked, and [REDACTED] [REDACTED] opened the door with a key he had in his possession. Upstairs was [REDACTED] [REDACTED] room and beyond that another room accessible via a locked door where another member of staff was living.

[REDACTED]

1.84 IO [REDACTED] was given the role of cover officer. Upon arrival to the premises, IO [REDACTED] entered the kitchen a located three males working. Two of the males were in chef whites which they immediately removed upon seeing immigration officers. The three males were escorted to a sterile area by another officer.

1.85 IO [REDACTED] was tasked to assist IO [REDACTED] in completing a search of the premises upstairs. An individual was located hiding under one of the beds in the bedroom and was escorted to the upstairs dining area where four other males were seated.

1.86 IO [REDACTED] was requested to take one of the males who had not been spoken to. IO [REDACTED] recognised the male as one of the employees encountered in the kitchen upon arrival.

1.87 IO [REDACTED] sat the male down at a separate table and asked for his name. The male gave his details as Moinul ISLAM and confirmed that he had entered the UK on a work permit which has now expired. Home Office

checks confirmed that [REDACTED] was served immigration paperwork as an overstayer, had submitted further applications for regularise his stay in the UK and all of his applications had been refused, Checks confirmed that [REDACTED] is an absconder and has no permission to work.

1.88 At approximately 18:43hrs, IO [REDACTED] arrested [REDACTED] as a person liable to be detained and removed from the UK. IO [REDACTED] gave [REDACTED] an administrative caution. [REDACTED] confirmed that he understood, spoke and understood a little English but his main language was Bengali.

1.89 IO [REDACTED] conducted an interview with [REDACTED] with the aid of an interpreter. The interview proceeded as follows;

IO [REDACTED] What is your job role/ what are your duties?

Mr [REDACTED] I don't have any duties, because I live here, and I sometimes help.

IO [REDACTED] You said help, what help do you do?

Mr [REDACTED] I help with the washing up and clearing up.

IO [REDACTED] How often do you help?

Mr [REDACTED] I live here 7 days a week, so I help out 7 days a week.

IO [REDACTED] How long do you help out for every day?

Mr [REDACTED] I have no set hours, however long I feel like it and then go upstairs and rest.

IO [REDACTED] On average how long would you help for?

Mr [REDACTED] Half an hour to an hour depends how busy it is.

IO [REDACTED] You say you only help out with cleaning. Why were you seen by me in the kitchen cooking and in chefs' whites and then took them off when you saw me?

Mr [REDACTED] I wasn't cooking I was wearing the chef white because I was cold.

IO [REDACTED] Could you not wear a top or jacket to keep you warm?

Mr [REDACTED] I came downstairs to make some food. I was cold and didn't bring a jacket, so I put in the chef whites.

IO [REDACTED] Why can I see tandoori paste on your hands and under your finger nails.

Mr [REDACTED] When I came downstairs, I saw there were customers, so I decided to help with making food.

IO [REDACTED] When did you come down to the kitchen today?

Mr [REDACTED] An hour before you came.

IO [REDACTED] Were you cooking for customers for an hour before we came?

Mr [REDACTED] I was getting things ready for the chef.

IO [REDACTED] Who is the chef?

Mr [REDACTED] (pointed to the male behind IO [REDACTED] being interviewed by IO [REDACTED])

IO [REDACTED] What is the name of the owner?

Mr ISLAM: Mr Rashid.

IO [REDACTED] Who allows you to help?

Mr [REDACTED] Nobody has told me to do anything because I eat and sleep here, I help out.

IO [REDACTED] How do you know it is busy, does somebody call you down to help?

Mr [REDACTED] Nobody. I come down often so when I see it is busy, I help out.

IO [REDACTED] Who tells you to help with the washing, cleaning and prep?

Mr [REDACTED] The manager.

IO [REDACTED] Who is the manager?

Mr [REDACTED] Sonour ALI.

IO [REDACTED] Is he on duty today?

Mr [REDACTED] Yes, he is.

IO [REDACTED] Are you ever forced to help out at the restaurant?

Mr [REDACTED] No.

IO [REDACTED] Are you aware that you have no permission to work?

Mr [REDACTED] Yes, but I need to for food.

IO [REDACTED] Does Mr Rashid give you money?

Mr [REDACTED] No, I just get free food and accommodation.

IO [REDACTED] How do you support yourself if you don't get money, how do you buy clothes?

Mr [REDACTED] They give me a little pocket money.

IO [REDACTED] Who is they?

Mr [REDACTED] Mr Rashid.

IO [REDACTED] How much pocket money does Mr Rashid give you?

Mr [REDACTED] £30 - £50 weekly.

IO [REDACTED] What name does the employer know you as?

Mr [REDACTED] [REDACTED]

IO [REDACTED] How did you know you could stay here, how did you know there is a room for you?

Mr [REDACTED] I know from Mr Rashid from Milton Keynes, I know from the [REDACTED] community.

IO [REDACTED] Does Mr Rashid know your Immigration status?

Mr [REDACTED] I told him I was reporting for Immigration. He knew I had Immigration problems and nowhere to stay.

IO [REDACTED] Why did you take off your chef whites when Immigration came into the kitchen?

Mr [REDACTED] Because when you came you said stop everything and come to the side.

IO [REDACTED] I asked you to stop what you were doing not to take off items of clothing. Why did you remove your clothing?

Mr [REDACTED] You came in suddenly and I got confused.

- 1.90 IO [REDACTED] concluded the interview and [REDACTED] digitally signed IO [REDACTED] phone to confirm that the answers he provided were true.
- 1.91 All officers departed the premises and four male workers were transported to Kettering Weekly Woods Police custody.

## Reasons for Review

- 2.1 Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises despite it being 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 16<sup>th</sup> May 2014 last updated 16<sup>th</sup> 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](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