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**Chief Executive**  
**Phil Drury**  
MCIAT, ACIOB

4 December 2019

**NOTICE OF MEETING OF THE LICENSING SUB-COMMITTEE**

Dear Councillor

You are invited to attend a meeting of the Licensing Sub-Committee on  
**Thursday, 12th December, 2019 at 10.00 am**  
in the Council Chamber , Municipal Buildings, West Street, Boston, PE21 8QR

**PHIL DRURY**  
**Chief Executive**

**Membership:** Councillors Jonathan Noble, Alison Austin and Stephen Woodliffe

**A G E N D A**

**PART I - PRELIMINARIES**

**A APOLOGIES**

To receive apologies for absence.

**B DECLARATIONS OF INTERESTS**

To receive declarations of interests in respect of any item on the agenda.

**PART II - AGENDA ITEMS**

- 1 APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS THE DESIGNATED PREMISES SUPERVISOR - EUROPEAN FOOD, 43 WIDE BARGATE, BOSTON (Pages 1 - 28)**

(A report by Fiona White, Licensing and Land Charges Manager)

**Notes:**

The person to contact about the agenda and documents for this meeting is Janette Collier, Senior Democratic Services Officer, Municipal Buildings, Boston, 01205 314227 email: janette.collier@boston.gov.uk

Council Members who are not able to attend the meeting should notify Janette Collier, Senior Democratic Services Officer as soon as possible.

**Alternative Versions**

Should you wish to have the agenda or report in an alternative format such as larger text, Braille or a specific language, please contact Democratic Services on direct dial (01205) 314226

**Emergency Procedures**

**In the event of a fire alarm sounding all attendees are asked to leave the building via the nearest emergency exit and make their way to the Fire Assembly Point located in the car park at the rear of the Municipal Buildings.**

The procedures for the hearing appear overleaf

## LICENSING ACT 2003

### HEARING PROCEDURE – APPLICATION TO VARY A LICENCE TO SPECIFY AN INDIVIDUAL AS THE DESIGNATED PREMISES SUPERVISOR

Sub-Committee of 3 Members

*The **Chairman** will:*

- Welcome everyone
- Ask for any Declarations of Interest
- State the purpose of the hearing
- Introduce the Members of the Sub-Committee
- Introduce the Legal Representative, Democratic Services Clerk and the Licensing & Land Charges Manager
- Explain that all parties have been given notice to attend the hearing and that the hearing will proceed notwithstanding a party's failure to attend the hearing.

*The **Legal Advisor** will explain the following procedure:*

*If any party intends to make reference to information which they believe should be private and confidential they are advised to make an application under The Licensing Act 2003 (Hearings) Regulation 2005 regulation 14 upon which the Sub-Committee will determine whether the public should be excluded from the hearing in accordance with that regulation.*

1. **The Licensing & Land Charges Manager** will address the hearing and provide details of the application and a summary of the premises' licensing history (*if applicable*)
2. **The Applicant or the Applicant's representative** will then present their case.
  - They will call any witnesses to give evidence in support of their case.
  - The proposed individual may then question the applicant and/or their witnesses.
  - The Police may then question the Applicant and/or their witnesses.
  - The Members of the sub-committee may then ask questions of the Applicant and/or their witnesses.
  - The Applicant or their representative will then be offered the final opportunity of asking any further questions of their witnesses in order to clarify any points raised in earlier questioning.
3. **The Proposed Individual or the Proposed Individual's representative** will then present their case.
  - They will call any witnesses to give evidence in support of their case.
  - The applicant may then question the proposed individual and/or their witnesses.
  - The Police may then question the Proposed Individual and/or their witnesses.

- The Members of the sub-committee may then ask questions of the proposed individual and/or their witnesses.
- The proposed individual or their representative will then be offered the final opportunity of asking further questions of their witnesses in order to clarify any points raised in earlier questioning.

#### 4. **The Police will then present their case**

- The Police or their representative will give their reasons for objecting to the application.
- The Police or their representative will then call any witnesses
- The Applicant or their representative may then question the Police and/or any witnesses
- The proposed individual or their representative may then question the Police and/or any witnesses.
- The Members of the Sub-Committee may ask questions of the Police and/or any witnesses
- The Police or their representative will then be given a final opportunity of asking any further questions of their witnesses to clear up any points raised in the earlier questioning.

#### 5. **Closing Statement or Summary**

- The Police summarise any points they wish to make and comment briefly on the Applicant's and proposed individual's replies to questions.  
***They cannot introduce any new issues at this stage.***
- The proposed individual can summarise any points they wish to make and comment briefly on the Police's and the Applicant's replies to any questions  
***They cannot introduce any new issues at this stage.***
- The Applicant can summarise any points they wish to make and comment briefly on the Police and proposed individual's replies to questions.  
***They cannot introduce any new issues at this stage.***

#### 6. **Conclusion**

- The Chairman will then ask the Legal Advisor whether there are any other matters to be raised or resolved before the Sub-Committee retires to begin its deliberations.  
***The Sub-Committee will exclude the press and public from its deliberations and its decision making.***
- The Chairman will advise the hearing that the Sub-Committee will retire to consider the application and that the Legal Advisor will be retiring with them but will take no part in the deliberation.

If legal advice is given by the Legal Advisor in the course of deliberations the Legal Advisor will reiterate this advice in summary form to the hearing when the hearing is reconvened.

- If any party to the hearing, or the Licensing & Land Charges Manager, are required to address the Sub-Committee during its deliberations, all parties will be invited to hear these issues.
- Once a decision has been made, the Sub-Committee will return and the Chairman announces the decision and gives reasons for the decision including any conditions that have been attached and the right of appeal if necessary.
- The decision will subsequently be formally notified to the Applicant and the Objector in writing by the Licensing Authority within 5 working days.

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## **BOSTON BOROUGH COUNCIL**

### **LICENSING SUB-COMMITTEE APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS THE DESIGNATED PREMISES SUPERVISOR**

Licence number: 32UBB19011

Applicant: Mrs Nawal Ahmd

Premise: European Food, 43 Wide Bargate, Boston

Proposed DPS: Mr Omid Hatemi

Hearing Date: 1000hrs on 12 December 2019

#### **Summary**

This is a report to consider a notice from the Chief Officer of Police objecting to an application to vary the premises licence to specify Mr Omid Hatemi as the Designated Premises Supervisor at European Food, 43 Wide Bargate, Boston, PE21 6SR.

The Licensing Act 2003 requires that the Licensing Sub-Committee determines an application where a notice of objection has been received.

Section 39 of the Licensing Act 2003 states that where a notice is given and not withdrawn the authority must, having regard to the notice, reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

The Sub-Committee must give full reasons for either granting or rejecting the application.

## 1. The Application and History

- 1.1 A Premises Licence was granted on 25 September 2019 for the sale of alcohol at 43 Wide Bargate, Boston. On the original application Mrs Nawal Ahmd was named as the Designated Premises Supervisor. At that time she did not have a personal licence, so the sale of alcohol was not permitted. Since the grant of the licence Mrs Ahmd has not applied for a personal licence.
- 1.2 On 6 November 2019 an application to vary the licence to specify Mr Omid Hatemi as the Designated Premises Supervisor was received.
- 1.3 The application states at part 2 that the applicant wishes the application to have immediate effect under section 38 of the Licensing Act 2003. Section 38 states:

*(2) By virtue of this section, the premises licence has effect during the application period as it were varied in the manner set out in the application.*

*(3) For this purpose "the application period" means the period which-*

*(a) Begins when the application is received by the relevant licensing authority, and*

*(b) Ends-*

*(i) If the application is granted, when the variation takes effect,*

*(ii) If the application is rejected, at the time the rejection is notified to the applicant, or*

*(iii) If the application is withdrawn before it is determined, at the time it is withdrawn.*

The sale of alcohol is permitted from the date of receipt of the application where it states that the applicant wishes the application to have immediate effect.

- 1.4 A copy of the application, which was correctly completed, is attached at Appendix 1.
- 1.5 For information a copy of the premises licence for European Food, 43 Wide Bargate, Boston is attached at Appendix 2.

## 2. Notice from the Chief Officer of Police

- 2.1 Where the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting a variation of DPS application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied. Such notice must be given within the period of 14 days beginning with the day on which he is notified of the application to vary the premises licence to specify an individual as the Designated Premises Supervisor.

- 2.2 On 18 November 2019 a notice was received from the Chief Officer of Lincolnshire Police, stating the grounds and reasons for being satisfied that that the exceptional circumstances of the case were such that granting the variation application to specify Mr Hatemi as DPS would undermine the crime prevention objective.
- 2.3 A copy of the objection notice and supporting information provided with the notice is attached at Appendix 3.

### **3. Considerations**

- 3.1 The options available to the Sub-Committee are to either grant or reject the application for variation of the DPS. There are no other options available to the Sub-Committee, such as appending additional conditions to the premises licence. In making its decision, the Licensing Sub-Committee must consider the application and objection notice in accordance with the act and must have regard for and give appropriate weight to:
- The Guidance issued under s.182 of the Act (Relevant extract is attached at Appendix 4).
  - Statement of Licensing Policy with respect to Designated Premises Supervisors (Relevant extract is attached at Appendix 5).
  - The submissions, including supporting information, presented by all parties.
- 3.2 The Sub-Committee's attention is drawn, in particular, to the following paragraphs of the Section 182 Guidance.

*Paragraph 4.27 – Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.*

*Paragraph 10.30 – The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.*

Should the Sub-Committee depart from the statutory guidance or the Statement of Licensing Policy reasons for doing so must be given.

- 3.3 In determining the application the Sub-Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Human Rights Act it is unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.
- 3.4 The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. A copy of section 149 of the Act is attached at Appendix 6.
- 3.5 Where no objection to a variation of DPS application is received the licensing authority must grant the application. Where an objection notice has been given and not withdrawn, the authority must, having regard to the notice, reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so. Rejection of an application must be evidence-based, justified as being appropriate for the promotion of the crime prevention licensing objective and proportionate to what it is intended to achieve.
- 3.6 Whether the application is granted or rejected, notice of that decision must be provided to all parties. The notice must state the authority's reasons for granting or rejecting the application.
- 3.7 If the application is granted the decision notice must specify the time when the variation takes effect. A decision to reject an application takes effect at the time the rejection is notified to the applicant.

#### **4. Appeal**

- 4.1 Where the licensing authority rejects the application the applicant, Mrs Ahmd, may appeal against the decision. Where the licensing authority grants the application the Chief Officer of Police may appeal against the decision.
- 4.2 Any appeal must be made within 21 days of the day on which all parties were notified, in writing by the licensing authority, of the decision to be appealed against.

#### **5. List of Associated Papers**

|            |  |
|------------|--|
| Appendix 1 | Application to vary DPS  |
| Appendix 2 | Copy of Premises Licence   |
| Appendix 3 | Notice of Objection from the Chief Officer of Police                 |
| Appendix 4 | Relevant extract of Section 182 Guidance.                            |
| Appendix 5 | Relevant extract from the Authority's Statement of Licensing Policy. |
| Appendix 6 | Section 149 – Equality Act 2010                                      |

Application to vary a premises licence to specify an individual as designated premises supervisor 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/we NAWAL AHMED.  
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

✶ Premises licence number 3208819011

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

EUROPEAN FOOD  
43 WIDE BARCATE

Post town

BOSTON

Post code (if known)

PE21 6SR.

Telephone number (if any)

Description of premises (please read guidance note 1)

INTERNATIONAL GROCERY STORE.

Part 2

Full name of proposed designated premises supervisor

OMID HATEMI.

Nationality

[REDACTED]

Place of birth

[REDACTED]

Date of birth

[REDACTED]

CHARGES/LICENSING

6 NOV 2019

W

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)  
32UBA19043 Boston BC

Full name of existing designated premises supervisor (if any)  
NAWAL AHMED

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it  
LICENCE TO BE ISSUED.

W

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

**Part 3 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature



Date

05/10/2019

Capacity

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant’s solicitor or other authorised agent** (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

**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 by e-mail your e-mail address (optional)

**Guidance notes**

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

**Consent of individual to being specified as premises supervisor**

I OMID HATEMI

[full name of prospective premises supervisor]

of 

[home address of prospective premises supervisor]

Hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

PREMISES LICENCE DPS VARIATION

[type of application]

by NAWAL AHMAD

[name of applicant]

Relating to premises licence EUROPEAN FOODS, 43. WIDE BARGATE  
[number of existing licence, if any] BOSTON, PE21 6SR

for PREMISES LICENCE NO: 32 UBB 19011

[name and address of premises to which the application relates]

And any premises licence to be granted or varied in respect of this application made by

NAWAL AHMAD

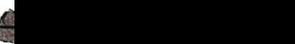
[name of applicant]

Concerning supply of alcohol, at EUROPEAN FOODS, 43. WIDE BARGATE  
[name and address of premises to which the application relates] BOSTON, PE21 6SR

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal Licence number 32UB0A19043  
[insert personal licence number, if any]

Personal Licence issuing authority BOSTON BOROUGH COUNCIL  
[insert name and address and telephone number of personal licence issuing authority, if any]

Signed 

Name (please print) OMID HATEMI

Date 05, 10, 2019

**Premises Licence  
Boston Borough Council**

**Premises Licence No.** 32UBB19011

**Granted date:** 25/9/2019

**Part 1 – Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description**

European Food  
43 Wide Bargate

**Post town** Boston      **Post code** PE21 6SR

**Telephone number** Not applicable

**Where the licence is time limited the dates -** Not applicable

**Licensable activities authorised by the licence**

Sale by retail of alcohol for consumption off the premises

**The times the licence authorises the carrying out of licensable activities**

Monday – Sunday : 08.00 hours until 23.00 hours

**The opening hours of the premises**

Monday – Sunday : 08.00 hours until 23.00 hours

**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies**

Off

**Part 2 – Licensee Details**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

**Name:** Mrs Nawal Ahmd

**Address:** [REDACTED]

**Postcode:** [REDACTED]

**Telephone:** [REDACTED]

**Registered number of holder, for example company number, charity number (where applicable)**

Not applicable

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol**

Name: Mr Omid Hatemi

Address:

Postcode:

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Licence No:

Issuing Authority:

**ANNEX 1**

**(a) MANDATORY CONDITIONS**

1. Supply of alcohol

(i) 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

(ii) Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence

**Conditions set out in The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010**

1. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

**Conditions set out in The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014**

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

(2) In this condition:–

(a) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$ , where–

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.
- (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

## **ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

**Date of hearing: 25 September 2019**

### **b) The prevention of crime and disorder**

1. A CCTV system shall be installed, recording and maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police, specifically:
  - a) There shall be a minimum of one high resolution colour camera, fitted in a weatherproof housing, for external coverage of the entrance.
  - b) There shall be a minimum of one high-resolution colour camera fitted to each public entrance/exit. To provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.
  - c) There shall be sufficient cameras able to cope with the normal operating illumination to reasonably cover all licensed public areas.
  - d) Recordings must be kept for a minimum of 31 days and endorsed with the accurate, correct time/date (BST/GMT adjusted).
  - e) Police and/or Authorised Licensing Officers shall be able on attendance to view immediate playback of any incident without the necessity for download.
  - f) Recordings of incidents at the premises must be provided to the police following lawful request.
  - g) A member of management shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request. When this is not possible recordings shall be provided within 24 hours of the original request.

- h) Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.
  - i) In the event of a system malfunction, the Designated Premises Supervisor or the Premises Licence Holder must immediately notify Lincolnshire Police Licensing Department tel 101, ask for Lincolnshire, ask for the alcohol licensing or email countylicensinggroup@lincs.pnn.police.uk. Details of this malfunction must be recorded in the premises refusals/incident book. Arrangements for its repair must be made without delay. The Licensing Authority and Police Licensing must be notified when the system is again operational.
2. There shall be no sale of loose cans of beers, lagers or ciders in packs of less than 4, nor a sale of any single bottles of beers, lagers or ciders under 700ml.
  3. No beers, lagers or ciders (including perries) of 6.5% ABV or above shall be sold at the premises.
  4. Customers will not be permitted to consume alcohol on the premises as per the mandatory conditions for off-licence sales only.
  5. An operational daily log report must be maintained, endorsed by signature, indicating the CCTV system has been checked and is compliant, in the event of any failings actions taken are to be recorded
  6. Persons shall be discouraged from congregating outside of the premises
  7. No alcohol purchases to be consumed within the curtilage of the premises.

**c) Public safety**

1. An incident/refusals book shall be kept at the premises, in which details of crime and/or disorder relating to the premises shall be recorded. The incident/refusals book shall contain the following details;
  - \* Time, date and location of incident/refusals.
  - \* Nature of the incident/refusal.
  - \* Names, addresses and contact details of persons involved.
  - \* Result of the incident/refusals.
  - \* Action taken to prevent such incidents.
  - \* Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS; and
  - \* Retained for a period of no less than 12 months and made available to Lincolnshire Police for inspection upon request.

**d) The prevention of public nuisance**

1. 1 litter bin will be provided outside the property, it will be emptied daily when the premises closes.
2. The outside area of the premises will be checked daily for litter, any found will be disposed of in an appropriate manner.
3. Signage will be displayed outside the premises asking people not to congregate in the immediate area.
4. Signage will be displayed at the exit asking customers to consider nearby residents and to please leave the area quietly.

**e) The protection of children from harm**

1. The premises shall operate the "Challenge 25" Proof of Age Policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:
  - \* A recognised proof of age card credited under the British Retail Consortiums Proof of Age Standards Scheme (PASS);
  - \* Photo driving licence;
  - \* Passport.

2. Notices shall be prominently displayed advising customers of the Challenge 25 policy  
All point of sale staff shall undergo twelve monthly training in the challenge 25 proof of age scheme and all other relevant policies with a record kept of the date of training, signed by the member of staff being training and the trainer. Each entry shall be retained for a period of 12 months from date of completion. This record shall be made available for inspection by Lincolnshire Police Officers or other relevant authority.

#### **ANNEX 4 - PLANS**

1. Licensable activities are permitted in accordance with the attached plan.

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LINCOLNSHIRE POLICE

NOTICE OF OBJECTION TO THE APPLICATION TO VARY A LICENCE  
TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR  
SECTION 37(5) OF THE LICENSING ACT 2003

The Chief Officer of Lincolnshire Police, Bill Skelly, having been notified under Section 37(4) of the Licensing Act 2003, of the application to vary the Premises Licence for European Food, 43 Wide Bargate, Boston to specify Omid HATEMI as Premises Supervisor, and being satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, hereby gives notice of objection.

The grounds for the objection notice are as follows:

On 20th May 2019 Lincolnshire Police received a premises licence application for 43 Wide Bargate, the application came through licensing agent Mr Paul Byatt with the applicant being Talib Abdul KARIM.

Pc 642 McConville attended 43 Wide Bargate on 21st May 2019 unannounced and discovered the sole worker in the premises had no right to work and was therefore working illegally. The illegal worker was asked to call his boss, he called [REDACTED] and when asked who that was said 'Omid' (believed to be Omid HATEMI, husband of the premises licence holder due to the phone number). The illegal worker described Omid as his cousin, he confirmed that he gave him a lift to the shop that day and told him to serve for a few hours. It was noted that the worker knew how to work the till and knew the price for products that didn't have price stickers on them.

A short time later Mr Karim arrived. He received a call from [REDACTED] which was later confirmed as the phone number for Mr Shivan ABDULLA, born [REDACTED] who then turned up at the premises. Mr Abdulla stated the premises and business was his, that he'd had it for 3 months and he was selling it to Mr Karim, who wanted to know if he could get a premises licence first, prior to purchasing the business, so could provide no proof of business ownership. Mr Abdulla stated that Omed (as spelt) was his business partner. The application was subsequently withdrawn.

On discussing the application with Mr Byatt, it became clear that Omid was the main drive behind the application. Mr Byatt had met with him, unlike Mr Karim and was aware that he didn't have the right to work but that the correct paperwork was coming through soon. Mr Byatt's understanding was that Mr Karim and Omid were business partners, and once the correct paperwork with regards to residency and right to work came through for Omid then the premises licence would be transferred to him.

Checks on Police systems show that incident 87 of 18th March 2019 was a report of a broken window at two premises on the High Street in Boston. One of the premises was 28 High Street, Boston, which is a take-away style premises called NEWROZ. The details on the crime report for this premises recorded the losers details as Shivan

Abdulla, born [REDACTED], phone number [REDACTED], and the preferred method of contact being email address [REDACTED]. This was given in person to the officer in attendance. Companies House shows Shivan ABDULLA, born [REDACTED], as the sole director of [REDACTED], which has a correspondence address of 28 High Street, Boston.

Another application premises licence application was then received for 43 Wide Bargate, in Mr Hatemi's wife's name.

On discussing the premises licence application with Mr Hatemi over the phone, Mr Hatemi gave his contact phone number as [REDACTED] his email address as [REDACTED]. In regards to the previous application and the illegal worker Mr Hatemi stated he was not involved with the previous application and knew nothing of the illegal worker. He stated that he does not know the illegal worker. Mr Hatemi stated that he only knows Mr Abdulla from buying the business off him in early June and that he's had no business dealings with him before this. Mr Hatemi stated he has not worked in the UK previously, that he doesn't know Mr Karim, and is only aware of him and what happened through what he'd heard from Mr Abdulla. These statements were then emailed to Mr Hatemi who replied confirming that Lincolnshire Police's understanding of his stated position and involvement was correct. This was again confirmed by Mr Hatemi during the representation hearing, yet contradicted by Mr Byatt's information that he dealt with Mr Hatemi for the first application, at a time when Mr Hatemi had no right to work or have a business. Please see appendix A.

Home Office Immigration have confirmed that Mr Hatemi was granted a period of 30 months leave to remain in the UK on 17/07/2019, giving him the right to work and therefore have a business.

Lincolnshire Police made representation with the above information and the Licensing Sub-committee granted the premises licence.

Since that time Lincolnshire Police have been informed of the following by Trading Standards. On 27/09/2016 Trading Standards and HM Revenue and Customs officers attended Central Food and Wine, 20 West Street, Boston, 400 foreign labelled Winston cigarettes and 236 x 50g packs of Soex Herbal Shisha were found in concealment behind the counter. The sole person present and working in the premises at the time was Omid HATEMI, of a [REDACTED] address, who claimed to be currently staying with friends in Boston.

At this time Mr Hatemi didn't have the right to work, and so was himself an illegal worker. It is an offence under Section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those who do employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and pursuant to Section 21 of the same Act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified.

Lincolnshire Police has intelligence that it intends to show to the Licensing Sub-Committee on the day of the hearing. Under Regulation 14 of the Licensing Act 2003 (Hearings) Regulation 2005 Lincolnshire Police request that this intelligence is not shown or disclosed to the public, and that this includes the premise licence holder and/or any representative acting on behalf of or connected to the premises.

Lincolnshire Police believe that due to well documented issues within Boston concerning illegal working and the selling and storage of counterfeit, illicit and smuggled cigarettes and due to Mr Hatemi's previous history as evidenced above and in material yet to be disclosed that the exceptional circumstances of this case are such that granting the application would undermine the crime prevention objective. The Licensing Act 2003 is clearly intended to prevent crime from occurring in relation to licensed premises but also to deter and prevent criminals from operating a premise under the auspices of a Premises Licence granted by the local authority. Accordingly, it is submitted the Authority should reject the application as it is necessary for the promotion of the crime prevention objective.

.....  
For and on behalf of Chief Constable B. Skelly

# Appendix A

McConville, Gina

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**From:** McConville, Gina  
**Sent:** 08 August 2019 16:53  
**To:** 'Omid Hatemi'  
**Subject:** RE: 43 wide Bargate

Unfortunately I have just moved buildings and as yet we don't have phone lines fitted, so I'm sorry but I can't give you one. As and when we do get phones, which I'm told will be soon, I'll email you the number. Feel free to email as much as you want in the meantime and I'll do my best to answer your questions as soon as possible.

I just want to go over the phone conversation we had, for clarification. If you can please say yes or no to each statement and expand on your answer if your reply goes against the statement made.

- The applicant is your wife
- You have just been granted the right to work in the UK.
- You have not worked in the UK previously
- You and your wife took possession of the premises in question in early June
- Your wife and you both intend to start a business which will involve the premises in question
- The business will be registered on companies house with both of you as directors.

Regarding the previous premises licence applicant/application.....

- You had nothing to do with the previous application in May 2019 (which was later withdrawn)
- You were not involved with the premises at the time of the previous application
- You don't know the previous applicant other than what you've heard since purchasing the business and from Mr Shwan Abdullah
- You only know Mr Shwan Abdullah through purchasing this business
- You had no business dealings and anyway what so ever with Mr Shwan Abdullah before the purchase
- But you were aware of him due to the close community in Boston
- You had nothing to do with the illegal worker found working in the premises in May 2019
- You don't know the illegal worker found working in the premise in May 2019
- And just to be clear, in summary - You had nothing to do with the premises before June 2018 and therefore had nothing to do with the previous application and the illegal worker found.

Regards

Gina

From: [REDACTED]  
Sent: 08 August 2019 18:09  
To: McConville, Gina  
Subject: Re: 43 wide Bargate

Hi

The applicant is your wife  
YES

- You have just been granted the right to work in the UK.  
YES

- You have not worked in the UK previously YES

- You and your wife took possession of the premises in question in early June YES

- Your wife and you both intend to start a business which will involve the premises in question YES

- The business will be registered on companies house with both of you as directors.  
YES

Regarding the previous premises licence applicant/application.....

- You had nothing to do with the previous application in May 2019 (which was later withdrawn) YES.

- You were not involved with the premises at the time of the previous application YES

- You don't know the previous applicant other than what you've heard since purchasing the business and from Mr Shwan Abdullah YES

- You only know Mr Shwan Abdullah through purchasing this business YES

- You had no business dealings and anyway what so ever with Mr Shwan Abdullah before the purchase YES

- But you were aware of him due to the close community in Boston YES

- You had nothing to do with the illegal worker found working in the premises in May 2019 YES

- You don't know the illegal worker found working in the premise in May 2019 YES

### Specification of new designated premises supervisors

- 4.18 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.33 to 4.46 of this Guidance.
- 4.19 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.20 To specify a DPS, the premises licence holder should normally submit an application to

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the licensing authority (which may include an application for immediate interim effect) with:

- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
- the relevant part (Part A) of the licence.

4.21 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.

4.22 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.

4.23 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.

4.24 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.

4.25 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

### **Police objections to new designated premises supervisors**

4.26 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

4.27 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

4.28 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

## Police objections to existing designated premises supervisors

- 4.29 The 2003 Act also provides for the suspension and forfeiture of personal licences by the courts following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a DPS seek a review of a premises licence on any grounds relating to the licensing objectives if problems arise relating to the performance of a DPS. The portability of personal licences is also important to industry because of the frequency with which some businesses move managers from premises to premises. It is not expected that licensing authorities or the police should seek to use the power of intervention as a routine mechanism for hindering the portability of a licence or use hearings of this kind as a fishing expedition to test out the individual's background and character. It is expected that such hearings should be rare and genuinely exceptional.

## Designated premises supervisor

- 10.28 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

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- 10.29 The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.30 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.
- 10.37 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

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12. Designated Premises Supervisor (DPS)

- 12.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. Because of this the Licensing Authority will normally expect that the DPS for a licensed premise will be able to demonstrate that they are in day to day control of the premises and playing an active role in its operation through a regular personal presence.
- 12.2 The main purpose of the Designated Premises Supervisor is to ensure that there is always one specified individual, among the personal licence holders at the premises, who can be readily identified for the premises where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises. In view of this the Licensing Authority expects an applicant for a premises licence to confirm in his operating schedule, that the Designated Premises Supervisor will regularly attend the premises and be in day-to-day charge of them.

This Licensing Authority recommends that the DPS undergoes relevant training, such as the Designated Premises Supervisor course provided by the British Institute of Innkeeping Awarding Body, in order that they are made aware of the responsibilities this position brings with it.

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- (b) persons who apply for employment or  
 (c) persons the employer considers for employment.
- (8) "Trade organisation", "qualifications body" and "relevant qualification" each have the meaning given in Part 6 (work).

## PART 11

## ADVANCEMENT OF EQUALITY

## CHAPTER 1

## PUBLIC SECTOR EQUALITY DUTY

## 149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) tackle prejudice, and
  - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

- (7) The relevant protected characteristics are –
- age;
  - disability;
  - gender reassignment;
  - pregnancy and maternity;
  - race;
  - religion or belief;
  - sex;
  - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to –
- (a) a breach of an equality clause or rule;
  - (b) a breach of a non-discrimination rule.
- (9) Schedule 18 (exceptions) has effect.

~~150. Public authorities and public functions~~

- (1) A public authority is a person who is specified in Schedule 19.
- (2) In that Schedule –
- Part 1 specifies public authorities generally;
  - Part 2 specifies relevant Welsh authorities;
  - Part 3 specifies relevant Scottish authorities.
- (3) A public authority specified in Schedule 19 is subject to the duty imposed by section 149(1) in relation to the exercise of all of its functions unless subsection (4) applies.
- (4) A public authority specified in that schedule in respect of certain specified functions is subject to that duty only in respect of the exercise of those functions.
- (5) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

151 Power to specify public authorities

- (1) A Minister of the Crown may by order amend Part 1, 2 or 3 of Schedule 19.
- (2) The Welsh Ministers may by order amend Part 2 of Schedule 19.
- (3) The Scottish Ministers may by order amend Part 3 of Schedule 19.
- (4) The power under subsection (1), (2) or (3) may not be exercised so as to –
- (a) add an entry to Part 1 relating to a relevant Welsh or Scottish authority or a cross-border Welsh or Scottish authority;
  - (b) add an entry to Part 2 relating to a person who is not a relevant Welsh authority;
  - (c) add an entry to Part 3 relating to a person who is not a relevant Scottish authority.
- (5) A Minister of the Crown may by order amend Schedule 19 so as to make provision relating to a cross-border Welsh or Scottish authority.