

Licensing Act 2003Representation by a Responsible Authority

**Note:** Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the Licensing Panel hearings.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

1. **The Prevention of Crime and Disorder**
2. **Public Safety**
3. **Prevention of Public Nuisance**
4. **The Protection of Children from Harm**

Please enter your details below:

Responsible Authority:	Lincolnshire Police
Contact Officer:	Pc 642 McConville
Address:	Lincolnshire Police Licensing, Myle Cross Centre Macaulay Drive Lincoln LN2 4EL
Telephone Number:	[REDACTED]
E-mail:	[REDACTED]

Please provide details of the application to which your representation refers:

Name:	Boston Food & Wine
Address:	43 Wide Bargate Boston PE21 6SR
Application Details:	Premises Licence Application
Date Application Received:	5 <sup>th</sup> August 2019

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box(es):

- **The Prevention of Crime and Disorder** X
- **Public Safety**
- **Prevention of Public Nuisance**
- **The Protection of Children from Harm**

In relation to this application, the following Guidance issued under Section 182 of the Licensing Act 2003 has been considered –

*From Section 9.12....Each responsible authority will be an expert in their own field....for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.*

*From Section 11.24, which is in relation to reviews but deemed relevant to this representation.....A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.*

*From Section 11.26, which is in relation to reviews but deemed relevant....The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.*

*From Section 11.27, which is in relation to reviews but deemed relevant....there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises for employing a person who is disqualified from that work by reason of their immigration status in the UK.*

*From Section 11.28, which again is in relation to reviews, but deemed relevant....It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is 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.*

43 Wide Bargate is a shop style premises which has run as a convenience store/off licence for the last few years. It did have a premises licence but it was reviewed after the premises failed 2 under 25 (challenge 25) test purchases and one under 18 test purchase, as it was appropriate for the promotion of the licensing objectives of prevention of crime and disorder and the protection of children from harm. The premises licence was revoked in February 2018, there was a subsequent appeal and the decision was upheld.

On 20<sup>th</sup> May 2019 Lincolnshire Police received a premise licence application for 43 Wide Bargate, the application came through licensing agent Mr Paul Byatt with the applicant being [REDACTED].

Pc 642 McConville attended 43 Wide Bargate on 21<sup>st</sup> 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 [REDACTED] (believed to be [REDACTED], husband of the current applicant due to the phone number). The illegal worker described [REDACTED] 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 [REDACTED] arrived. He received a call from [REDACTED] which was later confirmed as the phone number for Mr [REDACTED] born [REDACTED], who then turned up at the premises. Mr [REDACTED] stated the premises and business was his, that he'd had it for 3 months and he was selling it to Mr [REDACTED], 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 [REDACTED] stated that [REDACTED] was his business partner. Both Mr [REDACTED] and Mr [REDACTED] were informed that Lincolnshire Police would be making representation to the premise licence application and to any future applications from either individual due to what had been discovered. The application was subsequently withdrawn.

On discussing the application with Mr Byatt, it became clear that [REDACTED] was the main drive behind the application. Mr Byatt had met with him, unlike Mr [REDACTED] 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 [REDACTED] and [REDACTED] were business partners, and once the correct paperwork with regards to residency and right to work came through for [REDACTED] then the premises licence would be transferred to him.

Checks on Police systems show that incident 87 of 18<sup>th</sup> March 2019 was a report of a broken window at 2 premises on the High Street in Boston. One on the premises was [REDACTED], [REDACTED] which is a take-away style premises called [REDACTED]. The details on the crime report for this premises record the loser's details as [REDACTED], 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 show [REDACTED] born [REDACTED], is the sole director of [REDACTED], which has a correspondence address of [REDACTED].

A short time later another enquiry came via Mr Byatt in regards to Mr [REDACTED] applying for a premises licence at another premise within Boston. Mr Byatt was informed that should such an application be received Lincolnshire Police would make representation due to the discovery of an illegal worker at a business Mr [REDACTED] stated he had ownership of.

Another application was then received for 43 Wide Bargate, and it is this application that this representation relates to. The applicant has confirmed that her husband is [REDACTED]. Home Office Immigration have confirmed that he 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.

On discussing the application with Mrs AHMD over the phone, a male could be heard in the back ground suppling Mrs [REDACTED] with the answers to the questions posed. Mrs Ahmd then passed the phone onto Mr [REDACTED] her husband, as his English was better than his wife's and he seemed to know more details about the business. Mr [REDACTED] confirmed a number of things. The couple bought the business in early June from Mr [REDACTED] and they are in the process of registering with Companies House, where they will both be directors. Please see appendix A for an email forwarded from Mr [REDACTED] where he had attempted to register with Companies House, but has been refused. Lincolnshire Police asked for documentation to show business ownership, for example a lease, bank account, business rates. Mr [REDACTED] gave his contact phone number as [REDACTED] and his email address as [REDACTED]. In regards to the previous application and the illegal worker Mr [REDACTED] stated he was not involved with the previous application and knew nothing of the illegal worker. He stated that he does not know him. Mr [REDACTED] stated that he only knows Mr [REDACTED] from buying the business off him in early June and that he's had no business dealings with him before this. Mr [REDACTED] stated he has not worked in the UK previously, that he doesn't know Mr [REDACTED] and is only aware of him and what happened through what he's heard from Mr [REDACTED]. These statements were then emailed to Mr [REDACTED] who replied confirming that Lincolnshire Police's understanding of his stated position and involvement was correct. Please see appendix B for the emails.

Lincolnshire Police are concerned that the applicants husband, who appears to be the driving force behind the business, will be in a position of responsibility at the business (proposes to be a director on Companies House) and who will therefore benefit from this premise licence if granted has been involved in the premises for some time, when he himself didn't have the right to work. The phone number given by the applicant's husband is the same phone number the illegal worker rang when Police arrived and discovered he was illegally working. The illegal worker confirmed that [REDACTED] gave him a lift to the shop and told him to work.

A male who was noted as the looser at a criminal damage at [REDACTED] in March 2019 gave the same phone number at Mr [REDACTED] and the email address [REDACTED] (the same as given by the applicants husband Mr [REDACTED]). The person gave Mr [REDACTED] name but gave an incorrect date of birth, leading to the suspicion that the officer was dealing with Mr [REDACTED] and not Mr [REDACTED]. Mr [REDACTED] is the sole director for this premise on Companies House, showing there is a link between Mr [REDACTED] and Mr [REDACTED] prior to the purchase of the business at 43 Wide Bargate in early June 2019, and therefore a level of dishonestly in answering Lincolnshire Police's

questions.

Mr Byatt's evidence from the first application, and his confirmation that [REDACTED] was the main person behind the application, with [REDACTED] and Mr [REDACTED] being business partners also shows prior involvement at the time the illegal worker was found and a level of dishonesty in answering Lincolnshire Police's questions.

There is a criminal offence of employing an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006, as amended by section 35 of the Immigration Act 2016, if the employer knows or has reasonable cause to believe that they are employing an illegal worker. Working includes by payment or otherwise or voluntary work.

Where an employer pays wages to illegal workers off record with no tax or national insurance deductions which are then deliberately omitted from an employers End of Tax Year P35 returns to HMRC, the employer may be dealt with by means of the Fraud Act 2006. Similarly, HMRC may take action as a civil proceedings case and raise a tax debt against the business.

Illegal workers are more than likely poorly paid for the hours they are required to work and are not subject to the benefit of a minimum wage or restricted hours as prescribed in law. Nor are they afforded the benefit of the protections offered by UK employment legislation and are therefore often exploited.

Based on

- The applicant's husband's links to an illegal worker found working in the premises in May 2019
- The fact that Mr [REDACTED] likely worked himself when he was legally not allowed in that he was party in attempting to get a premise licence when he was in business partnership with Mr [REDACTED]
- The evidence suggesting Mr [REDACTED] has not been truthful with Lincolnshire Police in regards to this application and his previous involvement with Mr [REDACTED] and Mr [REDACTED]
- The Government's recent changes to the Licensing Act 2003 and Section 182 Guidance reflect show seriously it sees the issue of illegal working.

Lincolnshire Police have no confidence that the applicant intends to carry on a law-abiding business with the assistance of a premises licence. The evidence strongly suggests that on the balance of probabilities the likelihood of Mr [REDACTED] and therefore his wife Mrs Ahmd undermining the licensing objective of the prevention of crime and disorder is far too great to allow this premise licence to be granted.



# Appendix A

McConville, Gina

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**From:** McConville, Gina  
**Sent:** 07 August 2019 10:38  
**To:** [REDACTED]  
**Subject:** RE: Companies House Web Incorporation Service Reject

Ok, thanks for forwarding the email on.

Gina

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**From:** [REDACTED]  
**Sent:** 07 August 2019 10:29  
**To:** McConville, Gina  
**Subject:** Fwd: Companies House Web Incorporation Service Reject

Hi good morning  
We are been rejected again from companies house  
I did mistake when I applied , I will try to do it again with Agence  
And I will let you know soon I done

Thanks

[REDACTED]  
Sent from my iPhone

Begin forwarded message:

**From:** Companies House <[webfiling@companieshouse.gov.uk](mailto:webfiling@companieshouse.gov.uk)>  
**Date:** 7 August 2019 at 08:10:06 BST  
**To:** [REDACTED]  
**Subject:** Companies House Web Incorporation Service Reject

This message has been generated in response to your New Incorporation application submitted to Companies House on 07/08/2019.

Proposed Company Name: BOSTONFOOD&WINE LIMITED  
Companies House Submission Number: 061-333902

Please quote the submission number in any communications with Companies House..

Your New Incorporation for the above company was rejected on 07/08/2019 for the following reason(s):

- You have ticked the S243 box even though the officer in question NAWAL AHMD is not in the process of applying for, or has not been granted, exemption from disclosure of their residential address to credit reference agencies under S243 of the Companies Act 2006. If you are not in the process of applying for, or have not been granted protection under Section 243 of the Companies Act 2006, please do not tick the Section 243 box when you resubmit your application. If you wish to make an application for protection please refer to the following guidance <https://www.gov.uk/government/publications/restricting-the-disclosure-of-your-psc-information>
- You have ticked the S243 box even though the officer in question [REDACTED] is not in the process of applying for, or has not been granted, exemption from disclosure of their residential address to credit reference agencies under S243 of the Companies Act 2006. If you are not in the process of applying for, or have not been granted protection under Section 243 of the Companies Act 2006, please do not tick the Section 243 box when you resubmit your application. If you wish to make an application for protection please refer to the following guidance <https://www.gov.uk/government/publications/restricting-the-disclosure-of-your-psc-information>

Examiner's contact details - 029 2038 0967

Payments made by credit/debit card/PayPal will be automatically refunded if the incorporation submission is rejected. Refunds are processed within 24 hours of rejection but may take up to 4 days to show on your statement.

Payments made by account will only be taken for accepted incorporation submissions.

If you completed the Corporation Tax information screens this information will not be retained or sent to HMRC.

Thank you for using the Companies House Web Incorporation service.

Service Desk tel +44 (0)303 1234 500 or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

Note: This email was sent from a notification-only email address which cannot accept incoming email. Please do not reply directly to this message.

You can get help and guidance for your business at <https://www.gov.uk/business-support-helpline> where you can also find your local growth hub, the Business Support Helpline details and a business finance guide.

We're making changes to this service later this year - find out more about the changes at <https://ewf.companieshouse.gov.uk/runpage?page=regCompBetaInfo>

This message and any attachments are intended for the persons named as addressees only and may contain confidential information. In addition they may be protected by copyright. If you receive it in error, notify us, delete it and do not make use of or copy it. You must not copy, disseminate or otherwise distribute or publish this message, except for the purposes for which this message is intended, without our consent. Please note that this e-mail has been created in the knowledge that Internet e-mail is not a 100% secure communications medium. We advise that you understand and accept this lack of security when e-mailing us. For company information, guidance and how to file documents online, please see our website

# Appendix B

## McConville, Gina

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**From:** McConville, Gina  
**Sent:** 08 August 2019 16:53  
**To:** [REDACTED]  
**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 [REDACTED]
- You only know Mr [REDACTED] through purchasing this business
- You had no business dealings and anyway what so ever with Mr [REDACTED] 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

## McConville, Gina

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**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