

Revised August 2014

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 Prasanna Ariyanayagam

(insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below. (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description			
Premier Food & Wine, 112 Brixton Hill			
Post town	Brixton	Post code (if known)	SW2 1AH

Name of premises licence holder or club holding club premises certificate (if known)
Mr Mohammad Maskin (Licensee and DPS)
Number of premises licence or club premises certificate (if known)
05/04759/PREMLI/254

Part 2 – Applicant Details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority *(please complete (C) below)*

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





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


Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other title (for example, Rev.)
Surname				
First names				
I am 18 years old or over <input type="checkbox"/> Please tick ✓ yes				
Current postal address				
Post town			Post code	
Daytime contact telephone number				
Email address (optional)				

(B) DETAILS OF OTHER APPLICANT

Name	
Address	
Telephone number (if any)	
Email address (optional)	

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name	Prasanna Ariyanayagam
Address	
Telephone number (if any)	

Email address <i>(optional)</i>	
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This application to review relates to the following licensing objective(s)

Please tick one or more boxes✓

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

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

Please use additional pages if needed

Please tick ✓ yes

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

If yes please state the date of that application

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

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

Premier Food and Wine 112 Brixton Hill SW2 1AH

1. Over Saturday 26th & Sunday 27th November 2016, Operation Autumn Nights took place which was an out of normal working hours Lambeth Council led joint Police, UK Immigration, Licensing, Community Safety, and Trading Standards Operation to inspect off-licensed premises (mainly) licensed to sell alcohol 24/7. Following crime pattern analysis a disproportionate amount of criminal offences were found to be happening in and around these 24/7 off licensed premises. The aim of the Operation was to check lawful employment, immigration status, stock, and alcohol licence conditions.
2. Premier Food and Wine 112 Brixton Hill SW2 1AH is licensed to sell alcohol 24/7. This premises was visited just before 03:00 hours on 27/11/2016 by Lambeth Licensing supported by Police and Immigration officers.
3. The individual working at the till initially claimed to be a Mr [REDACTED] Gulfraz (DOB 12/4/68) from Pakistan. He was the only person working in the shop. Following immigration enquiries, he was eventually identified as Mr [REDACTED] Zaffar (DOB 24/4/65) and he was arrested for immigration offences.
4. Enquires with UK Immigration revealed that Mr Gulfraz aka Zaffar does not have the right to work in the UK.
5. An individual named Mr [REDACTED] Rahoof (4/8/96) was found to be sleeping in the premises. He claimed he works at McDonalds in Brixton but sometimes worked at the premises for his uncle Mr [REDACTED] Zaman. He confirmed that Mr [REDACTED] Maskin is the DPS and licensee. Mr Rahoof claimed he has no knowledge of Mr Zaffar as his uncle Mr Zaman was at the till when he went to bed.
6. The part B of the premises licence, Tobacco, Challenge 21 and ID check notices were on display at the premises. The premises have CCTV cameras but the members of staff on duty has no knowledge of its operation
7. Mr Zaman later arrived at the premises and confirmed he can operate the CCTV but was unable to do so. He requires the password from the licensee who could not be contacted. No training or refusal records were available. Toilet provided on the premises.
8. On Thursday 12th January 2016 Mr [REDACTED] Maskien (Maskin) the Premises Licence Holder and Designated Premises Supervisor of Premier Food and Wine, was invited into the Offices of Lambeth

Licensing for an opportunity to explain what was going on at the premises on the night in question.

9. He was not at the premises at the time, however there was an illegal worker on site, who gave a false name. Another man was asleep on the bed. He was asked why the illegal worker was working on site. Mr Maskien said he was very sorry for the illegal worker found on his premises, but that he is nothing to do with him. It was pointed out that there was a legal worker called Osama who was asleep and only the illegal worker was behind the counter operating the shop when officers visited. He was asked if the Immigration Service had contacted him. He confirmed that he had received a letter from the immigration service but it was only to ask him how many people were working for him. It was pointed out that the Officers had found a man who proved to be illegal, and who gave 2 different names working behind the counter with till and cash, who he didn't know and is not in his employ, whilst your staff is fast asleep. He again apologised, saying his staff made a mistake leaving someone else in charge as he had toothache. He was asked to clarify and said that Rauf was working, Zaffar came to visit, Rauf went to bed with toothache and Zaffar took over behind the counter. There was also concern that nobody knew how to operate the CCTV.
10. It was pointed out that ultimately, he is in charge as he is the PLH & DPS and therefore is responsible and it is also his livelihood. There are concerns as his management level as it appears to be at arm's length.
11. It was put to him that there seems to be a pattern with similar premises, as it would appear that it is not financially worth opening unless cheap labour is involved especially at night, which can only be provided by illegal workers, and asked if he would consider not opening at night. He was non-committal on this point.
12. Again Mr Maskin apologised and stated that it would not happen again. He was asked if he had any other comments to make. He repeated his plea that it would not happen again.
13. I would invite the Licencing Committee to revoke this licence
14. Revised Guidance issued under section 182 of the Licensing Act 2003 (March 2015) 11.27

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

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music,
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- **for 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;**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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.

15. Licensing and Illegal Workers

East Lindsey District Council v Abu Hanif (trading as Zara's restaurant and takeaway)

In an important judgment in the High Court, a High Court Judge has restored a licensing authority's decision to revoke a premises licence for employment of an illegal worker.

Zara's restaurant traded in East Lindsey. The owner and licensee was Mr. Hanif. After a raid by the immigration authorities it was discovered that Mr. Hanif was employing an illegal worker.

The Police brought review proceedings and the licensing authority revoked the premises licence. Mr. Hanif appealed. At the appeal, which was heard by District Judge Veits, his Counsel argued before the District Judge that, since Mr. Hanif had not been prosecuted for employing an illegal worker under section 21 Immigration, Asylum and Nationality Act 2006, but had merely been given a civil penalty under section 15 of that legislation, the crime prevention objective was not engaged.

At the hearing of the magistrates' appeal, it was established that Mr. Hanif had employed the illegal worker without paperwork showing a right to work in the UK, he had paid him cash in hand, he paid him less than the minimum wage, he did not keep or maintain PAYE records and that, while he had deducted tax from the worker's salary, he failed to account to the HMRC for the tax deducted.

The District Judge held that because prosecution proceedings had not been brought, and no crime had been reported, the crime prevention objective was not engaged; and that in any event the failure to pay the minimum wage had not been the main basis of the licensing authority's decision.

The Council appealed by way of case stated. It argued that it is not necessary for a crime to have been reported, prosecuted or established in a court of law in order for the crime prevention objective to be engaged. The licensing objectives are prospective, and are concerned with the avoidance of harm in the future.

The matter came before Mr. Justice Jay. He accepted all of the Council's arguments. In his view, there was clear evidence of the commission of criminal offences, both in relation to the non-payment of the minimum wage and also tax evasion. As for the offence of knowingly employing an illegal worker, he considered that, based on the fact that the employee could not provide the requisite paperwork, a national insurance number or a tax code, the clear inference was that Mr. Hanif well knew that he was employing an illegal worker. A deterrent approach was justified on the facts.

Mr. Justice Jay decided that remission of the case to the Magistrates' Court was not appropriate, since he considered that the Council's decision to revoke was clearly correct. In reaching that decision, the Learned Judge pointed out that employing an illegal worker involves not only defrauding the Revenue, but also the exploitation of vulnerable individuals including, here, by not paying them the minimum wage.

The Learned Judge ordered Mr. Hanif to pay costs in the High Court in the sum of £15,000 and reserved judgment briefly on the costs incurred in the Magistrates' Court.

Reflecting the importance of the principle that it is not necessary for a prosecution to be brought in order for the crime prevention objective to be engaged, Mr. Justice Jay certified the case as appropriate for citation in future cases under the relevant Practice Direction. This means that the judgment can be cited in future cases.

Philip Kolvin QC and David Dadds appeared for East Lindsey District Council, instructed by Dadds LLP.

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

YES

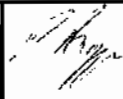
- I understand that if I do not comply with the above requirements my application will be rejected

YES

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 4)*

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

Signature	
Date	16/01/2017
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application. *(please read guidance note 6)*

Telephone number <i>(if any)</i>	
If you would prefer us to correspond with you by email your email address <i>(optional)</i>	

Notes for Guidance

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

