

Public Document Pack



LICENSING SUB-COMMITTEE

Wednesday, 2 December 2015 at 10.00 am
Council Chamber, Civic Centre, Silver Street,
Enfield, EN1 3XA

Contact: Jane Creer
Committee Secretary
Direct : 020-8379-4093
Tel: 020-8379-1000
Ext: 4093
E-mail: jane.creer@enfield.gov.uk
Council website: www.enfield.gov.uk

Councillors : Chris Bond (Chair), Vicki Pite and Jim Steven

AGENDA – PART 1

1. WELCOME AND APOLOGIES FOR ABSENCE

2. DECLARATION OF INTERESTS

Members are asked to declare any disclosable pecuniary, other pecuniary or non pecuniary interests relating to items on the agenda.

3. TANDOORI NIGHTS, 27 STATION PARADE, COCKFOSTERS ROAD, BARNET, EN4 0DW (REPORT NO. 129) (Pages 1 - 80)

Application to review a premises licence.

4. EXCLUSION OF THE PRESS AND PUBLIC

If necessary, to consider passing a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for any items of business moved to part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).
(There is no part 2 agenda)

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MUNICIPAL YEAR 2015/16 REPORT NO.

COMMITTEE :
Licensing Sub-Committee
2 December 2015

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

| Agenda - Part | Item |
|---|------|
| <p>SUBJECT : Application to review a premises licence</p> <p>PREMISES : Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW.</p> <p>WARD : Cockfosters</p> | |

1.0 LICENSING HISTORY

- 1.1** The premises licence (LN/200500356) for Tandoori Nights was issued following a conversion in 2005, naming Pennycraft Properties Limited of 5 Jardine House, Harrovia Business Village, Bessborough Road, Harrow, Middlesex, HA1 5EX as the Premises Licence Holder (PLH). Mr Mohammed Rasid has been the named Designated Premises Supervisor (DPS) since 12 June 2006.
- 1.2** Companies House records (20/11/15) shows that the current Directors of Pennycraft Properties Ltd are Shahzad Karim and Jacqueline Ann Hardwick.
- 1.3** On 26 January 2015, a minor variation application was granted without being subject to any representations. This application was submitted at the request of the Licensing Authority to modify the conditions of the premises licence, after establishing immigration offences at the premises.

2.0 CURRENT POSITION:

- 2.1** The current Premises Licence permits:
- 2.1.1** Hours the premises are open to the public: 24 hours daily
- 2.1.2** Supply of alcohol (on supplies only): 10am to midnight Monday to Saturday, 12:00 to 23:30 Sunday
- 2.1.3** Recorded music (indoors): 24 hours daily
- 2.1.4** Late night refreshment: 23:00 to 00:30 Monday to Saturday, 23:00 to midnight Sunday
- 2.2** A copy of a location map of the premises is attached as Annex 01.
- 2.3** A copy of the current Premises Licence is attached as Annex 02.

3.0 THIS APPLICATION:

3.1 On 2 October 2015 the Licensing Authority submitted a Review application of the premises licence at Tandoori Nights following repeated immigration offences. The Licensing Authority seek revocation of the premises licence, to support the prevention of crime and disorder licensing objective.

3.2 A copy of the application and Additional Information is attached as Annex 03.

3.3 The application was advertised in accordance with the requirements of the Licensing Act 2003.

4.0 RELEVANT REPRESENTATIONS :

4.1 Metropolitan Police: Representation is made, on the grounds of the prevention of crime and disorder, in support of the review application. The authority agrees that it is appropriate, for the promotion of the licensing objectives, to revoke the Premises Licence.

4.2 A copy of the representation is attached as Annex 04.

5.0 RELEVANT LAW, GUIDANCE & POLICIES:

5.1 The paragraphs below are extracted from either:

5.1.1 the Licensing Act 2003 ('Act'); or

5.1.2 the Guidance issued by the Secretary of State to the Home Office of June 2014 ('Guid'); or

5.1.3 the London Borough of Enfield's Licensing Policy Statement of April 2012 ('Pol').

5.1.4 the Summary Review Guidance, Section 53A Licensing Act 2003 issued by the Home Office ('Summary').

General Principles:

5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4 (1)].

5.3 The licensing objectives are:

5.3.1 the prevention of crime and disorder;

5.3.2 public safety;

5.3.3 the prevention of public nuisance; &

5.3.4 the protection of children from harm [Act s.4 (2)].

5.4 In carrying out its functions, the Sub-Committee must also have regard to:

5.4.1 the Council's licensing policy statement; &

5.4.2 guidance issued by the Secretary of State [Act s.4(3)].

Review:

- 5.5** In reviewing a licence the Sub-Committee will consider, and take into account, the complaints history of the premises and all other relevant information [Pol s.10.3].
- 5.6** A number of reviews may arise in connection with crime that is not directly connected with licensable activities. The Sub-Committee does not have the power to judge the criminality or otherwise of any issue. The Sub-Committee's role is to ensure the promotion of the crime prevention objective [Guid s.11.24].
- 5.7** There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These include knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter; [Guid s.11.27].
- 5.8** Where reviews arise in respect of these criminal activities and the Sub-Committee determines that the crime prevention objective is being undermined, it is expected that revocation of the licence – even in the first instance – should be seriously considered [Guid s.11.28].

Decision:

- 5.9** Having heard all of the representations (from all parties) the Licensing Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- to modify the conditions of the licence;
 - to exclude a licensable activity from the scope of the licence;
 - to remove the designated premises supervisor
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence [Act s.52].
- 5.10** In deciding which of these powers to invoke, the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should generally be directed at those causes and should always be no more than an appropriate and proportionate response [Guid s.11.20].

Decision:

- 5.11** Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- 5.11.1** to modify the conditions of the licence;
 - 5.11.2** to exclude a licensable activity from the scope of the licence;
 - 5.11.3** to remove the designated premises supervisor
 - 5.11.4** to suspend the licence for a period not exceeding three months;
 - 5.11.5** to revoke the licence [Act s.52].
- 5.12** In deciding which of these powers to invoke, the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should generally be directed at those causes and should always be no more than an appropriate and proportionate response [Guid s.11.20].

Background Papers :
None other than any identified within the report.

Contact Officer :
Ellie Green on 020 8379 8543



Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW





Licensing Act 2003

PART A – PREMISES LICENCE

Granted by the London Borough of Enfield as Licensing Authority

Premises Licence Number : LN/200500356

Part 1 – Premises Details

Postal address of premises :

Premises name : Tandoori Nights

Telephone number : 020 8441 2131

Address : 27 Station Parade Cockfosters Road BARNET EN4 0DW

Where the licence is time-limited, the dates : Not time limited

The opening hours of the premises, the licensable activities authorised by the licence and the times the licence authorises the carrying out of those activities :

(1) **Open to the Public - Whole Premises**

| | |
|-------------|---------------|
| Sunday : | 00:00 - 00:00 |
| Monday : | 00:00 - 00:00 |
| Tuesday : | 00:00 - 00:00 |
| Wednesday : | 00:00 - 00:00 |
| Thursday : | 00:00 - 00:00 |
| Friday : | 00:00 - 00:00 |
| Saturday : | 00:00 - 00:00 |

(2) **Supply of Alcohol - On supplies**

| | |
|-------------|---------------|
| Sunday : | 12:00 - 23:30 |
| Monday : | 11:00 - 00:00 |
| Tuesday : | 11:00 - 00:00 |
| Wednesday : | 11:00 - 00:00 |
| Thursday : | 11:00 - 00:00 |
| Friday : | 11:00 - 00:00 |
| Saturday : | 11:00 - 00:00 |

Good Friday : 12:00 - 23:30
 Christmas Day : 12:00 - 23:30
 New Years Eve : from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

(3) Recorded Music - Indoors

| | |
|--------------------|----------------------|
| Sunday : | 00:00 - 00:00 |
| Monday : | 00:00 - 00:00 |
| Tuesday : | 00:00 - 00:00 |
| Wednesday : | 00:00 - 00:00 |
| Thursday : | 00:00 - 00:00 |
| Friday : | 00:00 - 00:00 |
| Saturday : | 00:00 - 00:00 |

(4) Late Night Refreshment - Indoors

| | |
|------------------------|----------------------|
| Sunday : | 23:00 - 00:00 |
| Monday : | 23:00 - 00:30 |
| Tuesday : | 23:00 - 00:30 |
| Wednesday : | 23:00 - 00:30 |
| Thursday : | 23:00 - 00:30 |
| Friday : | 23:00 - 00:30 |
| Saturday : | 23:00 - 00:30 |
| Good Friday : | 23:00 - 00:00 |
| Christmas Day : | 23:00 - 00:00 |
| New Years Eve : | 23:00 - 05:00 |

Part 2

Name and (registered) address of holder of premises licence :

Name : Pennycraft Properties Limited

Telephone number : Not provided

e-mail : Not provided

Address : 5 Jardine House, Harrovian Business Village,
Bessborough Road, Harrow, Middlesex, HA1 5EX

Registered number of holder (where applicable) :

03389020

Name and (registered) address of second holder of premises licence (where applicable) :

Name : Not applicable

Telephone number :

Address :

Name and address of designated premises supervisor (where the licence authorises the supply of alcohol) :

Name : Mr Mohammed Rasid

Telephone number : Not provided

e-mail : Not provided


Address : 72 Mount Pleasant, Cockfosters, Barnet, Herts, EN4 9HH

Personal licence number and issuing authority of personal licence held by designated premises supervisor (where the licence authorises the supply of alcohol) :

Personal Licence Number : 01SX/WK/200503137

Issuing Authority : London Borough of Barnet

Premises Licence LN/200500356 was first granted on 23 June 2005.

Signed : 
for and on behalf of the
London Borough of Enfield
Licensing Unit, Civic Centre, Silver Street, Enfield EN1 3XH
Telephone : 020 8379 3578

Date : 26th January 2015

ENFIELD
Council



Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence : (a) At a time when there is no designated premises supervisor in respect of the premises licence; or (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

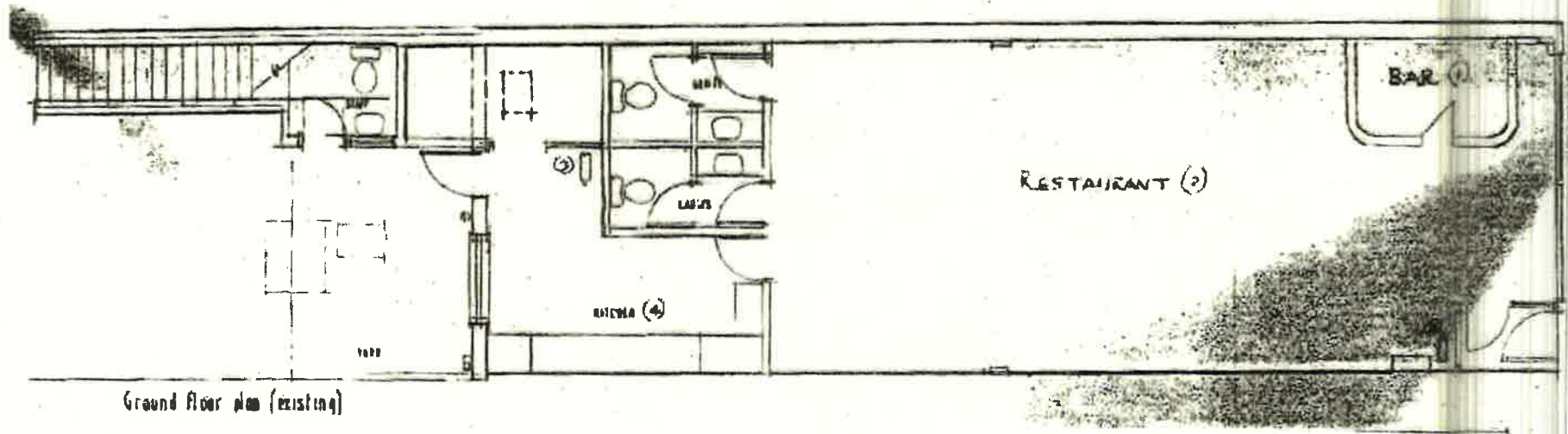
Annex 2 - Conditions consistent with the Operating Schedule

3. Alcohol shall not be sold or supplied except during the following permitted hours:
 - (a) On weekdays (other than Christmas Day or Good Friday) 11:00 - 00:00;
 - (b) On Sundays (other than Christmas Day) 12:00 - 23:30;
 - (c) On Good Friday 12:00 - 23:30;
 - (d) On Christmas Day 12:00 - 23:30;
 - (e) On New Year's Eve from the end of permitted hours on New Year's Eve
4. Alcohol shall not be supplied otherwise than to persons taking table meals for consumption by such persons as ancillary to the meal
5. Suitable beverages other than alcohol (including drinking water) shall be equally available for consumption with or otherwise as ancillary to table meals.
6. To be able to produce to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office document 'An employer's guide to right to work checks' December 2014 issue or any subsequent issue. This proof to be produced within 24 hours.
7. To maintain on the premises a contemporaneous written record of the hours worked by all persons. Such record shall as a minimum cover the previous 4 working weeks and must be available to be produced on demand to a Police Officer, local authority officer or Home Office Immigration Officer.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

Not applicable

Annex 4 - Plans



Ground floor plan (existing)

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I Charlotte Palmer Licensing Enforcement Officer

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

Part 1 – Premises or club premises details

| | |
|---|--|
| Postal address of premises or, if none, ordnance survey map reference or description | |
| Tandoori Nights, 27 Station Parade, Cockfosters Road | |
| Post town Barnet | Post code (if known) EN4 ODW |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) |
| Pennycraft Properties Ltd |

| |
|---|
| Number of premises licence or club premises certificate (if known) |
| LN/200500356 |

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|---|
| Name and address Charlotte Palmer Licensing Authority London Borough of Enfield PO Box 57 Civic Centre Silver Street EN1 3XH |
| Telephone number: 020 8379 3965 |
| E-mail address: charlotte.palmer@enfield.gov.uk |

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

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

**Please state the ground(s) for review:** (please read guidance note 1)

Enfield Licensing Authority is seeking a review of the premises licence on the grounds that the premises have been employing staff who are not legally entitled to work in the UK.

This review is primarily based on the prevention of crime and disorder, licensing objective. **The review application is to revoke the premises licence in its entirety.**

Background Information:

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

Complaint and Visit History of Premises

The licence for this premises was converted to a Premises Licence in 2005.

The premises is currently licensed for the following times and activities:

| Activity | Times |
|---------------------------|--|
| Opening hours | 24 hours everyday |
| Sale of alcohol (on only) | 11:00 – 00:00 Mon – Sat 12:00 – 23:30 Sun |
| Recorded Music | 24 hours everyday |
| LNR | 23:00 – 00:30 Mon – Sat 23:00 – 00:00 Sun |

2014 - The Immigration Services in partnership with Enfield Council Enforcement Officers visited a number of premises in the borough to carry out checks for immigration offences. The purpose of these visits was to ensure that only those staff legally entitled to work in the UK were being employed at the premises.

28th July 2014 – A visit was made to Tandoori Nights and four arrests were made in relation to immigration offences.

18th September 2014 - A visit was made to Tandoori Nights and five arrests were made in relation to immigration offences.

17th October 2014 – 20:20 – 20:30 - Licensing Enforcement Officers visited the premises with 2 Immigration officers on an intelligence gathering visit. Full licence inspection carried out, very few conditions on the licence – all compliant. When the Immigration Officers entered the premises 4 members of staff from the kitchen ran out of the back door of the premises.

28th October 2014 - A visit was made to Tandoori Nights and one arrest was made in relation to immigration offences.

29th December 2014 - A letter was sent to the premises licence holder by the Licensing Enforcement Team recommending that they submit a minor variation application to strengthen the licence conditions following the arrests.

The additional conditions were:

- To be able to produce, to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office document: 'An employers guide to right to work checks' December 2014 issue or any subsequent issue. This proof to be produced within 24 hours.
- To maintain on the premise a contemporaneous written record of the hours worked, by all persons. Such record shall as a minimum cover the previous 4 working weeks and must be available to be produced on demand, to a Police Officer, local authority officer or Home Office Immigration Officer.

The letter included a warning stating: **'Please consider this letter to be a warning as to your future conduct. Should further similar offences be committed at the premises, the Licensing Authority may take action in order to have the premises licence permanently REVOKED, as recommended by the Secretary of State guidance.'**

The letter also advised that employers have a statutory duty to ensure that non UK/EEA employees have a right to work in the United Kingdom. In order to acquire a statutory excuse against liability for payment of a civil penalty for employing an illegal worker, an employer must undertake appropriate document checks prior to and during the period of employment. It went on to say that an employee checking service is freely available online and provided the relevant web link.

See Appendix 1 and 2.

8th January 2015 - The Minor variation was submitted.

26th January 2015 - The Minor variation was granted.

11th August 2015 – The Licensing Enforcement Team were advised by the Immigration Service that the premises had been visited on **05/06/2015** and that 1 male had been arrested for working in breach of his Temporary Release Conditions.

The premises licence holder was later issued a fine. Officers requested a statement from immigration detailing the visit – see **Appendix 3**. This most recent arrest demonstrates that the following licence condition was being breached:

- To be able to produce, to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office document: 'An employers guide to right to work checks' December 2014 issue or any subsequent issue. This proof to be produced within 24 hours.

Additional Information:

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

Under the Revised Guidance, Section 182 Licensing act 2003 (Oct 2014), section 11.27 states " There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.' One of these activities is: **'knowingly employing a person who is unlawfully in the UK, or who cannot lawfully be employed as a result of a condition on that persons leave to enter.'**

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

In the 'Summary Guide for Employers on Preventing Illegal Working in the UK' document published by the Home Officer UK Boarder Agency April 2012 it states:

'Illegal working has harmful social and economic effects on the UK; it undercuts British businesses and their workers that stay within the law and exploits migrant workers. That is why we need to put a stop to employers breaking the law by taking tough action against those who do so.

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

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

Illegal working is not a victimless crime as it exploits sometimes vulnerable migrants, and potentially, defrauds the taxpayer, can deny employees a safe working environment, undercuts honest employees and limits the employment opportunities of legitimate jobseekers.

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

Additionally and what is of greater concern is that the history and criminal background of these staff members is completely unknown to the authorities which potentially further impacts on the licensing objectives.

Conclusion:

On at least 4 occasions this premises has been found to be employing staff who are not legally entitled to work in the UK. This has led to a lack of confidence in the management of the premises.

The Secretary of State believes that employing staff who are not legally entitled to work in the UK should be treated particularly seriously and that where licence reviews are submitted and the licensing authority determines that the crime prevention objective is being undermined revocation of the licence, even in the first instance should be seriously considered.

The Licensing Authority therefore recommends that this licence be revoked.

If the Licensing Committee does not deem it necessary to revoke the licence in its entirety I would recommend the licence be suspended for 3 months, the DPS be varied and the conditions attached to the licence be amended, as follows, to strengthen them:

Annex 2 - Conditions consistent with the Operating Schedule

3. Alcohol shall not be sold or supplied except during the following permitted hours:
- (a) On weekdays (other than Christmas Day or Good Friday) 11:00 - 00:00;
 - (b) On Sundays (other than Christmas Day) 12:00 - 23:30;
 - (c) On Good Friday 12:00 - 23:30;
 - (d) On Christmas Day 12:00 - 23:30;
 - (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on New Years Day.

Remove – times are already on the licence

- 4. Alcohol shall not be supplied otherwise than to persons taking table meals for consumption by such persons as ancillary to the meal
- 5. Suitable beverages other than alcohol (including drinking water) shall be equally available for consumption with or otherwise as ancillary to table meals.
- 6. To be able to produce, to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office Full guide for employers on preventing illegal working in the UK, October 2013 issue or any subsequent issue. This proof to be produced within 24 hours.
- 7. To maintain on the premise a contemporaneous written record of the hours worked, by all persons. Such record shall as a minimum cover the previous 4 working weeks and must be available to be produced on demand, to a Police Officer, local authority officer or Home Office Immigration Officer. Records shall include the employees full name and address.

Add:

- All staff shall receive induction and refresher training (at least every three months) relating to the times and conditions of this premises licence.
- All training relating to the times and conditions of the premises licence shall be documented and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least two years.

I would also recommend that times for opening and recorded music be added to the licence as follows:

| Activity | Current Times | Proposed times |
|---------------------------|--|--|
| Opening hours | 24 hours everyday | 11:00 – 01:00 Mon – Sat 12:00 – 00:30 Sun |
| Sale of alcohol (on only) | 11:00 – 00:00 Mon – Sat 12:00 – 23:30 Sun | No change |
| Recorded Music | 24 hours everyday | 11:00 – 00:30 Mon – Sat 12:00 – 00:00 Sun |
| LNR | 23:00 – 00:30 Mon – Sat 23:00 – 00:00 Sun | No change |

NB. In order to support premises in meeting the conditions of their licence, the Licensing Authority has produced material such as training guidance, leave quietly sign, refusals book, which can be found on the Enfield website by following this link: http://www.enfield.gov.uk/site/scripts/home_info.php?homepageID=360.

The 'Full guide for employers on preventing illegal working in the UK' can be downloaded from the following website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304793/full-guide-illegal-working.pdf

The Licensing Authority reserve the right to add any additional information to support this review application.

| | |
|--|----------|
| Suspension of Licence: | N |
| Revocation of Licence: | Y |
| Recommended period of suspension (max 3 months): | |
| The premises licence holder has continued to employ staff who are not legally entitled to work in the UK despite a previous written warning and relevant conditions being attached to the licence via a minor variation. DCMS guidance states that revocation even in the first instance should be seriously considered. The arrest in June 2015 was the 11th arrest. This leaves little option other than for the Licensing Authority to seek total revocation of the premises licence. | |

Please tick yes

Have you made an application for review relating to this premises before Yes

If yes please state the date of that application

Day Month Year
n/a

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

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

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

Signature:

Date: 3rd October 2015

Capacity: Senior Licensing Enforcement Officer

| | |
|---|------------------|
| Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) | |
| Post town | Post Code |
| Telephone number (if any) | |
| If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) | |

Notes for Guidance

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

LICENSING AUTHORITY REPRESENTATION
ADDITIONAL INFORMATION

Name and address of premises: Tandoori Nights
27 Station Parade
Cockfosters Road
Barnet
EN4 0DW

Type of Application: Review of Premises Licence

This document includes additional information, not previously mentioned in the review application. It also includes all officer observations and inspections carried out since the review was submitted on 2nd October 2015:

02.10.15 – Licensing Enforcement Officers (CPX/CT/JM) hand delivered the licence review application to the premises. A full licence inspection was carried out and a note made of the names and contact details of the five staff working in the premises at the time of the visit. The officers also spoke with Mr Shahzad Karim. The following two conditions were outstanding:

Condition 6. To be able to produce to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office document 'An employer's guide to right to work checks' December 2014 issue or any subsequent issue. This proof to be produced within 24 hours.

No evidence was available at the time of the inspection. The officers asked that this information be sent to them within 7 days.

Condition 7. To maintain on the premises a contemporaneous written record of the hours worked by all persons. Such record shall as a minimum cover the previous 4 working weeks and must be available to be produced on demand to a Police Officer, local authority officer or Home Office Immigration Officer.

No record of hours worked could be provided at the time of the visit. Breach of condition. The officers asked that this information be sent to them within 7 days.

The officers talked with Mr Karim about the review application and advised him to get legal advice. He said they had disputed the fine issued by the immigration service and that he had employed the person concerned through an agency.

Step 2 on Page 13 of the Home Office document – An employer's guide to right to work checks – May 2015 relates to checking the validity of documents. The second paragraph clearly states:

'The responsibility for checking the document is **yours**. Whilst it may be delegated to your members of staff, you will remain liable for the penalty. You may not delegate this responsibility to a third party.

A copy of the licence inspection report is attached as **Appendix 4**. A copy of 'An employer's guide to right to work checks' – May 2015 is attached as **Appendix 5**.

06.10.15 - An email was sent to the Immigration Service - Civil Penalty Compliance Team asking them to confirm whether or not the fine had been paid.

12.10.15 - The Immigration Service - Civil Penalty Compliance Team advised that their records show that the premises are non-compliant meaning that their appeal rights are exhausted and they have not paid the penalty.

They confirmed that a £15,000 fine was issued on 24/07/15 for a breach of section 15 of the Immigration, Asylum and Nationality Act 2006. They also advised that the company challenged this decision by objecting – a statutory stage where the original decision is reviewed if requested – but the original penalty was upheld on 08/09/15.

The date to lodge an appeal with the County Court has passed and at that time no notification of an appeal had been received by the Immigration Service.

14.10.15 – Information received from Mr Karim in relation to condition 6 & 7. (*The information provided includes staff's personal details so it has not been attached to this document*). Included were details of seven people, (6 of whom were seen at the premises on 02/10/15), a copy of their passports and their times sheets for 4 weeks up to 04/10/15. Four of the six had British passports, one a Portuguese passport and one had a letter from the Home Office. However this letter was dated 12th August 2014 and related to a certificate of application for a residence card. The letter states that a decision would be made within 6 months (i.e. 12th February 2015). Time sheets were not provided for one person – the one who was not seen on 02.10.15.

28.10.15 – An email was sent to the premises licence holder's legal representative by a Licensing Enforcement Officer. The email asked what if any follow-up checks had been carried out on the member of staff whom the Home Office letter referred to in order to find out the current status of that application. The officer pointed out that the Home Office letter includes a note for employers stating 'This document may form part of a statutory defence against liability to pay a civil penalty under section 15 of the Immigration, Asylum and Nationality Act 2006 for employing an illegal migrant worker. However, it should only be accepted for this purpose if presented within 6 months of the date of issue...' The officer also asked why time sheets were not provided for the designated premises supervisor and asked for confirmation as to whether the DPS still worked at the premises.

29.10.15 – A letter was received from the premises licence holder's legal representative advising that the fine issued by immigration is the subject of a challenge under claim number B00SI292. The letter requested that as such the review be withdrawn.

30.10.15 - An email was sent to the premises licence holder's legal representative and Watford Country Court by a Licensing Enforcement Officer asking for the date this case will be heard and whether it is the level of the fine that is being disputed or the issuing of it. The outcome of this case could have a bearing on this review application however, until the answers to these questions are received consideration cannot be given as to whether or not this review should be postponed or withdrawn.
Awaiting response from the court.

02/11/15 – A Licensing Enforcement Officer spoke to an Immigration Officer in relation to the other member of staff whom the Home Office Letter related to. They confirmed that the employer should have requested an update from the member of staff. The Immigration officer checked their system and the application was refused on the

27/06/2015, however an appeal is outstanding and until the appeal is concluded they would be able to work.

09/11/15 – An email was received from the Premises Licence Holder legal representative advising that follow up checks had been carried out with the member of staff's legal representatives to confirm their right to work. They confirmed that an appeal is pending with the courts and the matter is yet to be listed to be heard. They advised they had requested an update from the member of staff's legal representative and the officer was provided a copy of this. The response from the other legal firm was dated 2nd November 2015. The email also stated that the DPS works flexible hours and that he is not an employee of the company but a shareholder and therefore does not maintain timesheets. They went on to state that the appeal to the County Court was against the issuing of the civil penalty, not the level of the fine and that the matter was yet to be listed for a hearing date.

Additional Information –

Further to the information included in the original review application 'Working in breach of Temporary Release Conditions' means that the person in question had been previously arrested by immigration and was not permitted to remain in the UK but had been temporarily released on bail pending deportation. One of the conditions attached to that temporary release was that he could not take on employment.

Please note that the arrests previously referred to as 28th July 2014 and 28th October 2014 actually took place on 28th July **2008** and 28th October **2008**. Please see Appendix 6 for a statement from immigration detailing these visits.

Duly Authorised: Charlotte Palmer, Licensing Enforcement Officer

Contact: charlotte.palmer@enfield.gov.uk

Signed:



Date: 10/11/15



1914 - 1918

Pennycraft Properties Ltd
Tandoori Nights
27 Station Parade
Cockfosters Road
Barnet
EN4 0DW

Please reply to: Charlotte Palmer
Licensing Enforcement
B Block North, Civic Centre,
SILVER Street, Enfield, EN1 3XA

E-mail : Charlotte.palmer@enfield.gov.uk

Textphone : 020 8379 4419

My Ref : LN/200500356

Your Ref :

Date : 29th December 2014

Dear Sir / Madam

Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW - LN/200500356

I write in relation to the premises licence that you hold for the above premises.

Over the last few months the Immigration Services in partnership with Enfield Council Enforcement Officers have visited a number of premises in the borough to carry out checks for immigration offences. The purpose of these visits was to ensure that only those staff legally entitled to work in the UK were being employed at the premises.

On visiting your premises on 28th July four arrests were made in relation to immigration offences. On 18th September 2014 five arrests were made and on 28th October 2014 one further arrest was made.

Under the Revised Guidance, Section 182 Licensing act 2003 (Oct 2014), section 11.27 states " There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.' One of these activities is: "knowingly employing a person who is unlawfully in the UK, or who cannot lawfully be employed as a result of a condition on that persons leave to enter."

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

Ian Davis
Director – Regeneration & Environment
Enfield Council
Civic Centre, Silver Street
Enfield EN1 3XY



Website: www.enfield.gov.uk

Consequently, the Licensing Authority is considering reviewing the premises licence. The Licensing Authority believes that additional conditions need to be added to the premises licence to strengthen the licensing objectives.

However, in considering any review application, the Council's Licensing Sub-Committee may choose to:

- revoke the licence;
- suspend the licence for up to three months;
- remove the DPS from the licence;
- exclude a licensable activity from the licence; and
- modify the conditions of the licence.

As an alternative to having your licence reviewed, the Licensing Authority are prepared to offer you the opportunity to apply for a minor variation to voluntarily add conditions to the premises licence and / or to improve some of the current conditions.

Enclosed is a document showing the suggested additional conditions which are designed to help prevent the premises employing a person who is unlawfully in the UK, or who cannot lawfully be employed as a result of a condition on that persons leave to enter.

If you agree to apply for the minor variation please do so **within 14 days of the date of this letter**. A minor variation application form is enclosed.

If you do not agree to submit the minor variation, it will leave the Licensing Authority with no choice but to pursue a review of the premises licence. You will then run the risk of having the licensing committee impose stricter restrictions on the premises licence and possibly even suspending or revoking the licence.

Please consider this letter to be a warning as to your future conduct. Should further similar offences be committed at the premises, the Licensing Authority may take action in order to have the premises licence permanently REVOKED, as recommended by the Secretary of State guidance.

Employers have a statutory duty to ensure that non UK/EEA employees have a right to work in the United Kingdom. In order to acquire a statutory excuse against liability for payment of a civil penalty for employing an illegal worker, an employer must undertake appropriate document checks prior to and during the period of employment.

An employee checking service is freely available to employers via the following link:
<https://www.gov.uk/government/publications/employer-checking-service-form-check-employees-right-to-work>

If you have any queries about the enclosed list of conditions or are unable to apply for a minor variation within the time frame given please contact me on 0208 379 3965.

Yours sincerely

Charlotte Palmer
Licensing Enforcement Officer

cc: Pennycraft Properties Ltd, 72 Mount Pleasant, Cockfosters, Barnet, EN4 9HH.

Amended / additional conditions to be added to premises licence for:

**Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW -
LN/200500356**

Additional conditions to be added to the premises licence:

- To be able to produce, to a Police Officer, local authority officer or Home Office Immigration Officer, proof of full compliance with the Home Office document: 'An employers guide to right to work checks' December 2014 issue or any subsequent issue. This proof to be produced within 24 hours.
- To maintain on the premise a contemporaneous written record of the hours worked, by all persons. Such record shall as a minimum cover the previous 4 working weeks and must be available to be produced on demand, to a Police Officer, local authority officer or Home Office Immigration Officer.

'An employers guide to right to work checks' December 2014 issue can be downloaded from the following website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/390363/an_employers_guide_to_right_to_work_checks_december_2014_v4.pdf

RESTRICTED (when complete)



WITNESS STATEMENT

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

URN

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

Statement of: Kate GARDNER

Age if under 18 Over 18 (If over 18 insert "over 18")

Occupation: Assistant Immigration Officer

This statement (consisting of 6 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 which I know to be false or do not believe to be true.

Signature Kate Gardner Date: 16/06/2015

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

I am KATE GARDNER; an arrest trained Assistant Immigration Officer (warrant number 9784) of Home Office Immigration Enforcement, from North London ICE (Immigration Compliance & Enforcement). I am stationed at BECKET HOUSE, 3RD FLOOR, 60-68 ST THOMAS STREET, LONDON, SE1 3QU.

On Friday 3rd June 2015 I was on duty in full uniform including PPE which clearly identified me as an immigration officer. As OIC for the visits late visits on this day, at approximately 2100 hours I carried out a briefing at Home Office vehicles while on enforcement visits. Making up the team for the day was IO D VERRALL, IO C BROWN, IO G MOORE, IO K BERG, AIO H UDDIN, IO M BALDOCK and IO A SUTTON. The intention was to carry out an illegal working enforcement visit to TANDOORI NIGHTS, 27 STATION PARADE, COCKFOSTERS ROAD, EN4 0DW on the basis of intelligence received that suggested a illegal working at the above premises.

At approximately 2130 hours officers arrived at the premises and rapidly deployed inside. IO BROWN executed the Schedule 2, paragraph 17(2) warrant on a male who identified himself as the manager. I now know his details to be Shahzad KARIM, 01/06/1965, GBR

Signature: Kate Gardner Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: Kate Gardner

Page 2

(passport seen).

8 employees were encountered on the premises. All cleared apart from male encountered by IO K BERG.

The subject who I witnessed wearing blue and white striped apron initially provided his details to IO BERG as Nazrul ISLAM, 06/07/1972, BGD/GBR. However, a RapID of the subject confirmed his identity as Sayful ISLAM, 02/12/1976, BGD.

I was aware that at approximately 2153 hours IO BERG arrested Sayful ISLAM for working in breach of his Temporary Release conditions. IO BERG then served an IS96 on the subject and escorted him off the premises.

At approximately 2205 hours I began Referral Notice Q+A with manager Shahzad KARIM, 01/06/1965, GBR in English under CAUTION +2 which revealed:

Q: WHAT TYPE OF BUSINESS IS THIS?

A: A LIMITED COMPANY.

Q: WHAT IS THE COMPANIES HOUSE REGISTRATION NUMBER?

A: I'M NOT SURE, THIS IS A SUBSIDIARY OF PENNYCRAFT WHO OWNS THE BUILDING. IT IS RENTED TO TANDOORI NIGHTS.

Q: IS TANDOORI NIGHTS REGISTERED WITH COMPANIES HOUSE AS A BUSINESS?

A: YES.

Q: DO YOU HAVE A VAT NUMBER FOR THE BUSINESS?

A: 710179953.

Q: WHAT DOCUMENTS DO YOU HAVE TO SHOW THIS?

A: THEY ARE AT THE OFFICE AT 72 MOUNT PLEASANT, EN4 9HH.

Signature:  Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: Kate Gardner

Page 3

Q: WHO IS THE OWNER OF THE BUSINESS?

A: ME, I AM ONE OF THE PARTNERS, THE OTHER IS MR MOHAMMAD RASHID.

Q: WHO EMPLOYS THE STAFF?

A: I DO BUT THROUGH A JOB AGENCY, MOSTLY THROUGH FAKURUDDIN AGENCY, BRICK LANE, 07710978704.

Q: WHO PAYS THE STAFF?

A: I DO.

Q: DO YOU KNOW AND EMPLOY SAYFUL ISLAM, 02/12/76, BGD THAT HAS BEEN ARRESTED BY IO BERG (I point to the subject)?

A: YES, BUT I GOT HIM FROM AN AGENCY.

Q: WHAT DO YOU KNOW HIM AS?

A: SAYFUL ISLAM, BUT THE AGENCY EMPLOYED THEM FOR US.

Q: DO YOU PAY HIS WAGES?

A: YES.

Q: HOW MUCH AND HOW?

A: HE WILL BE WORKING 24 HRS SO SHOULD BE £140 A WEEK, WE HAVEN'T PAID HIM YET AS HES ONLY BEEN HERE 4 OR 5 DAYS BUT WILL BE BY CASH OR CHEQUE.

Q: WHAT DOCUMENTS CAN YOU PROVIDE TO SUPPORT YOUR CLAIM THAT YOU DID NOT KNOW HE WAS NOT ABLE TO WORK?

A: HE WAS EMPLOYED THROUGH ABOVE AGENCY SO AS FAR AS I WAS AWARE HE WAS ABLE TO WORK.

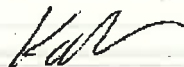
Q: WHAT IS THE SUBJECT'S ROLE IN THE SHOP?

A: MIDDLE MAN, MAKES SALAD'S, STARTERS ETC.

Q: WHAT DAYS/HOURS DOES HE WORK?

A: HE HAS WORKED MONDAY, TUESDAY, WEDNESDAY AND THURSDAY AND TONIGHT, ABOUT 5 HOURS A DAY SO ABOUT 24/25 HOURS A WEEK.

Signature:
2004/05(1)



Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: Kate Gardner

Page 4

Q: HOW MUCH ARE YOU PAYING HIM?

A: £140 A WEEK.

Q: WHAT DOCUMENTS DO YOU HAVE RELATING TO THE WORKER AND DID HE SHOW YOU ANY ID OR PROOF OF RIGHT TO WORK?

A: I DIDN'T SEE ANY, I EMPLOYED THEM THROUGH AGENCY ABOVE. MY PARTNER RASHID ORGANISED EVERYTHING.

Q: THE COPIES OF HIS DOCUMENTS, WILL THEY BE AT THE OFFICE?

A: RASHID WILL HAVE COPIES OF HIS ID THAT HE GOT FROM FAKURUDDIN AGENCY.

Q: HAVE YOU ANYTHING TO ADD?

A: AS FAR AS I AM CONCERNED HE HAD RIGHT TO WORK, CONTACT AGENCY.

At approximately 2238 hours Shahzad KARIM, 01/06/1965, GBR signed my notebook to confirm that this is a true and accurate record. At 2238 hours I then served a Referral Notice on KARIM.

At approximately 2242 hours all officers were off scene, no incidents.

I make this statement at 1330 hours on the 16/06/2015 from my recollection of events and the notes I made in my Personal Note Book IE 004852 pages 10-18.

Signature:  Signature Witnessed by:
2004/06(1)

REF: WK/ 21 5047880

LICN_1

LICENSING ENFORCEMENT INSPECTION REPORT

| | | |
|------------------|--|---------------|
| Premises Name | Tandon Niglas | |
| Premises Address | 27 Station Rd, Cockfosters Rd. EN4 0DW | |
| Time of Visit: | Start: 21.35 | Finish: 22.00 |

During an inspection of your premises on 21 10 20 15 the following was checked:

- Part B of Premises Licence displayed? Yes No
- Address & tel no. of PLH & DPS on licence correct? Yes No (If incorrect, insert new details below)
- Conditions of licence checked? Yes No

| No. of condition not in compliance | Evidence/Advice |
|------------------------------------|--|
| 6. | Provide evidence of right to work checks. - Please email information to charlotte.palmer@enfield.gov.uk. |
| 7 | Ensure you keep a written record of the hours worked. |

Any other matter(s) that need addressing: Delivered renew application

You are required to have the above matters attended to within 7 days of this notice. Failure to rectify the above breaches may constitute a criminal offence and result in legal proceedings being brought against you.

| LICENSING ENFORCEMENT | RECIPIENT OF NOTICE |
|---|--|
| Signature of Officer on visit: <i>Palmer</i> | Signature: <i>Shahzad</i> |
| Print Name: CHARLOTTE PALMER. | Print Name & Position: <i>Shahzad Karim</i> |

Licensing Enforcement, Civic Centre, Silver Street, Enfield, EN1 3XH, Tel: 020 8379 1767
 Police Licensing Officer, Civic Centre, Silver Street, Enfield, EN1 3XH Tel: 0208 379 6112

For queries relating to new applications, variations, vary DPS, Temporary Event Notices, address changes etc, please contact the Licensing Team on 0208 379 3578 or licensing@enfield.gov.uk.

Download the appropriate application forms at http://www.enfield.gov.uk/info/200007/licensing_and_registration.

Material such as leave quietly signs, training guidance and refusals book is available to download and print at http://www.enfield.gov.uk/downloads/download/2316/compliance_documents





An employer's guide to right to work checks

May 2015

Produced by the Home Office

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1. Introduction

Illegal working often results in abusive and exploitative behaviour, the mistreatment of illegal migrant workers, tax evasion and poor housing conditions. It can also undercut legitimate businesses and have an adverse impact on the employment of people who are lawfully in the UK.

The law on preventing illegal working is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act). This legislation replaced section 8 of the Asylum and Immigration Act 1996 (the 1996 Act) in respect of employment which commenced on or after 29 February 2008. Under section 15 of the 2006 Act, an employer may be liable for a civil penalty if they employ someone who does not have the right to undertake the work in question. Employers have a duty to prevent illegal working in the UK by carrying out prescribed document checks on people before employing them to ensure they are lawfully allowed to work. These checks should be repeated in respect of those who have time-limited permission to work in the UK.

On 16 May 2014, changes came into force to strengthen and simplify the civil penalty scheme for employers, and this includes some changes to the document checks employers are required to undertake. This guidance was amended in July and December 2014 to provide further clarification to the scheme.

Summary of changes in this issue of the guide

In this version of the guidance we provide clarification in respect of:-

- Biometric Residence Permits (BRPs) as they are gradually rolled out to non EEA migrants who apply for permission to enter the UK for more than six months. For most non EEA migrants, the BRP will therefore generally demonstrate the right to work in the UK;
- Residence Cards (biometric format) which will require non EEA family members of EEA nationals who wish to obtain a Residence Card to provide their biometrics (fingerscans and photograph of their face). They will be issued with a Residence Card (biometric format) which will resemble a BRP;
- Administrative reviews which have replaced many rights of appeal against immigration decisions; and
- the new process for issuing a Certificate of Application to non EEA family members of EEA nationals following the introduction of residence cards (biometric format).

For whom is this guide relevant?

This guide applies to checks required on or after 16 May 2014 to establish or retain an excuse against a liability of a civil penalty for employing a person who is not permitted to work for you.

Where the employment commenced on or after 29 February 2008 and a statutory excuse was established for the duration of that person's employment before 16 May 2014, the document checks set out in the ['Full guide for employers on preventing illegal working in the](#)

[UK](#) published in October 2013 continue to apply. When the employer established a limited statutory excuse before 16 May 2014, that excuse will last for twelve months from the date of the check. However, in respect of any check which was undertaken before 16 May 2014 and which provided an excuse which would expire on or after 16 May 2014, the excuse will time expire on the **later** of either:

- the 12 month anniversary of the check; or
- when the immigration endorsement that provided the excuse time expires.

If it is unclear when the immigration endorsement will time expire, it may be prudent for you to repeat the check on the 12 month anniversary in any event.

This guide applies to employers who employ staff under a contract of employment, service or apprenticeship, whether expressed or implied and whether oral or in writing. It does not apply to those who do work for you with a genuine self employed status. Further information is contained in the [Frequently Asked Questions](#).

How should this guide be used?

This guide sets out what an employer needs to know about conducting right to work checks. It provides guidance on what right to work checks are and why it is important that employers do them. It also explains on whom an employer needs to make checks, how frequently they need to do so, and how to do the checks correctly.

This guide has been issued alongside other guidance, Codes of Practice and tools. This collection comprises:

- [An employer's guide to the administration of the civil penalty scheme](#);
- [An employer's guide to acceptable right to work documents](#);
- [Frequently asked questions](#);
- [Code of practice on preventing illegal working: Civil penalty scheme for employers](#);
- [Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working](#);
- An employer's [Right to Work Checklist](#);
- The online interactive tool ['Check if someone can work in the UK'](#); and
- The online interactive tool ['Employer Checking Service Enquiries'](#).

They can be found on the [illegal working penalties](#) page of GOV.UK.

Who should read this guide?

Employers, including their Human Resource staff and those staff within the same business with delegated responsibility for the recruitment and employment of individuals, should read this guide to understand their responsibility to correctly carry out right to work checks from 16 May 2014, and therefore ensure compliance with the law.

References in this guide

'We' or 'us' in this guide mean the Home Office. References to 'you' and 'your' mean the employer.

'Days' means calendar days, i.e. including Saturdays, Sundays and bank holidays.

'Employee' means someone who is employed under a contract of employment, service or apprenticeship. This can be expressed or implied, oral or in writing.

'Breach' or 'breaches' mean that section 15 of the Immigration, Asylum and Nationality Act 2006 has been contravened by employing someone who is:

- subject to immigration control; and
- aged over 16; and
- not allowed to carry out the work in question because either they have not been granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:
 - (i) is invalid;
 - (ii) has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise; or
 - (iii) is subject to a condition preventing them from accepting the employment.

A breach also refers to the contravention of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013.

'Employment of illegal workers within the previous three years' means you have been issued with a civil penalty or warning notice in respect of a breach of the Act or the Accession of Croatia Regulations 2013 for one or more workers which occurred within three years of the current breach and where your liability was maintained following the exercise of any objection and/or appeal, or you have committed an offence under section 21 of the Act during the same period.

'A current document' means a document that has not expired.

2. What is a right to work check?

A right to work check means that you check a document which is acceptable for showing permission to work. You must do this **before** you employ a person to ensure they are legally allowed to do the work in question for you. You are also required to conduct a follow-up check on people who have time-limited permission to work in the UK.

Checking a person's documents to determine if they have the right to carry out the type of work you are offering comprises three key steps:

1. **Obtain** the person's original documents;
2. **Check** them in the presence of the holder; and
3. **Make and retain a clear copy**, and make a record of the date of the check.

You are responsible for conducting the visual inspection of the documents presented to you. You are only required to verify someone's right to work with our [Employer Checking Service](#) in three specified circumstances. These are set out in the section on Home Office verification checks.

You can find detailed information on how to correctly conduct right to work checks and a list of acceptable documents later in this guidance. A separate document: '[An employer's guide to acceptable right to work documents](#)' contains example images of the documents contained in the lists.

3. Why do you need to do checks?

As an employer, you have a duty to prevent illegal working. You should conduct document checks to make it harder for people with no right to work in the UK to unlawfully obtain or stay in employment, and to make it easier for you to ensure that you only employ people who have permission to do the work in question.

It is illegal to employ someone aged 16 or over subject to immigration control who is **not allowed** to undertake the work in question.

If you carry out document checks as set out in this guide, you will have a **statutory excuse** against liability for a civil penalty. This means that if we find that you have employed someone who does not have the right to work, but you have correctly conducted document checks as required, you will not receive a civil penalty for that illegal worker.

If, however, you fail to carry out these checks correctly, or at all, and you are found employing someone illegally, we will take tough action against you.

You could face a large financial penalty known as a **civil penalty** of up to **£20,000** for each illegal worker.

If you know that you are employing someone who is not allowed to carry out the work in question, you will not have a statutory excuse, regardless of whether you have conducted document checks.

You will commit a **criminal offence** under section 21 of the 2006 Act if you **knowingly** employ an illegal worker. You may face up to 2 years' imprisonment and/or an unlimited fine.

The level of your breach and the amount of any civil penalty for which you may be liable will be determined on a case-by-case basis by Home Office officials. These officials will refer to the **Consideration Framework** and **Civil Penalty Calculator** set out in our '[Code of practice on preventing illegal working: Civil penalty scheme for employers](#)' published in May 2014. If you are found liable, you will be issued with a **Civil Penalty Notice** setting out the total penalty amount you are required to pay, and the date by which you must pay it. It will also inform you how you can exercise your right to object, following which you will be able to appeal¹.

We have published '[An employer's guide to the administration of the civil penalty scheme](#)' which sets out in more detail the stages of the civil penalty process, the range of notices you may receive and the deadlines by which you need to take action at each stage.

¹ For civil penalty notices served on or after 28 July 2014, the employer must always object against the penalty notice before appealing to the court, except if served with a penalty notice for a higher amount following an objection. Further information is contained in the '[Employer's guide to the administration of the civil penalty scheme](#)'.

If you are an employer who is subject to immigration control, you should also be aware that if you are liable for a civil penalty, this will be recorded on Home Office systems and may be taken into account when considering any future immigration application that you make.

If you are liable for a civil penalty, it could also affect your ability to sponsor migrants who come to the UK in the future, including those you wish to work for you under Tier 2 of the Points Based System, or to hold a Gangmaster's licence. Further information on sponsoring migrants may be found [here](#).

4. Who do you conduct checks on?

You should conduct right to work checks on **all** potential employees. This means you should ask all people you are considering employing to provide you with their documents. To ensure that you do not discriminate against anyone, you should treat all job applicants in the same way at each stage of your recruitment processes.

You should not make assumptions about a person's right to work in the UK or their immigration status on the basis of their colour, nationality, ethnic or national origins, accent or length of time they have been resident in the UK.

In May 2014 we issued an updated '[Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working](#)'. The aim of the Code is to strengthen safeguards against unlawful discrimination when recruiting people and complying with your duty to conduct right to work checks. We strongly recommend that you refer to this Code when conducting document checks.

If you breach this Code of practice, it may be used as evidence in legal proceedings. Courts and Employment Tribunals may take account of any part of the Code relevant to matters of discrimination.

You will also place yourself at risk of liability for a civil penalty if you do not carry out a check on someone you have assumed has the right to work for you, but is found to be an illegal worker.

5. How do you conduct checks?

There are three basic steps to conducting a right to work check. Remember three keywords:

1. Obtain
2. Check
3. Copy

Further information is contained in the [Frequently Asked Questions](#).

Illustration 1: Summary of a right to work check



obtain
Obtain original versions of one or more acceptable documents.

check
Check the document's validity in the presence of the holder.

copy
Make and retain a clear **copy**, and record the date the check was made.

Illustration 2 explains in more detail what you need to do in each of the 3 steps to correctly conduct a check, and establish a statutory excuse.

Illustration 2: The 3-Step Check

Step 1 Obtain

You must obtain **original** documents from either [List A](#) or [List B](#) of acceptable documents at [Annex A](#).

Step 2 Check

You must **check** that they are genuine and that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work you are offering. You must check:

- 1) photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation;
- 2) expiry dates for permission to be in the UK have not passed;
- 3) any work restrictions to determine if they are allowed to do the type of work on offer (for **students** who have limited permission to work during term-times, you **must** also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed);
- 4) the documents are genuine, have not been tampered with and belong to the holder; and
- 5) the reasons for any difference in names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll). Supporting documents should also be photocopied and a copy retained.

Step 3 Copy

You must make a **clear copy** of each document in a format which cannot later be altered, and retain the copy securely: electronically or in hardcopy. You must also retain a secure record of the date on which you made the check.

You must copy and retain:

- 1) **Passports**: any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question (the front cover no longer has to be copied).
- 2) **All other documents**: the document in full, including both sides of a Biometric Residence Permit and a Residence Card (biometric format). You must retain copies securely for not less than two years after the employment has come to an end.

We recommend you use our:

- employers' **'Right to Work Checklist'** to ensure you have correctly carried out all the steps you need to; or
- use our online interactive tool **'Check if someone can work in the UK'** which will take you through the process by asking you a series of questions.

Both will help you confirm that you have undertaken each step correctly to establish your statutory excuse.

Step 1: Acceptable documents

The documents you may accept from a person to demonstrate their right to work are set out in two lists – [List A](#) and [List B](#). These are set out in [Annex A](#) to this guidance. You must obtain an original document or document combination specified in one of these lists in order to comply with **step 1** of the 3-step check.

[List A](#) contains the range of documents which you may accept for a person who has a permanent right to work in the UK. If you conduct the right to work checks correctly before employment begins, you will establish a continuous statutory excuse for the duration of that person's employment with you. You do not have to conduct any further checks.

[List B](#) contains a range of documents which may be accepted for a person who has a temporary right to work in the UK. If you conduct the right to work checks correctly you will establish a time-limited statutory excuse. You will be required to conduct a follow-up check in order to retain your statutory excuse. This should be undertaken in the same way as the original check.

More detailed information about all of these acceptable documents, together with examples of what they look like can be found in ['An employer's guide to acceptable right to work documents'](#).

Step 2: Checking the validity of documents

When you are checking the validity of the documents, you must ensure that you do this in the presence of the holder. This can be a physical presence in person or via a live video link. In both cases you must be in physical possession of the original documents. You may not rely on the inspection of the document via a live video link or by checking a faxed or scanned copy of the document.

The responsibility for checking the document is **yours**. Whilst it may be delegated to your members of staff, you will remain liable for the penalty. You may not delegate this responsibility to a third party.

If you are given a false document, you will only be liable for a civil penalty if it is **reasonably apparent** that it is false. This means that a person who is untrained in the identification of false documents, examining it carefully, but briefly, and without the use of technological aids could reasonably be expected to realise that the document in question is not genuine.

Where a person presents a document and it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine, you may be liable to prosecution for knowingly employing an illegal worker.

You will not be able to rely on a statutory excuse if you knew that the documents were false or did not rightfully belong to the holder.

In order to establish a statutory excuse, you are required only to conduct an examination of the document and to check this against the holder of that document. You may, however, wish to consider using a commercially available document scanner to help check the

authenticity of biometric documents presented to you, notably passports and biometric residence permits (BRPs). Guidance about using such technology is available at [this link](#).

You may also wish to read the online guidance about recognising fraudulent identity documents. Further advice about document fraud and illustrations of documents which are suitable for right to work checks are available in the 'Employer's guide to acceptable right to work documents'.

If someone gives you a false document or a genuine document that does not belong to them, you should use this link to [report the individual to us](#), or call our Sponsorship, Employer and Education Helpline on 0300 123 4699, (Monday to Thursday, 9am to 5pm, Friday, 9am to 4:30pm).

If you do not employ the person and you report this incident, you have no liability for a civil penalty.

Step 3: Retaining evidence

You must keep a record of every document you have checked. This can be a hardcopy or a scanned and unalterable copy, such as a jpeg or pdf document. You should keep the copies securely for the duration of the person's employment and for a further two years after they stop working for you. You should also be able to produce these document copies quickly in the event that you are requested to show them to demonstrate that you have performed a right to work check and retain a statutory excuse. By doing this, we will be able to check whether you have complied with the law if we find that someone is, or has been working for you illegally.

You must also make a record of the date on which you conducted your check. This can be by either making a dated declaration on the copy or by holding a separate record, securely, which can be shown to us upon request to establish your statutory excuse.

This date may be written on the document copy as follows: 'the date on which this right to work check was made: [insert date]' or a manual or digital record may be made at the time you conduct and copy the documents. You must be able to show this evidence if requested to do so in order to establish a statutory excuse.

Additional evidence from students

International students are often able to work part-time during their studies in the UK and full-time during their vacations and any period of time between completing their studies and the expiry of their permission to be in the UK. Some international students have no right to work at all. [Annex B](#) and [Table 2](#) contain further information about permitted employment for students.

Where a student has permission to study under Tier 4 of the Points Based System their conditions allow them to work where they are "following a course of study":

- at the appropriate academic level; and
- with a sponsor of the specified academic status that permits them to work the number of hours that they are working.

Their entitlement to work full time during vacations and during the period of permission that is granted before a course begins and after the course ends only applies if they are following, or have completed, the required course of study.

When conducting checks, if you are presented with documents indicating that the holder is a student with a limited right to work in the UK during term time, you are required to obtain and retain evidence of their academic term and vacation dates. This will make it easier for you to know when an international student employee may work part-time for you, and when they are permitted to work full-time.

You should request this evidence from the student. This evidence should originate from the education institution which is sponsoring the student. You may obtain the dates for the entire duration of the course or, if this is not possible, you may obtain and copy them annually providing the information you hold is current at the time of the student's employment.

We consider acceptable evidence to be one of the following:

- (i) A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study (you should check the website to confirm the link is genuine); or
- (ii) A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- (iii) A letter addressed to you as the employer from the education institution confirming the term time dates for the student's course.

We would expect the evidence in paragraph (i) above to be readily available to most students and therefore will be provided to you in most cases. In exceptional circumstances, for example where the student is following a course timetable which differs from that published, you may need to obtain bespoke evidence from the sponsor. It is important to remember that you require this evidence in order to establish and retain a statutory excuse against liability for a civil penalty.

Where you are employing a student on a **work placement** which forms an integral part of the course (see [Annex B](#) of this guidance for further details), you may have a written **agreement with the student's education institution** about the work placement. You are strongly advised to retain this agreement as evidence that the student's work placement with you does not exceed the time permitted for this activity.

Further information on Tier 4 students, including work placements, may be found [here](#).

Home Office verification checks

When conducting checks, you are required to contact the Home Office in the following circumstances to verify that someone has the right to work in the UK to establish and retain your statutory excuse:

1. You are presented with a [Certificate of Application](#) which indicates that work is permitted and which is less than six months old; or

2. You are presented with an Application Registration Card stating that the holder is permitted to undertake the work in question; or
3. You are satisfied that you have not been provided with any acceptable documents because the person has an outstanding application with the Home Office which was made before their [previous permission time expired](#) or has an appeal or [administrative review](#) pending against a Home Office decision and therefore cannot provide evidence of their right to work.

In the circumstances, you need to obtain a **Positive Verification Notice** in order to obtain a statutory excuse. A Positive Verification Notice confirms that the named person is allowed to carry out the type of work in question. You must check the original Certificate of Application, which is not more than six months old, or Application Registration Card in the usual way. You must make copies of these documents and retain these copies, together with the Positive Verification Notice. In so doing, you will have a statutory excuse for six months from the date stated in the Positive Verification Notice. A Positive Verification Notice will not provide a statutory excuse if you know that the employment is not permitted. In such circumstances, you will also be committing a criminal offence.

However, if you receive a **Negative Verification Notice** then you will not have an excuse and may be liable for a civil penalty if the employee is not permitted to undertake the work.

You may obtain a Positive Verification Notice when employment commenced after 29 February 2008 in the above circumstances.

To find out if you need to request a verification check from the Employer Checking Service and to make that check you should use the new online tool '[Employer Checking Service Enquiries](#)'.

If you are making a check because the employee or potential employee has an outstanding application with the Home Office or appeal or administrative review against a Home Office decision, we suggest that you wait until **14 days** after the application, appeal or administrative review was made before requesting a verification check in order for that application, appeal or administrative review to be registered with the Home Office.

The Employer Checking Service aims to send you a response - either a Positive Verification Notice or a Negative Verification Notice - within **5 working days** of requesting the check. It is your responsibility to inform the person you intend to employ, or continue employing, that you are carrying out this check on them.

Biometric Residence Permits

Biometric Residence Permits (BRPs) are biometric immigration documents that are already issued in the UK to migrants granted permission to remain in the UK for more than six months. Between March and the end of July 2015, we are gradually rolling out BRPs to migrants overseas granted permission to enter the UK for more than six months, replacing the UK visa. They are issued with a vignette (sticker) in their passport which will be valid for thirty days to enable them to travel to the UK. Following their arrival, they will have 10 days to collect their BRP from the Post Office branch detailed in their decision letter. For most migrants granted permission to be in the UK, the BRP will be the document that proves they have permission to work in the UK.

BRPs are credit-card sized immigration documents that contain a highly secure embedded chip and incorporate sophisticated security safeguards to combat fraud and tampering. They provide evidence of the holder's immigration status in the UK. They contain the holder's unique biometric identifiers (fingerprints, digital photo) within the chip, are highly resistant to forgery and counterfeiting, display a photo and biographical information on the face of the document and details of entitlements, such as access to work and/or public funds. BRPs therefore provide employers with a secure and simple means to conduct a right to work check.

Migrants permitted to work in the UK are strongly encouraged to collect their BRP before they start work. If they need to start work for you prior to collecting their BRP, they will be able to evidence their right to work by producing the short validity vignette in their passport which they used to travel to the UK. You will need to conduct a full right to work check on the basis of this vignette, which must be valid at the time of the check. However, as this will expire 30 days from issue, you will have to repeat the check using the BRP for the statutory excuse to continue.

There is a gradual rollout of the combined BRP and National Insurance number (NINo) for migrants who have the right to work in the UK, commencing with Tier 2 (skilled workers) main applicants who make an application in the UK. In addition, some BRPs may indicate whether the holder is required to register with the police.

Adding the NINo to the BRP will assist the employer in two ways. First, the BRP provides an employer with a secure and simple means of checking a migrant's right to work in the UK. Second, the provision of the NINo on the same document makes it easier for employers to meet their requirements to administer PAYE and national insurance.

6. When do you conduct checks?

You are required to carry out an **initial right to work check** on all people you intend to employ **before** you employ them. Once you have completed this check, you will be required to carry out **follow-up right to work checks** on this person if they have time-limited permission to be in the UK and to do the work in question.

If a person provides you with acceptable documents from [List A](#) at [Annex A](#) there is no restriction on their right to work in the UK, so you establish a **continuous statutory excuse** for the duration of the person's employment with you. You are **not required** to carry out any further checks on this person.

If a person provides you with acceptable documents from [List B](#) there are restrictions on their right to work in the UK, so you will establish a **time-limited statutory excuse**. You **are required** to carry out follow-up checks on this person. The frequency of these follow-up checks depends on whether the documents you are provided with are from **Group 1** or **Group 2**.

Group 1 documents provide a time-limited statutory excuse which expires when the person's permission to work expires. This means that you should carry out a **follow-up check when permission which demonstrates their permission to work expires**.

Group 2 documents provide a time-limited statutory excuse which expires six months from the date specified in your Positive Verification Notice. **This means that you should carry out a follow-up check when this notice expires**.

Table 1 summarises when follow-up checks are required.

Table 1: Follow-up Checks

| Document Type | Excuse Type | Frequency of Checks |
|------------------|--------------|---|
| List A | Continuous | Before employment starts only. |
| List B - Group 1 | Time-limited | Before employment starts and again when permission (as set out in the document checked) expires. |
| List B – Group 2 | Time-limited | Before employment starts and again after six months (as set out in the Positive Verification Notice). |

If, on the date on which permission (as set out in the document checked) expires, you are reasonably satisfied that your employee has either:

- (i) submitted an in time application to us to extend or vary their permission to be in the UK; or
- (ii) made an appeal or an administrative review against a decision on that application;

your statutory excuse will continue from the expiry date of your employee's permission for a further period of up to 28 days to enable you to obtain a positive verification from the

Employer Checking Service. This 'grace period' of 28 days does not apply where the right to work check is taking place before employment commences. In such circumstances, you should delay employing the migrant until you have received a Positive Verification Notice from the Employer Checking Service.

If during this period of 28 days, your employee provides evidence that their application, appeal or administrative review has been determined with permission to remain granted together with the relevant acceptable document from [List A](#) or [List B](#) Group 1, you may establish your excuse by checking these documents in the normal way and a positive verification by the Employers Checking Service will not be required. If, however, the documents provided are from [List B](#) Group 2, verification by the Employer Checking Service that the employee can continue to do the work in question will still be required for you to obtain a continuing excuse.

In respect of an appeal or administrative review, you should seek positive verification through the Employer Checking Service. A letter from a solicitor indicating a successful appeal or administrative review or a copy of a successful court judgment will not provide you with a statutory excuse.

You can reasonably satisfy yourself of a pending application through, for example, a Home Office acknowledgment letter or a Home Office or appeal tribunal reference number, and proof of date of postage. If your employee cannot provide this evidence, this does not necessarily mean that they have not made an application, appeal or applied for an administrative review.

In-time applications

A person's application must be made before their permission to be in the UK and to do the work in question expires for it to be deemed 'in-time'. If so, any existing right to work will continue until that in-time application has been determined. In such circumstances, a Positive Verification Notice from the Employer Checking Service would demonstrate your statutory excuse for six months from the date of the Notice. If you receive a Negative Verification Notice in response to your verification request, you will no longer have a statutory excuse and you will be liable for a civil penalty if the person is not permitted to work in the UK. You may also be convicted of knowingly employing an illegal worker.

It is possible for someone to make an application to extend or vary their leave after their permission to be in the UK has expired, but it must normally be made within 28 days of expiry. Although we may consider and grant such applications, it is important to note that you will not be able to employ this individual pending the outcome of their application. This is because when an application is made 'out-of-time' any previous permission to work expires when their previous permission to be in the UK expires. **It is important that a person makes an application to the Home Office before their permission to be here expires because this has an impact on their right to work.**

Please be aware that where a Tier 4 migrant has stopped studying, there are only limited circumstances when an in time application which is awaiting a decision will entitle them to work. See [Annex B](#) for further information.

No follow-up checks are required for employees who, before employment commenced, supplied documents from [List A](#) (which includes people with Indefinite Leave to Remain)

because there are no restrictions on their right to be in the UK and do the work in question.

Appeals and Administrative Reviews

A Positive Verification Notice from the Home Office Employer Checking Service will also be required to demonstrate a right to work where the person has an outstanding appeal or administrative review. It will provide a statutory excuse for six months from the date of the Notice.

Administrative reviews have replaced many rights of appeal where the applicant believes our decision to refuse their application incorrect. For decisions made in the UK, the review must be made within 14 calendar days from notification of the decision. Any previous permission to work continues during the period that an administrative review can be made and, if made, will continue until the administrative review has been determined (decided or withdrawn). This will normally be within 28 days. You will need to obtain a Positive Verification Notice from the Employer Checking Service, to confirm that an administrative review may be made or has not been determined. This Notice will provide you with a statutory excuse for six months from the date of the Notice.

Where an application for an administrative review is brought after the period for making an administrative review has expired, we may decide to accept the administrative review as valid because it would be unjust not to consider it. If so, any permission to work will continue **from the date** we accept that the administrative review is valid. This will be confirmed by a Positive Verification Notice from the Employer Checking Service. The migrant will not be permitted to work between the date that their previous permission to work time expired and the date we decide that the administrative review is valid.

Further detail on administrative reviews may be found [here](#).

Transfer of undertakings

Transfer of Undertakings (Protection of Employment) (TUPE) regulations provide that right to work checks carried out by the transferor (the seller) are deemed to have been carried out by the transferee (the buyer). As such, the buyer will obtain the benefit of any statutory excuse acquired by the seller. However, if the seller did not conduct the checks correctly, the buyer would be liable for a penalty if an employee is later found to be working illegally. Also, a check by the buyer would be necessary to determine when any follow-up check should be carried out. For these reasons, employers who acquire staff through TUPE regulations should undertake a right to work check on all new TUPE members of staff.

We recognise that there may be practical problems in undertaking these checks before the employment commences for workers acquired as a result of a TUPE transfer and for this reason a period of grace has been provided during which you should undertake the check. Since 16 May 2014, this period is 60 days from the date of the transfer of the business to correctly carry out their first statutory document checks in respect of these new TUPE employees. There is no such grace period for any subsequent follow-up checks.

Changes in the Employer's legal constitution

Where the employer is a corporate body and there has only been a change in the employer's legal constitution e.g. a change from a private limited company to a public limited company or change from a partnership to a limited company or a limited liability partnership or a TUPE transfer within the same group of companies, the right to work check does not need to be repeated because of this change. This is only the case when the employer is effectively the same entity and is only changing its legal status. Where there is any doubt, we recommend that the employer checks the person's right to work, rather than risking a civil penalty liability.

7. Do you have any questions?

In the first instance, please refer to the Home Office guidance:

- [An employer's guide to the administration of the civil penalty scheme;](#)
- [An employer's guide to acceptable right to work documents;](#)
- [Frequently asked questions;](#)
- [Code of practice on preventing illegal working: Civil penalty scheme for employers;](#)
- [Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working;](#)
- **An employers 'Right to Work Checklist';**
- The online interactive tool '[Check if someone can work in the UK](#)'; and
- The online interactive tool '[Employer Checking Service Enquiries](#)'.

If you cannot find the answer to your question, please contact our Sponsorship, Employer and Education **Helpline** on **0300 123 4699**.

Annex A

Lists of acceptable documents for right to work checks

| List A | |
|---|--|
| Acceptable documents to establish a continuous statutory excuse | |
| 1. | A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK. |
| 2. | A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland. |
| 3. | A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland. |
| 4. | A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland. |
| 5. | A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK. |
| 6. | A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK. |
| 7. | A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |
| 8. | A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |
| 9. | A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |
| 10 | A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |

| List B | |
|---|---|
| Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave | |
| 1. | A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question. |
| 2. | A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question. |
| 3. | A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence. |
| 4. | A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |
| Group 2 – Documents where a time-limited statutory excuse lasts for 6 months | |
| 1. | A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service. |
| 2. | An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service. |
| 3. | A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question. |

Annex B

Employment of specific categories of workers

Students

Not all international students (those from outside the European Economic Area (EEA)) are entitled to work while they are in the UK, but some are allowed to take limited employment providing the conditions of their permission to study permit this.

Where a student does have a limited right to work, the working hours that they may undertake depend on **when** they applied for permission to come to or stay in the UK, **the type of course** they are studying and the **type of educational provider** with whom they are studying. Certain categories of employment are however, not permitted². Full details are set out in [Table 2](#).

For students with permission to study under Tier 4 of the Points Based System, the condition permitting a student to work is linked to that person 'following a course of study':

- at the appropriate academic level; and
- with a sponsor of the specified academic status that permits them to work up to the number of hours that they are working.

Therefore, if a Tier 4 student has ceased studying before they complete their course, they will normally have no right to undertake employment because they are no longer following a course of study. If there is a change in their circumstances (e.g. they change their course, switch to another sponsor, stop studying or have their permission to study curtailed) this can impact on their right to work. Further information on how a change in circumstances impacts on a Tier 4 student's right to work is set out below.

You may be liable to prosecution or a civil penalty if you knowingly employ a student who no longer has the right to work because that student is no longer studying.

A migrant student who is permitted to work will have a clear endorsement in his or her passport or Biometric Residence Permit which states they are permitted to work, and the number of hours of work allowed during the term time e.g. 10 hours or 20 hours. If this information is not set out in these documents, the student does not have the right to work.

Short-term students are not permitted to work, either in the term time or the vacation, or to do a work placement.

² Refer to Table 2: summary of employment permitted by international students

Work placements

Tier 4 students, including child students aged 16 or over, are allowed to undertake work placements where they are an integral and assessed part of the course. Where their Tier 4 sponsor is a Probationary Sponsor, such courses must be at least QCF or NQF level 6 or SCQF level 9. Work placements are intended to enable the student to gain specific experience of working in the field for which they are studying. Work placements are distinct from any employment that a student may (if permitted) take while they are following a course of study.

Since 6 April 2012, activity as part of a course-related work placement is restricted to no more than one third of the total length of the course undertaken in the UK unless:

- the student is following a course at degree level or above and is sponsored by a Higher Education Institution (HEI) or by an overseas HEI to undertake a short-term Study Abroad Programme in the UK, in which case the work placement is restricted to no more than 50 per cent of the total length of the course;
- the student is a child student aged 16 or over, in which case the work placement can form no more than 50 per cent of the total length of the course; or
- there is a statutory requirement for the course to include a specific period of work placement which exceeds this limit.

Tier 4 education sponsors should provide a **letter** addressed to you as the work placement provider confirming that the work placement forms an integral part of the course and does not, by itself or in combination with other periods of work placement, breach the above restrictions. The letter should also include the terms and conditions of the work placement, including the work that the student will be expected to do, and how and when they will be assessed. You are strongly advised to obtain and retain such a letter as evidence of the work placement and evidence that the work placement restrictions have not been breached as you may be liable for a civil penalty if your student employee does not comply with their immigration conditions.

While your student employee is undertaking a work placement as required by their course, this period is not included within the period of term time employment permitted by their immigration conditions.

Further information on Tier 4 students, including work placements, may be found [here](#).

Impact of a change in circumstances on a Tier 4 points based system student's right to work

1. **The student has changed their sponsor** – If we grant the student permission to study with a different education sponsor, it will be clear whether work is permitted and for how long. If we do not grant permission see the advice below: 'student is in the process of changing their sponsor'.
2. **The student is in the process of changing their sponsor** – Under Tier 4 guidance a student may start a new course where:
 - they have applied to the Home Office for permission to study with a Tier 4 sponsor which has Tier 4 Sponsor status; and
 - their permission to study in the UK with the former sponsor is still valid; and
 - their prospective Tier 4 sponsor has assigned a confirmation of acceptance for studies to them for the new course.

If all these criteria are met, the student is permitted to start the course with the new sponsor and can undertake employment in line with the current conditions which are attached to their permission to study once they have started the new course. If any of the criteria are not met, the student does not have permission to work and will be in breach of their immigration conditions if they do so.

3. **The student changes to a new course with the same sponsor** – If the new course is below the level of academic study which permits restricted work, the student will be working in breach of their immigration conditions if they do work. You should not employ them. If their new course results in a reduction of the number of hours the student is permitted to work, and they continue to work more than this number, they will be in breach of their immigration conditions.
4. **The migrant has stopped studying** – If the migrant has stopped studying before they complete their course (whether they have withdrawn themselves or been withdrawn by their education sponsor) they are no longer following the course of study and will therefore be in breach of their immigration conditions if they do work, even if they still have permission to be in the UK. You should not employ them. The only exception to this will be if the criteria in the 'student is in the process of changing their sponsor' scenario (above) are met.
5. **The student has completed their course early** – Where a student is given permission to come to the UK to study, they are given a short period of time to stay in the UK after their course ends. The student may work full time during this additional period. If the student completes their course early, the Home Office will normally vary the student's permission so that this short period of time to stay in the UK runs from the new course end date. If their permission to be in the UK has not been varied in this way but the person is found working beyond the additional period of time to stay that would apply to their new course end date, they will be in breach of their immigration conditions. In such circumstances, you should not employ them.

- 6. The student's education sponsor has had their licence revoked / ceased trading** – The right to work is dependent on the student (i) following a course of study at the appropriate academic level and (ii) with a sponsor of the specified academic status. If the sponsor no longer has a sponsor licence because it has been revoked, the migrant can no longer meet this second requirement. If the sponsor has ceased trading, the migrant is unable to meet either requirement. In both cases, the migrant would be in breach of their conditions if they work and you should not employ them.
- 7. The student continues to study but not with the named sponsor** – As indicated above, the right to work is dependent on the student being sponsored. Accordingly, the migrant would be in breach of their conditions if they work and you should not employ them.

Table 2: Summary of employment permitted by international students

| Date of application | Education Provider | Course Type | Age of migrant? | Work Conditions |
|--|---------------------------|--|------------------------|--|
| Before 2 March 2010 | Any | Any | n/a | <ul style="list-style-type: none"> - Max. 20 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course). - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| From 3 March 2010 to 3 July 2011 (inclusive) | Any | <ul style="list-style-type: none"> - Degree level (NQF 6 and above) - Foundation degree course (NQF 5) | n/a | <ul style="list-style-type: none"> - Max. 20 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course). - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| | Any | Below degree level (NQF 5 and below) (excluding foundation) | n/a | <ul style="list-style-type: none"> - Max. 10 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course). - Employment as Student Union Sabbatical Officer (max 2 years). |

| | | | | |
|-------------------------|--|--------------------------------------|-----|---|
| | | degree course) | | <ul style="list-style-type: none"> - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| On or after 4 July 2011 | Tier 4 (General) Students Higher Education Institution (HEI – e.g. University) or sponsored by an overseas HEI to undertake a short-term Study Abroad Programme in the UK. | Degree level (NQF 6) or above | n/a | <ul style="list-style-type: none"> - Max. 20 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course)* - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| | | Below degree level (NQF 5 and below) | n/a | <ul style="list-style-type: none"> - Max. 10 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course).* - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| | Tier 4 (General) Students at a publicly-funded further education college | Any | n/a | <ul style="list-style-type: none"> - Max. 10 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than a third of the total length of course).* - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. |

| | | | |
|---|-----|-----------------|--|
| | | | <ul style="list-style-type: none"> - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| Tier 4 (General) Students privately funded Further Education College | Any | n/a | No work allowed. |
| Tier 4 (Child) Students (Children under 16 yrs of age may only be educated at independent fee paying schools) | Any | Aged 16 or over | <ul style="list-style-type: none"> - Max. 10 hours per week during term time. - Any duration during vacations. - Employment as part of course related work placement (no more than half of total length of course). - Employment as Student Union Sabbatical Officer (max 2 years). - Employment as a postgraduate doctor or dentist on a recognised Foundation programme. - No self-employment - No employment as a professional sports person (including a sports coach) or an entertainer. |
| | | Under 16 | No work allowed |

* For Tier 4 (General) Student cases that were granted leave between 4 July 2011 and 5 April 2012 (inclusive), employment as part of a course-related work placement was restricted to half the total length of the course undertaken in the UK. For Tier 4 (General) Student cases granted leave from 6 April 2012 onwards, employment as part of a course-related work placement is restricted to no more than one third of the total length of the course undertaken in the UK unless the student is following a course at degree level or above and is sponsored by an HEI or by an overseas HEI to undertake a short-term Study Abroad Programme in the UK, or there is a statutory duty for the course length to be longer than one third of the course length.

Visitors are not permitted to undertake work whilst in the UK. This includes work placements that form part of a course/period of study undertaken as a short-term student.

Nationals from the European Economic Area (EEA) and their Family Members

The rights of EEA nationals and their family members to live and work in other EEA states are set out in European Union legislation, primarily Directive 2004/38/EC – known as ‘the Free Movement Directive’, by which all Member States are bound.

Switzerland is not part of the EEA. However, the same rights to live and work in other Member States have been extended to Swiss nationals and their family members, and you should carry out the same checks for them as set out in this guidance for EEA nationals and their family members. Throughout this section, any reference to an EEA national should be interpreted as also including Swiss nationals.

The relevant UK legislation is the [Immigration \(European Economic Area\) Regulations 2006](#) (‘the EEA Regulations’) which sets out the rights of EEA and Swiss nationals and their family members.

EEA nationals

EEA nationals have the right to work in the UK. However, you should not employ any individual simply on the basis that they claim to be an EEA national. You should also be aware that not all EEA nationals are permitted to work in the UK without restrictions (please see the list at the end of this section).

You should require any person who claims to be an EEA national to produce an official document showing their nationality. This will usually be either a national passport or national identity card which indicates that the holder is a national of an EEA state.

Registration Certificates: some EEA nationals may also have been issued with a registration certificate. This is a document issued by us to confirm that they are living here in compliance with the EEA Regulations, either by fulfilling the requirements for residence (also known as ‘exercising Treaty rights’) or by residing here as the family member of another EEA national who is exercising Treaty rights, or who has permanent residence.

Document Certifying Permanent Residence: some EEA nationals may be able to produce a document certifying that they have a right of permanent residence in the UK. Under EU law, an EEA national can acquire permanent residence after five years’ lawful and continuous residence in the UK.

All of these documents (passport establishing EEA nationality, identity card establishing EEA nationality, registration certificate and document certifying permanent residence) are included in [List A](#) of acceptable documents, and production of any one of them will provide you with a continuous statutory excuse if checked and copied correctly **before** the person starts working for you.

EEA nationals who may work without restriction:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

Nationals of Switzerland may also work without restriction.

Croatian nationals

Separate restrictions on Croatian nationals' access to the labour market are set out in the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. Please refer to the 'Code of practice for employers civil penalties: illegal employment of a Croatian national'.

Since 1 July 2013, as EU nationals, Croatsians have been able to move and reside freely in any EEA Member State. However, the UK has applied transitional restrictions on their access to the labour market. These are set out in the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. Under these Regulations, a Croatian national who wishes to work in the UK and who is subject to the worker authorisation requirement will need to obtain an accession worker authorisation document (permission to work) before starting any employment.

This means that since 1 July 2013, a Croatian national will only be able to work in the UK if they hold a valid accession worker authorisation document (such as a purple registration certificate) or if they are exempt from work authorisation. Under the 2013 Regulations you are required to carry out document checks to confirm if a Croatian national is either exempt from work authorisation or holds a valid worker authorisation document for the work in question. You should check, validate and keep dated copies of original acceptable documents before they start working for you. The list of exempt categories is contained in our guidance.

Croatian students who have been issued with a yellow registration certificate are only permitted to work for 20 hours a week during term time and full time during vacation periods.

If you do not carry out these checks and you are found to be employing a Croatian national who does not have a right to work, you may be required to pay a civil penalty. If you knowingly employ a Croatian national illegally, you will commit a criminal offence.

You can find out more information on your duty under the Accession of Croatia Regulations 2013 in our separate [Code of practice for employer civil penalties: illegal employment of a Croatian national](#).

Non-EEA Family Members of EEA nationals

Non-EEA nationals who are the family members of an EEA (or Swiss) national who is exercising Treaty rights or has permanent residence, are also entitled to live and work in the UK.

You should not employ any individual simply on the basis that they claim to be the family member of an EEA national. You should also be aware that not all family members of EEA nationals are permitted to work in the UK without restrictions.

When the current residence card, permanent residence card, accession residence card or derivative residence card is inserted into the holder's national passport, there is no requirement for that passport to be current. However, you should ensure that the passport belongs to that person and take particular care checking the passport photograph if the passport is a number of years old. From 6 April 2015, they may be issued in biometric format. For more information please see [Residence Cards](#) (biometric format)

Residence Cards: Residence cards are issued by us to the non-EEA family members of EEA nationals who are exercising Treaty rights or have permanent residence in the UK. A valid residence card can be used to demonstrate that the holder has a right to work in the UK. Residence cards are included in [List B](#) of acceptable documents, and will provide you with a time-limited statutory excuse if they are current, and have been checked and copied correctly.

Accession Residence Cards: Accession residence cards are issued by us to the non-EEA family members of Croatian nationals who are subject to worker authorisation requirements. Accession residence cards are included in [List B](#) of acceptable documents, and will provide you with a time-limited statutory excuse if checked and copied correctly before the person starts working for you. Accession Residence Cards will not be issued in a biometric format.

Permanent Residence Cards: Some non-EEA family members of EEA nationals may also be able to produce a permanent residence card, issued by us which indicates that they have lived in the UK for five years in compliance with the EEA Regulations. A permanent residence card, issued to a family member of an EEA national, is included in [List A](#) of acceptable documents, and will provide you with a continuous statutory excuse if checked and copied correctly.

Non-EEA Nationals with a Derivative Right of Residence

Some non-EEA nationals have what is called a 'derivative right of residence' in the UK based on their relationship with an EEA (or Swiss) national or a British citizen. This means that these rights have been established by the Court of Justice of the European Union in cases where the non-EEA national's presence is necessary in order to enable the EEA

national or British citizen to live here. For example, the non-EEA parent of an EEA child may meet the requirements. These rights only arise in a limited range of circumstances and only where the specific conditions are met. Non-EEA nationals with a derivative right of residence are entitled to reside and work in the UK. Derivative residence cards are in [List B](#) of acceptable documents, and will provide you with a time-limited statutory excuse if checked and copied correctly.

Residence Cards (biometric format)

From 6 April 2015, we started issuing Residence Cards (including Permanent Residence Cards and Derivative Residence Cards) for non EEA family members in a biometric format. From this date we stopped issuing the old vignette in the passport or standalone document, though these will continue to be acceptable documents for the purpose of right to work checks.

The new Residence Cards (biometric format) closely resemble [Biometric Residence Permits](#). They are of a standard credit card size and contain the holder's digital image, name and signature, date and place of birth, nationality, gender, expiry date of card, place of issue, type of residence card (category of residence) and a unique number. They will also contain a biometric chip. The cards are more secure against forgery and abuse and therefore provide a helpful means to employers to conduct a right to work check.

A sample Residence Card (biometric format) may be found in '[Acceptable right to work documents; an employer's guide](#)'. Current Residence Cards which are endorsed in passports or are standalone documents will continue to be valid until they expire. Accession Residence Cards will not be issued in a biometric format.

Certificate of Application

From 6 April 2015, an application by a non EEA Family Member of an EEA National for a Residence Card or Derivative Residence Card will only be considered valid at the point at which the applicant successfully enrolls their biometric information (finger scans and a digital photograph). Applicants will continue to receive an initial acknowledgement letter which will not demonstrate a right to work. Instead, they will have 15 working days in which to enroll their biometrics. If they fail to do so, they will be sent a reminder giving them a further 10 working days in which to enroll. If they fail to enroll their biometrics after the 10 days has passed, their application will be rejected as invalid.

Where the application is made by a [direct family member](#) who has successfully enrolled their biometric information and has submitted:

1. Their valid passport;
2. The valid EEA passport or national identity card for the EEA national;
3. Evidence of relationship to their EEA national; and
4. Evidence that the EEA national is exercising Treaty rights or has acquired permanent residence

the applicant will be issued with a Certificate of Application which states that the individual has a right to work in the UK whilst their application for a Residence Card or Derivative Residence Card is being considered. This Certificate of Application will only give you a statutory excuse if it is less than six months old and is accompanied by a Positive Verification Notice issued by the Home Office's Employer Checking Service stating that the

holder has permission to do the work in question. The excuse will last for six months from the date of the Positive Verification Notice.

Those applicants who are not direct family members or who do not provide the required documents will not receive a Certificate of Application that states that work is permitted.

If you are presented with a Certificate of Application that does not state that work is permitted, this will not demonstrate a right to work and the Employer Checking Service will provide a Negative Verification Notice.

If the employee or potential employee's Certificate of Application is more than six months old, but the individual's application for a Residence Card or Derivative Residence Card has not been finally determined, they can apply to the Home Office for a replacement Certificate of Application which will again be valid for six months. If work has been permitted, this work entitlement will be verified by the Employer Checking Service through a Positive Verification Notice.

Additional Information

Non-EEA nationals who claim to have a right to work in the UK as a family member of an EEA national, or by virtue of a derivative right, but who do not hold documentation issued by the Home Office.

There is no mandatory requirement for non-EEA nationals who are resident in the UK as a family member of an EEA national, or who have a derivative right of residence in the UK, to register with the Home Office or to obtain documentation issued by the Home Office.

Consequently, it is open to any non-EEA national who has an enforceable European Union law right to work in the UK - as a direct family member¹ of an EEA national or by virtue of a derivative right of residence - to demonstrate the existence of that right through means other than those documents in Lists A and B which are explained in the preceding sections.

In such cases, an employer may choose to accept such alternative evidence or to seek further advice from the Home Office. However, in the event that a non-EEA national is found not to qualify to work in the UK, the employer would be liable to payment of a civil penalty unless they checked the documents as set out in this document. Further guidance on EEA and non-EEA family members of EEA nationals can be found in the [European casework instruction](#) page on GOV.UK.

Entrepreneur

A person granted leave under Tier 1 of the Points Based Scheme as an entrepreneur is not permitted to be employed. They are only allowed to work for their own business. The endorsement in the passport or Biometric Residence Card will clearly state what they are permitted to do. The Biometric Residence Permit currently states:-

¹ In this context 'family member' means a spouse, civil partner, child under 21 and dependent relative in the ascending line such as a parent or grandparent. Other relatives such as unmarried partners can only fall into the 'family member' category if they have been issued a Residence Card by the Home Office.

Front:

T1 HS ENTREPRENEUR
LEAVE TO REMAIN
RESTRICTED WORK
BUS INVEST
NO SPORTSPERSON

Reverse:

NO PUBLIC FUNDS

Employment of other categories

For information about other immigration categories including the employment of former members of the Armed Forces and refugees and asylum seekers, please refer to the [Frequently Asked Questions](#) document.

RESTRICTED (when complete)



WITNESS STATEMENT

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

URN

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| | | | |
|--|--|--|--|

Statement of:Abigail GILLETT.....

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

This statement (consisting of 5 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 anything which I know to be false or do not believe to be true.

Signature *Mattell* Date: 18th November 2014

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

I am Abigail GILLETT Immigration Officer (IO) and I currently work at Becket House Enforcement Office for Home Office Immigration Compliance and Enforcement as an arrest trained enforcement officer. I have been tasked with completing this statement in relation to an operational visit conducted by my team. I did not participate in the visit which is detailed in this statement but have compiled it from information provided by my colleagues.

On Thursday 18th September 2014 a team from the North London Arrest Team were conducting operational visits and the officer in charge was IO MIAH. The team were acting on intelligence which suggested that illegal working was taking place at TANDOORI NIGHTS, 27 STATION PARADE, COCKFOSTERS ROAD, HADLEY WOOD, ENFIELD, EN4 0DW. The premises had previously been visited on 28th July 2008 when four arrests were made and again on 28th October 2008 when one further arrest was made.

The visit conducted on 18th September 2014 was made using a warrant, issued under s.28B Immigration Act 1971 as amended. This warrant was issued by Camberwell Green Magistrates Court

Signature: *Mattell* Signature Witnessed by: *M Goff*

RESTRICTED (when complete)

Continuation of Statement of: Abigail GILLETT

Page 2

on 17th September 2014. Following entry to the premises and checks of the eight subjects encountered, five arrests were made. Details as follows:

Md Anorwarul ALAM, 01/12/1978, BGD – Worker in breach of visa conditions

Md Nazmul HUDA, 03/03/1998, BGD – Worker in breach of visa conditions

Md Monir HOSSAIN, 31/12/1985, BGD – Worker in breach of visa conditions

Rana Mohommed MASOOD, 19/10/1981, BGD – Liable to be detained (Breach of TR)

Nabil ISLAM, 20/11/1987, BGD - Overstayer

Three of the arrested subjects were later granted temporary release and the other two were accepted into immigration detention. Prior to leaving the premises, OIC MIAH issued a referral notice on the owner in relation to the employment of five illegal workers. This premises is due to be revisited in the near future.

End of Statement.

Signature:  Signature Witnessed by: 



Working together for a safer London

POLICE REPRESENTATION

Name and address of premises: Tandoori Nights
27 Station Parade
Cockfosters Parade
EN4 0DW

Type of Application: Review Application

Worksheet number: WK/215048309

Premises licence: LN/200500356

The Application

This is a supporting statement for a review application submitted by Enfield Councils Licensing enforcement team for a review of the above premises licence

Location

This restaurant is situated within a parade of shops near to Cockfosters Tube Station.

Cumulative Impact Policy

London Borough of Enfield

This premise is not within one of Enfield Boroughs Cumulative Impact Policy areas.

History

This premises has been visited by immigration officers on a number of occasions since 2014 and 11 members of staff have been arrested for immigration offences. Enfield Councils licensing team attempted to work with the licensee by requesting additional conditions be added to the licence to ensure that similar offences didn't recur. Despite this intervention, the licensee has continued to employ staff who are not entitled to work in this country.

In summary I wish to make representation on the following:

- Prevention of crime & disorder

The Metropolitan Police wish to support the Enfield Council Licencing Team application to revoke this premises licence as a further arrest has been made at the venue for immigration offences despite written warnings to the licensee and additional conditions attached to the licence to prevent similar offences occurring.

Despite these warnings and extra conditions, the premises licence holder has continued to employ staff not legally entitled to work in the UK. DCMS guidance states that revocation even in the first instance should be seriously considered.

The arrest in June 2015 is the 11th such arrest. This leaves little option other than for the total revocation of the premises licence.

Officer: Martyn Fisher PC 357YE

Tel: 0208 379 6112

Martyn.Fisher@Enfield.Gov.uk

Date: 31st October 2015

MUNICIPAL YEAR 2015/16 REPORT NO.

COMMITTEE :
Licensing Sub-Committee
2 December 2015

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

| Agenda - Part | Item |
|---|------|
| <p>SUBJECT : Application to review a premises licence</p> <p>PREMISES : Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW.</p> <p>WARD : Cockfosters</p> | |

SUPPLEMENTARY INFORMATION

1. On 23 November 2015, the Premises Licence Holder, Pennycraft Properties Limited, made written representations in response to the review application through their agents, Sony Sadaf Haroon Solicitors. This representation is seen in Annex 05 of this report.

Background Papers :
None other than any identified within the report.

Contact Officer :
Ellie Green on 020 8379 8543

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SONY SADAF HAROON
SOLICITORS

Our Ref: ab/lit/2082/pennycraftpltd
Your Ref: WK/215048309
Date: 23/11/2015

Licensing Team

Dear Sirs,

Re: Tandoori Nights, 27 Station Parade, Cockfosters Road, Barnet, EN4 ODW

We would like the following to be considered in respect of the application for the review of the premises licence under the Licensing Act 2003.

We have taken instructions from our client and make the following observations. Whilst visits were made to the Tandoori Nights restaurant on the dates suggested, our client categorically denies any offences having taken place. The fact of the matter is that there were no sanctions imposed. The enforcement team was of course visiting a number of premises in the borough to carry out checks for immigration offences, as stipulated in the application, in order to ensure that only those with staff legally entitled to work in UK were being employed at the premises. Despite this being the case, on those dates stated in the application, no civil penalty or other sanctions were imposed on the premises by the Home Office or anyone on their behalf, as a result of which, there have been no findings of any non-compliance with immigration regulations, nor were there any breaches of any legislation whatsoever.

With regard to 05 June 2015, whilst it is fair to say that a visit had been undertaken on the premises, please note that the fine is the subject of a challenge in the St Albans County Court under claim number 80081292 because it is the premises licence holder's case that the obligations imposed upon them by law have been complied with, and pending the outcome of this matter we would suggest that the application is premature as there has been no finding with respect to knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on the person's leave to enter pursuant to the revised guidance of section 182 Licensing Act 2003 (October 2014) section 11.27.

Our client complied with what is required of them as an employer, ensuring they made appropriate right to work checks, kept copies and noted down important details. It cannot be the fault of the employer if an individual produces what appears to be a genuine document confirming their status and their right to work. If the employer has ensured they have made a copy of the document and noted the relevant details. That constitutes a statutory exemption discharging any burden placed on them. They do not have the expertise to verify the authenticity of a passport for example.

We reserve the right to submit further evidence or written information at least five working days prior to the hearing.

Kindly note that we shall be seeking costs against the local authority on behalf of our client for what is clearly an ill-conceived or at best a premature application.

Yours faithfully


SONY SADAF HAROON SOLICITORS

1st & 2nd Floor 6 Victoria Street St Albans AL1 3JB

Principal: Sony Sadaf Haroon
Solicitor: Tahseen Amir Choudhury
Trainee Solicitor: Aisha Zaman
Practice Manager: Fatima Hussain

Authorised and Regulated by the Solicitors Regulation Authority
SRA Number: 622109
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MUNICIPAL YEAR 2015/16 REPORT NO.

COMMITTEE :
Licensing Sub-Committee
2 December 2015

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

| Agenda - Part | Item |
|---|------|
| <p>SUBJECT : Application to review a premises licence</p> <p>PREMISES : Tandoori Nights, 27 Station Parade, Cockfosters Road, BARNET, EN4 0DW.</p> <p>WARD : Cockfosters</p> | |

SUPPLEMENTARY INFORMATION No.2

1. On 24 November 2015, the Premises Licence Holder, Pennycraft Properties Limited, made further written representations in response to the review application through their agents, Sony Sadaf Haroon Solicitors. This representation is seen in Annex 06 of this report.

Background Papers :
None other than any identified within the report.

Contact Officer :
Ellie Green on 020 8379 8543

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SONY SADAF HAROON

SOLICITORS

Our Ref: ab/lit/2082/pennycraftpl td

Your Ref: WK/215048309

Date: 24/11/2015

Licensing Team

Dear Sirs,

Re: Tandoori Nights, 27 Station Parade, Cockfosters Road, Barnet, EN4 ODW

With reference to the member of staff who has an appeal pending. Our client had enquired numerous times about the progress of the application after they were initially provided with documentation confirming the right to work. Further documentation was regularly provided by the member of staff explaining their circumstances and confirming their continuing right to work.

Kindly note that the certificate of application that was issued confirms employment can be continued or offers of employment can be accepted whilst the application is pending or until the appeal rights have been exhausted.

With regard to the appeal against the issuing of the civil penalty, the matter has been listed to be heard in Luton County Court on 10 February 2016.

Yours faithfully

SON ADAF HAROON SOLICITORS

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