

LICENSING COMMITTEE

14 JUNE 2018

**NEWARK & SHERWOOD DISTRICT COUNCIL
LICENSING PANEL**

**RECORD OF HEARING HELD ON
1 MAY 2018
11:50 HOURS
CIVIC ROOM 2, CASTLE HOUSE**

**PERSONAL LICENCE HOLDER
Mohammad Amer HUSSAIN**

PANEL MEMBERS:

**Councillor Mrs B.M. Brooks
Councillor Mrs I. Brown
Councillor Mrs R. Crowe (Chairman)
Councillor I. Walker**

**Aqeel Adnan (Legal Advisor - NSDC)
Alan Batty (Business Manager – Environmental Health &
Licensing - NSDC)**

**OFFICERS IN ATTENDANCE: Nicola Kellas (Licensing Officer – NSDC)
(Observers)**

Details of the Application

To consider what action should be taken with regard to Personal Licence No. 000603 issued under Section 120 of the Licensing Act 2003 to Mr. Mohammad Amer Hussain following the issue of an Immigration Penalty.

Copies of the associated paperwork were circulated to all parties prior to the date of the Hearing.

Prior to the meeting the Legal Advisor had advised the Licensing Panel of their obligations in considering the case set before them taking into account the relevant legislation and circumstances surrounding the issue of the Immigration Penalty.

Presentations

Business Manager – Environmental Health & Licensing

The Business Manager outlined the report for the Licensing Panel and the circumstances leading to the issuing of the Immigration Penalty and what action, if any, should be taken. Paragraph 4.0 of the report listed the options available to the Licensing Panel.

The Applicant's Case

Mr. Hussain stated that he admitted to the information contained in the report which had led to the issuing of the Immigration Penalty in that an individual had been working in his shop located at 17-19 High Street, Caythorpe, Lincolnshire who was not entitled to work in the UK. He stated that at the time of the incident he had been out of the country but ultimately the recruitment of employees was his responsibility.

He stated that if the Licensing Panel resolved to suspend or revoke his licence then he would have problems in being able to operate his business.

In relation to paragraph 3.4 of the report in which it stated that the Lincolnshire Police Licensing Team believed that the employment of illegal workers was a common occurrence in businesses managed and owned by Mr. Hussain, Mr. Hussain suggested that he believed this to be personal against him. He stated that the Police had attempted to block the sale of his 2 previous businesses by suggesting that they were 'fake' sales and had published articles to this effect in a Sleaford newspaper, adding that they had no right to do so.

Questions to the Applicant

In response to the circumstances surrounding the employment of the individual Mr. Hussain reiterated that he had been out of the country at the time but ultimately the responsibility was his. He now employed 6 staff members, all of which were local to the area.

In relation to who had interviewed the individual Mr. Hussain added that he had not been interviewed. The person who he had left in charge whilst out of the country had been informed that he had married a British National which entitled him to remain and work in the UK.

The Chairman of the Panel noted that Mr. Hussain had said that his personal licence was important to him but he had not submitted any representations to the Licensing Authority following his conversation with the Business Manager – Environmental Health & Licensing. Mr. Hussain apologised for the lack of representation and that was why he was present at the hearing to put forward his case.

In response to who should have carried out the checks to ensure the individual was eligible to work in the UK, Mr. Hussain reiterated that he was responsible. He again referred to the individual having been married in Manchester but added that the marriage had not actually taken place. He stated that the employee he had left in charge was acting in the capacity of Business Manager.

The Business Manager sought confirmation that Mr. Hussain had previously owned 3 businesses. Mr. Hussain confirmed that he now only had 1 remaining business. The Business Manager noted that a review hearing had been brought forward previously by Lincolnshire Police. Mr. Hussain referred to an incident at his premises in Ruskington whereby an employee had been working in his premises. The employee also lived in the accommodation above the shop with her partner. She had nipped upstairs to their young child who was unwell and her partner had briefly covered for her in the shop whilst doing so. At that time he had sold tobacco products to an underage individual. At that time the shop had been visited by the Police and he had been arrested but subsequently released. Mr. Hussain suggested that if he had been working illegally he would have been subject to a review on the premises or reported to the Home Office for employing illegal workers.

The Business Manager stated that a review of the Premises Licence in relation to the shop at Caythorpe had been brought forward by Lincolnshire Police. Mr. Hussain replied that he believed this was because of the illegal immigration matter.

In being asked to confirm his current address Mr. Hussain stated that it was 17/19 High Street, Caythorpe. The Business Manager advised that it was a legal requirement to update the Licensing Authority but that he had failed to do so. Mr. Hussain advised that he still had property in Newark where his ex-wife and son lived and therefore had not updated his records.

In relation to the fine levied Mr. Hussain stated that he had been issued with a £10,000.00 fine which he was paying back in monthly instalments over a period of 5 years. Had he been able to pay the fine in a single payment it would have been £7,500.00.

In response to whether he was the Designated Premises Supervisor for the Caythorpe premises, Mr. Hussain confirmed that he was not and that his Shop Manager held the licence.

Summing Up

The Business Manager stated that Mr. Hussain had admitted the offence of employing an individual who was not eligible to work in the UK and had been found guilty of the offence and been issued with a fine in the sum of £10,000.00.

Mr. Hussain had nothing further to add to his previous comments.

Decision

On consideration of the Officer's report, the relevant legislation and the matters discussed at the Hearing, the Panel unanimously AGREED to revoke the Personal Licence of Mr. Hussain for the reasons as set out below:

1. That given the seriousness of the offence of employing an individual not entitled to work within the United Kingdom, the only proportionate and necessary option available to the panel was to revoke Mr. Hussain's Personal Licence.
2. The Panel found that Mr. Hussain was negligent of his responsibilities in failing to ensure that appropriate checks were carried out on prospective employees.
3. The Panel did consider the other options but they felt that these were not proportionate to the offence of employing an individual who was not entitled to work within the United Kingdom.
4. The Panel was not satisfied with the answers provided by Mr. Hussain as to the management of staff in his absence.
5. Mr. Hussain admitted that an individual served customers at premises he owned in Ruskington and that this individual sold tobacco to (underage) customers and that this individual did not have rights to work in the UK. The Police were present when this sale occurred. Appropriate checks were not carried out prior to this individual working on his premises.

The meeting closed at 12:39 hours