

## Minutes

### LICENSING SUB-COMMITTEE

7 July 2017

Meeting held at Committee Room 5 - Civic Centre, High Street,  
Uxbridge UB8 1UW



	<p><b>Committee Members Present:</b> Councillors Dominic Gilham (Chairman) Roy Chamdal John Morse</p> <p><b>Responsible Authorities</b> Emly Mitchell, Metropolitan Police Licensing Enforcement Officer Kiran Seyan, Trading Standards Investigating Officer</p> <p><b>Respondents Present:</b> Mr Rajinder Singh Khurana, Licence Holder Mr Panchal, Licensing Agent</p> <p><b>LBH Officers Present:</b> Roisin Hogan, Legal Advisor Jhini Mukherjee, Licensing Officer Luke Taylor, Democratic Services Officer</p>
16.	<p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
17.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
18.	<p><b>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</b> (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items were Part I and would be considered in public.</p>
19.	<p><b>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT</b> (<i>Agenda Item 4</i>)</p> <p>None.</p>
20.	<p><b>APPLICATION FOR A REVIEW OF A PREMISES LICENCE: AHUJA'S SUPERSTORE, 1-3 REDMEAD ROAD, HAYES, UB3 4AU</b> (<i>Agenda Item 5</i>)</p> <p>At the commencement of the hearing, the Chairman drew the attendees' attention to the addendum, which included additional photographs and updated comments which were confirmed to supersede the comments within the main report.</p>

### ***Introduction by Licensing Officer:***

The Licensing Officer, Jhini Mukherjee, introduced the review and informed the Sub-Committee that this was an application initiated by Trading Standards, seeking a review of the Premises Licence of Guru Kirpa Traders Ltd (trading as Ahuja's Superstore), 1-3 Redmead Road, Hayes, UB3 4AU, on the grounds of the Prevention of Crime and Disorder. A submission in support of the review was received from the Metropolitan Police Service.

Ms Mukherjee made reference to the history of the site, as set out in the report, and highlighted the addendum, which included a revised order of proceedings and officer's recommendation, as well as additional photographs of the seized goods and the site.

Ms Mukherjee detailed visits to the premises on 7 December 2016, 19 May 2017, 1 June 2017 and 21 June 2017.

On 7 December 2016, a multi-agency operation led to the seizure of a large quantity of illicit tobacco and counterfeit DVDs, and a man identified as an illegal immigrant was working behind the counter.

On a further visit on 19 May 2017, a man behind the counter was potentially an illegal immigrant, although he claimed he was not working at the shop.

During a visit to the premises on 1 June 2017 by the Ms Mukherjee, Mr Khurana was not present and the person behind the counter had no knowledge of licensing objectives.

A further visit on 21 June 2017 did not lead to further licensing issues.

The Committee was invited to determine whether to:

- Modify the conditions of the licence;
- Exclude a licensable activity from the scope of the licence;
- Remove the designated premises supervisor (DPS);
- Suspend the licence for a period not exceeding three months; or
- Revoke the licence.

It was confirmed that the applicant was seeking a full revocation of the Premises Licence and this was supported by the Metropolitan Police Service.

### ***Representation by the Applicant:***

Ms Kiran Seyan of Trading Standards addressed the Sub-Committee and set out in her statement, detailing the events of multiple visits to Ahuja's Superstore.

On 7 December 2016, Ms Seyan led a multi-agency operation with sniffer dogs to inspect the premises as it was suspected of selling illicit tobacco. During this visit, it was noted:

- The DPS, Mr Khurana, was not present. A man, who identified himself as Mohammed Iqbal, was behind the till counter and the Metropolitan Police later identified this man as an illegal immigrant.
- Each of the agencies present conducted an inspection and concealed tobacco was found at various locations on the premises. Also, boxes of counterfeit Bollywood DVDs were also found.

- Mr Khurana arrived at the premises later and claimed that a Polish man had sold the tobacco to him. He stated that he had "never done it before".

A second visit to the premises was carried out on 19 May 2017. During this visit it was noted:

- A man, who identified himself as Captain Singh, moved from behind the till to in front of the counter when the Police entered the property.
- He claimed he was not working but was looking after the shop while the manager was out.

A further 21 June 2017 did not lead to any further trading standards issues. However, on each of the three visits carried out by Trading Standards, Mr Khurana was not present, and on two occasions an illegal immigrant was behind the counter.

#### ***Representation by the Interested Parties:***

Ms Emly Mitchell, Metropolitan Police, confirmed the Police assisted with the operation on 7 December 2016 and confirmed an illegal immigrant was the only person in the shop. It was confirmed that Mr Iqbal had overstayed his visa and was not entitled to work in the UK. Mr Iqbal confirmed he worked 8am to 6pm each day for £300 a week in cash. Ms Mitchell also confirmed that the Licence Holder was also unable to provide CCTV, which was a breach of the Premises Licence Conditions.

Ms Mitchell informed the Sub-Committee that at the follow-up visit on 19 May, there was a man behind the counter who had no records, which suggested he was an illegal immigrant. He claimed he was not working at the shop, and if that was the case, then the shop was left without a staff member. On this occasion, the Police had to take the keys from behind the counter as the man present did not know where the keys were. At this time a section 19 Closure Notice was served. CCTV footage was again not provided.

Ms Mitchell confirmed that the Police supported a full revocation of the Premises Licence.

#### ***Representation by the Licence Holder:***

Mr Panchal, submitting representations on behalf of the licence holder, stated that the Premises License holder has promoted the licensing objectives since the operation in December, and no illicit goods have been found on the premises since then.

#### ***Discussion:***

When questioned about the visits by the agencies, Mr Khurana informed the Sub-Committee that Mr Iqbal was recommended to him by friends and had worked for him for two weeks. He had asked for Mr Iqbal's paperwork following the first operation, but Mr Iqbal did not return to the premises. Mr Khurana confirmed that he was aware it was not correct process to have paid Mr Iqbal in cash.

The Sub-Committee also heard that it was the first time that Mr Khurana purchased the goods, and he paid roughly £1,100 for the tobacco. Mr Khurana then confirmed that he was told that the tobacco could be sold duty-free but not that they were fake. When responding to the Chairman's questioning, Mr Khurana confirmed that he was aware to avoid paying duty on tobacco was illegal, and apologised for his mistake.

With regards to the visit on 19 May, the Sub-Committee asked who was working on this day, and Mr Khurana stated that he had to go to the hospital and left two men in the open shop to look after it while he was absent; he confirmed that they did not have

licensing training as they were not selling items.

Councillor Chamdal asked Mr Khurana about payments to Mr Iqbal and asked why he purchased the illicit tobacco if he was aware that it was against licensing law. Mr Khurana confirmed he was aware of the minimum wage and stated that his business had been affected by Asda in the local area, and he bought the tobacco to help his business' turnover and profit.

The Chairman asked how many cigarettes were purchased and how much was sold, and was informed that 5,000 mixed cigarettes were bought in November or December 2016, and some of these were sold.

With regards to the counterfeit DVDs, Mr Khurana stated he did not buy these and they were not for sale, as they were already in the shop when he purchased it and were left by the previous owner in the stock room.

Ms Seyan noted that if the counterfeit tobacco had cost £1,100 and the goods seized in the shop came to a rough value of £1,700 when sold at the market value, a significant quantity must have been bought and many of these would have been sold before the operation in December. Ms Seyan informed the Sub-Committee that the original referral regarding counterfeit goods being sold at Ahuja's Superstore was received anonymously in August 2016. Mr Khurana commented that the member of the public was mistaken and the goods were purchased in November or December.

Mr Panchal noted that Mr Khurana was improving his compliance with the licensing objectives and was happy to accept the new licence conditions that were proposed in the officer's recommendation.

Ms Mitchell stated that Mr Khurana had been fully aware he employed illegal immigrants, committed tax evasion and paid employees less than the minimum wage, and had not complied with the licensing objectives by purchasing illicit goods. Ms Seyan also noted that despite Mr Khurana's assertion that he was told the illicit cigarettes were duty free and not counterfeit; he should still not have purchased them and was aware that this was illegal.

***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.

***Decision:***

The Sub-Committee was of the opinion that there could be no justification for criminal activity which subverts the licensing objectives. In light of the intentional purchase and sale of counterfeit tobacco, the Sub-Committee found it difficult to believe Mr Khurana when he said he inherited the counterfeit DVDs when he bought the premises in 2015, and therefore had no intention of selling them. The Sub-Committee noted that Mr Khurana was unable to provide a reason or explanation for not removing or destroying the counterfeit DVDs in the intervening two years.

The Sub-Committee took note that there were five visits undertaken between December 2016 and June 2017. At two of the three visits by the Metropolitan Police Service and Trading Standards, there was an illegal worker at the premises and/or the premises was left unstaffed. Of the five visits undertaken, on four occasions there was no responsible or designated person present at the premises to ensure that the sale of

alcohol took place in accordance with the requirements of the Premises Licence.

A summary of the findings of the visits was discussed:

1. 7 December 2016 - illegal worker, DPS not there, no CCTV footage provided and illegal goods seized.
2. 19 May 2017 - illegal worker and/or premises unstaffed, DPS not there and no CCTV footage provided.
3. 1 June 2017 - The DPS was not present and the employee present at the premises did not understand or know the licensing objectives.
4. 21 June 2017 - the DPS was not there and the employee at the premises could not provide information about the premises, including finding the keys for the premises.
5. 30 June 2017 - The DPS was there. No non-compliances.

The Sub-Committee was of the opinion that the outcomes of four of the five visits pointed to a management style not suited to upholding the licensing objectives. The last visit took place one week before this hearing, and it is telling that it is the only occasion when the DPS was present at the premises.

The information provided by Mr Khurana in relation to the price paid and quantity of the illegal goods does not match up with the retail value of the goods seized. The Sub-Committee was of the opinion that larger quantities of illegal goods were initially purchased than those that were found at the premises.

Mr Khurana claimed he bought the illegal goods in November 2016 and that this was the first time he bought illegal goods. However, an anonymous telephone call was made in August 2016 reporting the sale of illicit goods at the property. The conclusion drawn is that Mr Khurana had purchased the illegal goods prior to November 2016.

Appendix B of the Council's Statement of Licensing Policy states that CCTV forage 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, on two occasions, Mr Khurana could not provide CCTV footage to the Metropolitan Police Services, in breach of the premises licence CCTV condition 5.

Paragraph 11.27 of the Section 182 guidance states that there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. The crimes listed that are of relevance to this review include:

1. For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected.
2. For knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
3. For the sale or storage of smuggled tobacco and alcohol.

Paragraph 11.28 of the Section 182 guidance states that where reviews arise and the licensing authority determines that crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first instance, should be seriously considered.

The Sub-Committee has considered in its entirety the evidence of the Responsible Authorities, the conduct of Mr Khurana with regard to the numerous non-compliances and repeated breaches of the Premises Licence CCTV Condition 5 and the submissions and responses of Mr Khurana and Mr Panchal. The Sub-Committee finds overwhelmingly that Mr Khurana failed to manage his premises in a manner which upholds the licensing objective to prevent Crime and Disorder.

#### *CAUSES OF CONCERN*

The causes of concern can be isolated and identified as follows:

1. Mr Khurana did not demonstrate the standard of responsibility expected of a Designated Premises Supervisor;
2. Mr Khurana has knowingly purchased illegal goods and intelligence suggests he may have purchased more than what has been disclosed, on more than once occasion;
3. Mr Khurana has attempted to justify purchasing the large quantity of illegal goods due to competing businesses;
4. Mr Khurana has employed illegal workers;
5. Mr Khurana has left the premises unstaffed;
6. Mr Khurana has left the premises with staff who did not know, and could not uphold, the licensing objectives;
7. Mr Khurana has repeatedly breached the premises licence CCTV condition 5 to provide tapes or discs; and

The Sub-Committee notes that the premises licence is held by a limited company. Ms Mukherjee has advised that Mr Khurana is the only director of the company. Therefore, to all intents and purposes, Mr Khurana is the owner and DPS of the premises.

Mr Khurana's decision to wilfully ignore the conditions imposed on his licence make it unlikely that a modification of licence conditions will achieve any result which may uphold the licensing objectives. The Sub-Committee notes that Mr Khurana has intentionally run his premises in a manner that undermines all the licensing objectives.

In the event the Sub-Committee elected to remove the DPS, Mr Khurana would remain the owner of the premises and employer of the new DPS (if one is appointed). As a result, Mr Khurana would remain in a position to ensure that the premises are run in a manner which ensured that his business prospers by any means possible. The removal of the DPS may add to the management structure of the shop but will not remove the root cause of a management style which has demonstrably ignored the premises licence conditions and therefore subverted the licensing objectives.

The Sub-Committee consider that the revocation of the licence would remove Mr Khurana's involvement in the premises as both the Premises Licence Holder and the Designated Premises Supervisor.

The Sub-Committee noted that all Responsible Authorities had requested revocation of this Premises Licence. The Sub-Committee did not consider that an alternative sanction to revocation was an adequate response to the crimes committed and repeated breaches of the licence conditions.

**RESOLVED:**

**That the Sub-Committee has considered all the relevant representations made available to it and in doing so has taken into account the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of that Act, the Council's Statement of Licensing Policy and the Licensing objectives. The Sub-Committee has paid particular attention to S144 of the Licensing Act 2003 read together with Paragraph 11.27 of the S182 Guidance issued by the Secretary of State. The Licensing Sub-Committee has determined that it is necessary and proportionate to revoke the premises licence for Ahuja's Superstore which will also result in Mr Rajinder Singh Khurana being removed as the Designated Premises Supervisor of the Premises.**

**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 first class mail.

The meeting, which commenced at 2.00pm, closed at 3.38 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Luke Taylor 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.**