

Minutes

LICENSING SUB-COMMITTEE

20 January 2017

Meeting held at Committee Room 6 - Civic Centre, High Street,
Uxbridge UB8 1UW



	<p>Committee Members Present: Councillors David Yarrow (Chairman) (In place of Dominic Gilham) Teji Barnes Jazz Dhillon</p> <p>Witnesses Present: Acting Sergeant Ian Wares, Police Authority PC Darren Bates, Police Authority</p> <p>Respondents Present Mr Aamir Singh Lamba (Licence Holder)</p> <p>LBH Officers Present: Neil Fraser, Democratic Services Officer Beejal Soni, Licensing Lawyer Ian Meens, Licensing Officer Stephanie Waterford, Licensing Services Manager Kiran Seyan, Trading Standards Investigating Officer</p>
11.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Councillor Gilham, with Councillor Yarrow substituting. Councillor Yarrow in the Chair.</p>
12.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
13.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items were Part I and would be considered in public.</p>
14.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
15.	<p>APPLICATION FOR A REVIEW OF A PREMISES LICENCE (SECTION 51) (<i>Agenda Item 5</i>)</p> <p><i>Introduction by Licensing Officer</i></p> <p>Ian Meens, Licensing Officer at London Borough of Hillingdon, addressed the Sub-Committee</p>

on behalf of Regulatory Services. The Sub-Committee was informed that this was an application initiated by the Metropolitan Police Service seeking a review of the Premises Licence of Lotus Wines, 761 Uxbridge Road, Hayes on the grounds of Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm. Submissions in support of the review application were received from the Trading Standards and Licensing Authority.

It was confirmed that the applicant was seeking a full revocation of the Premises Licence and that this was supported by the Trading Standards Service and the Licensing Authority.

Reference was made to the extensive history of the premises, as set out in the report. The supplementary agenda was highlighted, and confirmed to contain additional evidence submitted by the Police Authority relating to visits made by the Police to the premises.

The Sub-Committee was informed that Mr Lamba had held the Premises Licence since a previous Sub-Committee determined to grant the licence, subject to conditions, in May 2016.

The Committee was invited to determine whether to grant, refuse, or amend the application as applied for.

Representation by the Applicant for the review

Acting Sergeant. Ian Wares of the Police Authority addressed the Sub-Committee and set out in detail his statement contained in pages 15-30 of the Committee report. He detailed the events of 12 October 2016, as well as the follow up visits on 13 October 2016; 20 October 2016; 26 October 2016; 28 October 2016; and 01 November 2016.

On 12 October 2016, the following breaches of the Premises Licence Conditions were noted:

1. No personal licence holder on premises - Breach of Premises Licence Condition 8;
2. Mr Amarjeet Singh present on the premises behind the counter completing sales of items to customers - Breach of Premises Licence Condition 17;
3. The CCTV system was defective and had not working for at least 4 days - Breach of Premises Licence Condition 2 and 3;
4. Licence Holder unable to provide copies of invoices or receipts for alcohol stock purchases - Breach of Premises Licence Condition 14;
5. No entries on incident log book with regard to CCTV - Breach of Conditions Premises Licence Conditions 9,10,11,12;

A closure notice was issued which resulted in the Premises Licence Holder being unable to trade for the remaining trading hours. The Closure Notice was withdrawn the next day when the CCTV system was repaired.

On 20 October 2016, Acting Sergeant Wares attended the premises with an Images Evidence Recovery Officer. The Sub Committee was informed that the failure to have in place CCTV recordings for the previous 31days was a breach of Premises Licence Condition 2. The removal of the hard drive which contained footage up until at least 8 October 2016 was of concern because it effectively prevented officers from investigating the breaches found on 12 October 2016.

The visit of 26 October 2016 found breaches of Premises Licence Conditions 9, 10,11,12,17. The Sub-Committee was informed that on this occasion Mr Jasmeet Singh initially identified himself as "Sunny Singh" and only upon further questioning did he concede that he was Jasmeet Singh, the son of the Premises Licence Holder. The presence of Mr Jasmeet Singh at

the premises constituted a breach of Premises Licence Condition 17. CCTV footage requested at this visit was provided on 28 October 2016. The Sub-Committee noted the Metropolitan Police Services assertion that CCTV footage showed Jasmeet Singh working and completing sales of alcohol at the premises.

A visit on 01 November 2016 showed no entries made into the Authorisation Book, Refusals Log, Incident Log and training records. The Sub-Committee noted that Mr Lamba failed to complete these records, despite being informed on 12 October 2016 that the empty records were in breach of Premises Licence Conditions 9,10,11,12. It was also noted by the Sub-Committee that the same breaches were recorded by Ian Meens, Licensing Officer, on 22 December 2016.

A visit on 07 January 2017 found breaches of Premises Licence Conditions 9 and 17 and additionally found a failure to produce a Premises Licence or a certified copy of the Premises Licence. Additionally, a potential breach of the Immigration Act 2016 appeared to have occurred by way of the Premises Licence Holder's alleged employment of Sandip Patel - an "illegal overstayer" in the United Kingdom. The Sub-Committee noted that these breaches occurred after the Premises Licence Holder was provided with a date for the review application to be heard by a Sub-Committee.

A visit on 13 January 2017 discovered that the CCTV footage had been reformatted on 09 January 2017. The effect of this was to wipe out all CCTV footage from 12 October 2016 to 09 January 2017 - consequently breaching Premises Licence Condition 2.

The Metropolitan Police Services recommended the revocation of the Premises Licence.

The Sub-Committee did not hear any information nor did it take into account the statement of PC Darren Bates dated 17 January 2017 because this dealt with an aborted attempt to extend the period for the review application hearing to begin.

Representation by Responsible Authorities

Stephanie Waterford, Licensing Services Manager, addressed the Sub-Committee on behalf of the Licensing Authority. Mrs Waterford referred Councillors to the Authority's written submissions and pointed out the premises has been licensed for 7 months. In that period of time, the Premises Licence Holder had repeatedly failed to comply with his licence conditions.

Mrs Waterford emphasised that at previous meetings Mr Lamba had provided assurances that he would uphold the licensing objectives. He had failed to do so, despite being aided by a specialist licensing lawyer and a licensing agent. She also noted that to date, and despite numerous requests, the Premises Licence Holder had failed to provide a copy of the final lease agreement between himself and the freeholder. The Lease Agreement had been a key element to him obtaining his premises licence in May 2016. She concluded that the licence holder displayed a lack of knowledge of licensing matters and displayed a disregard for the law. She recommended the revocation of the Premises Licence.

Kiran Seyan, Trading Standards Investigating Officer, addressed the Sub-Committee on behalf of the Trading Standards Service. Ms Seyan confirmed that the Trading Standards Service agreed with the representations of the Metropolitan Police Services and Licensing Authority. Ms Seyan advised that on 12 October 2016, Mr Lamba and Mr Amarjeet Singh repeatedly questioned why Mr Singh could not be on the premises. Ms Seyan was concerned by these questions because both she and Mr Lamba were present at the hearing in May 2016 when Mr Lamba's representative suggested the condition, and where Mr Lamba agreed to the condition. She concluded by stating that the Premises Licence Holder displayed a lack of competence as to his duties as a licence holder and a lack of regard for the authorities. She recommended the revocation of the licence.

Representation by the Licence Holder

Mr Panchal, submitting representations on behalf of the licence holder, stated that the Premises Licence Holder agreed with the submissions of the Metropolitan Police Services. However he wished to point out the improvements made to the management of the premises. The previous licence had been revoked on the basis of the presence of counterfeit alcohol. There was no counterfeit alcohol found on the premises and receipts/invoices could be produced for stock purchases. He advised that there had been problems with the CCTV, but it was now working.

On the issue of a lack of any management records relating to authorisations, training, refusals and incident logs, Mr Panchal advised that this had been given to the Premises Licence Holder and was unable to explain why the records were not at the shop.

Mr Panchal further advised that he had provided training records to the Authorities. This was denied by the Authorities. The Sub-Committee noted that no training records were provided at the hearing to evidence Mr Panchal's allegation that training had taken place.

Mr Panchal did not dispute the presence of Amarjeet Singh and Jasmeet Singh on the premises. However, he wished to explain why they were present on the premises. He advised that Amarjeet Singh was present on one occasion in October 2016 in order to relieve Mr Lamba who had to be away from the premises.

With regard to Jasmeet Singh, Mr Panchal sought to introduce a hospital appointment and Assessment report to demonstrate that Mr Singh had medical problems which had been resolved. Mr Panchal sought to amend Premises Licence 17 to permit Jasmeet Singh to be present on the premises. Having perused the documentation at the hearing, the Sub Committee noted that the document was dated 26 January 2015 with the appointment having taken place on 09 January 2015. The report confirmed Mr Jasmeet Singh's diagnosis, however, the Sub-Committee noted that no documentation was included which demonstrated an improvement in this diagnosis. Mr Panchal suggested that it was in Jasmeet's Singh's interest to be working on the premises rather than being unsupervised at home. Mr Panchal had no substantive response when advised that at the time that the licence was granted with Condition 17, Mr Lamba was aware of the report and alleged improvement in his son's health and should have advised the Sub Committee accordingly.

It was also pointed out the Mr Panchal that the Licence Holder should have applied for a Premises Licence variation if he wanted Jasmeet Singh present on the premises. The review hearing was not the correct place to do this. The review hearing would first consider whether any breaches of the licensing conditions had taken place, and if so, how to remedy the situation.

Discussion

When questioned about the alleged breach of the Immigration Act 2016, Mr Panchal advised that as far as Mr Lamba was concerned, Mr Patel was not an employee and not on Mr Lamba's payroll. With regard to training, checks and records, when asked directly why none of the records had been filled in, Mr Panchal replied that he was unable to comment further. When asked when further training was provided after the grant of licence, Mr Panchal stated that no training had been provided in the last 2 months. Mr Panchal advised that Mr Lamba was meant to request the training from him. Further questions revealed that Mr Panchal had not been paid for the work rendered at the previous hearing so no services had been provided to Mr Lamba after the grant of the licence.

Cllr Yarrow asked Mr Lamba why he did not apply for a variation of the licence if he wanted his son to work on the premises. Mr Lamba advised that his son is permitted to visit the premises on account of his health problems. He also stated that soon after the licence was granted he requested Mr Panchal to apply to vary the licence to permit his son onto the premises. Mr Panchal contradicted this by stating that the request was only made recently after the visit in October. It was noticed that the Premises Licence Holder was speaking furiously to the

interpreter and an interpretation was requested. Mr Lamba stated that he requested the variation from Mr Panchal on the day the licence was issued.

Mr Panchal repeatedly stated that the premises were improving and his client was looking to move forward. It was only after much prompting that Mr Panchal suggested a suitable remedy to the breaches would be a suspension of the licence for 3-6 weeks and permitting Jasmeet Singh to be present on the premises.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

The Sub Committee concluded that:

1. The lack of a lease agreement;
2. The reliance on authorisations which pre-date the issue of the licence to Mr Lamba;
3. The use of refusals and incident books which predate the issue of the licence;
4. The presence of Amarjeet Singh on the premises;
5. The repeated presence of Jasmeet Singh on the premises as salesperson;
6. Mr Lamba's lack of familiarity with the location of vital documents in the shop as demonstrated by his difficulty in locating the Incident, Authorisation and Refusals Books in January 2017;

All pointed to the fact that Mr Lamba had failed to uphold his undertaking to the Sub-Committee in May 2016 that he would take charge of the premises as owner and run it in accordance with agreed licence conditions which his Legal Representative had regarded as reasonable and proportionate.

The Sub-Committee noted that at the time when Acting Sergeant Wares and PC Mitchell attended the premises on 12 October 2016, the only member of staff present was Amarjeet Singh. The explanation given was that the licence holder had to "pop out for a couple of minutes". It took Mr Lamba a bus ride and approximately 10 minutes to return to premises. The Sub-Committee noted that the smell of intoxicating liquor, which Mr Lamba claimed to have consumed the previous evening, was noticeable. The Sub-Committee found this explanation difficult to accept as the effects of the previous nights consumption should not have been so easily picked up at midday the following day. The Sub-Committee concluded it is more likely that Mr Lamba was never at the premises on the day in question. Instead, it is more likely that Mr Lamba knowingly breached his licence condition by appointing Amarjeet Singh as manager the premises on this day and potentially many other days.

In submissions to the Sub-Committee in May 2016, Mr Lamba had responded to a direct question about how he would deal with his son's presence on the premises by stating he would call the police. At this hearing, it transpired that within hours of giving that response, Mr Lamba was either instructing his agent to obtain permission for his son to work on the premises or alternatively had decided soon after being awarded a Premises Licence to ignore the agreed condition not to permit his son to be on the premises. The responses of both Mr Lamba and

Mr Panchal to questions on this issue were contradictory and evasive and unconvincing. The Sub-Committee concluded that Mr Lamba had no intention of complying either wholly or partly with Condition 17 of his licence.

The Decision Notice for the 25 May 2016 stated that a new CCTV system had been installed 4 days prior to the hearing, that is, 21 May 2016. On 12 October 2016, when the Metropolitan Police Services sought to view CCTV footage to determine the extent of the breach of Licence Condition 17, they were informed by Mr Lamba that the CCTV system had not been working for 4-5 days. There was no entry in the incident log to substantiate Mr Lamba's claim of a defective CCTV.

The Sub-Committee noted that the fault, which had been in existence with no repair/replacement for at least 4 days before the Metropolitan Police Services visit, was repaired within hours of the issue of the Closure Notice. It was of great concern that the "repair" involved the removal of the CCTV hard drive system rather than repair. This decision to remove the hard drive subsequently created a breach of Premises Licence Condition 2 and additionally prevented the police from determining the extent of the breach of Premises Licence Condition 17.

The Sub-Committee was most concerned that this pattern of behaviour with regard to CCTV footage was repeated in January 2017 - this time with the reformatting of a 1 month old system. The consequence of this reformatting was the deletion of footage which would have proven or disproved allegations of a breach of the Immigration Act 2016 and/or premises licence conditions. The Sub-Committee concurred with the allegations of the Metropolitan Police Services that the footage was deliberately removed on the first instance and reformatted on the second instance on the instruction of the licence holder in order to prevent the detection of breaches of the licence.

Appendix B of the Council's Statement of Licensing Policy states that CCTV footage is a vital tool to detect and prevent crime. The installation and use of CCTV on licensed premises is therefore a key tool to uphold the licensing objective of Prevention of Crime and Disorder. However, under Mr Lamba's management, the use and installation (along with its alleged operational problems) had become a method of obstructing police investigations and potentially defeating the ends of justice.

Mr Lamba initially claimed Jasmeet Singh visited the premises but did not work there. The Metropolitan Police visited the premises at 17h 25 on 07 January 2017. Condition 15 of the Licence required 2 members of staff to be on the premises from 16h 00 until close of premises. This meant that Mr Manmit Singh and Mr Sandip Patel were the personal licence holders and employees of Mr Lamba at the shop with Jasmeet Singh visiting. However, Mr Panchal claimed and stated on behalf of Mr Lamba that Mr Patel was never employed by Mr Lamba. If this assertion is correct, it demonstrated that not only was Jasmeet Singh permitted to be on the premises; he also worked at the shop. By continuing to employ Jasmeet Singh even after a review date was set, Mr Lamba displayed an intention and inclination to wilfully breach the conditions of his Premises Licence if it suited his purposes. Despite CCTV footage demonstrating that his son worked on the premises, it was only towards the end of the hearing when asked directly by Cllr Dhillon that Mr Lamba finally conceded that Jasmeet Singh worked on the premises.

The employment of his son also raised the issue of Mr Lamba's repeated breaches of Premises Licence Conditions 9,10,11,12 and his repeated failure to remedy these breaches. Mr Panchal initially claimed that training was provided and records were given to Mr Lamba. These records would have assisted to evidence compliance with some of the licence conditions. Mr Panchal then claimed these records had been provided to Responsible Authorities - a statement denied by both Trading Standards and the Licensing Authority. At the end of the hearing, in response to questions from Cllr Barnes, it transpired that Mr Panchal had never provided any services, including training, to Mr Lamba and his staff after Mr Lamba was issued with a Premises Licence. The fact that despite being aware of what was being said, Mr Lamba was prepared to remain silent on the issue of training and documentation rather than assist the Sub-Committee and truthfully respond or correct his representative demonstrates that Mr Lamba had no

intention of being truly helpful to the Sub-Committee at this hearing.

The Sub-Committee did not comment on Mr Panchal's statements and answers to questions on the matter of training - noting that Mr Panchal was not a solicitor and was therefore not bound by the Solicitor's Code of Conduct which prevents solicitors from making misleading statements.

The Sub-Committee considered in its entirety the evidence of the Responsible Authorities, the conduct of Mr Lamba with regard to the numerous breaches of licence conditions, and the submissions and responses of Mr Lamba and Mr Panchal. The Sub-Committee found overwhelmingly that Mr Lamba failed to manage his premises in a manner which upheld the licensing objective to prevent Crime and Disorder.

The Sub-Committee found that Mr Lamba's conduct and response to the breaches demonstrated an unhealthy reliance on Mr Panchal to ensure that the licence conditions and the licensing objectives were upheld. Unfortunately Mr Panchal had failed to provide that support - ostensibly because he did not receive payment for services rendered. In this scenario, the concerns of the Licensing Authority on 07 March 2016 at Page 189 of the Agenda were realised. It was the Sub-Committee's view that without Mr Panchal's assistance, or the assistance of an experienced Manager, Mr Lamba lacked the judgement to run the premises in accordance with his licence conditions and more worryingly, seemed incapable of or unwilling to rectify breaches even when they are pointed out on numerous occasions.

CAUSES OF CONCERN

The Causes of Concern were identified as follows:

- 1. Mr Lamba did not demonstrate the standard of responsibility expected of a premises licence holder;***
- 2. Mr Lamba had been evasive, and unhelpful in his responses to investigations of the breaches with his management of the CCTV system totally hindering investigations;***
- 3. Mr Lamba had, at the hearing, confirmed that he accepted licence conditions at a previous hearing he had no intention of complying with. The only reason for doing this was so that he could obtain a premises licence under whatever pretext necessary;***
- 4. Mr Lamba had failed to demonstrate he could uphold the licensing objectives and had actively run his premises in a manner that undermined the crime prevention objective.***

Mr Lamba's willingness to deliberately breach his licence conditions indicated that Mr Lamba was less likely to act in a manner which upheld the licensing objectives. There is an essential breakdown in the management of the premises when a licensed premises is run in a manner calculated to prevent the detection or proper investigation of breaches that the Premises Licence Holder has knowingly and deliberately committed. Mr Lamba's decision to mislead the Sub-Committee in May 2016 about his decision to ban the named persons from the premises, and his authorising the deletion and removal of CCTV footage which would have demonstrated the extent to which he misled that Sub-Committee is considered by the Licensing Sub-Committee to be especially serious because it had severely undermined the Prevention of Crime and Disorder objective.

All Responsible Authorities had requested revocation of the Premises Licence. The Sub-Committee did not consider that an alternative sanction to revocation would be an adequate response to the wilful and deliberate manner by which Mr Lamba breached his licence conditions.

Resolved - The Sub-Committee considered all the relevant representations made available to it and in doing so took into account paragraphs 2.5; 11.18; 11.20; 11.21;

11.22 and 11.26 of the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, as well as Appendix B of the Council's Statement of Licensing Policy. The Sub-Committee had taken into account its duty to determine the application in a manner which upholds the Licensing objectives. The Licensing Sub-Committee determined that it was necessary and appropriate to revoke the premises licence for Lotus Wines.

RIGHT OF APPEAL

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. A copy of the appeal should be sent to the Council's Licensing Service.

The Licence Holder will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 2.00 pm, closed at 4.50 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact on . Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.