



Council Offices, Kiln Road,  
Thundersley, Benfleet,  
Essex SS7 1TF.  
Tel. No: 01268 882200  
Fax No: 01268 882455



**David Marchant** LLB (Hons) BSc (Hons) CEng FICE FCMI  
**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Thursday 3<sup>rd</sup> August 2017 at 10.30am</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors E. Egan, Mumford and Palmer</b>
<b>Officers attending:</b>	<b>Mel Harris - Head of Licensing and Safer Communities Andrew Smith – Corporate Legal Adviser</b>
<b>Committee Enquiries:</b>	<b>Cheryl Salmon, Ext. No. 2454</b>

### **PART I (Business to be taken in public)**

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee (as attached)**
- 3. Review of Premises Licence under Section 52 of the Licensing Act 2003 for Benfleet Tandoori, 7 High Street, Benfleet, Essex, SS7 1NA**
- 4. Decision**

Agendas and Minutes can be viewed at [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Copies are available in larger print & audio format upon request  
If you would like a copy of this agenda in another language or alternative format:  
Phone: 0207 520 1431 or email [translations@languageline.co.uk](mailto:translations@languageline.co.uk)



**LICENSING SUB COMMITTEE**  
**PROCEDURE FOR REVIEW HEARING**

**1. Introductions**

- a. Chairman introduces Members to the meeting.
- b. Chairman identifies officers and their roles.
- c. Premises Licence Holder identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Relevant Responsible Authority identify themselves.
- e. Interested Parties identify themselves.

**2. Report by the Head of Licensing and Safer Communities – see Agenda Item No. 3**

**3. Submission by the Relevant Responsible Authority(s)**

- a. The Relevant Responsible Authority(s) and any witnesses will submit their evidence.
- b. Opportunity for the Premises Licence Holder or representative to question the Relevant Responsible Authority(s) and witnesses on their evidence (note: this is an opportunity to ask questions arising from the submissions – not to make statements – an opportunity comes later when summing up).
- c. Opportunity for Members to question the Relevant Responsible Authority(s) and witnesses on their submission.

**4. Submission by Interested Parties (if any)**

- a. Any interested parties will submit to the Panel their evidence.
- b. Opportunity for the Premises Licence Holder and the Relevant Responsible Authority(s) to question the interested parties on their submissions.
- c. Opportunity for Panel Members to question the interested parties on their submission.

**5. Submission by the Premises Licence Holder**

- a. The Premises License Holder or their representative will submit their evidence (to include consideration of any written representations). Witnesses may be called.
- b. Opportunity for Relevant Responsible Authority, followed by interested parties (if any) to question the Premises Licence Holder and any witnesses on their evidence.
- c. Opportunity for Members to question the Premises Licence Holder on their evidence.

**6. Questions from the Panel**

Opportunity for any final questions from Members.

**7. Adjournment**

Proceedings will be adjourned while the Members withdraw to consider the evidence. During this time the Committee Officer will accompany the Members to record the decision. The Chairman may request the presence of the Legal Officer to provide legal advice.

**8. Decision**

The Members will reconvene and the Chairman will announce the decision.

**9. Conclusion**

The Chairman will close the proceedings.

**LICENSING SUB COMMITTEE**

**3 August 2017**

**Subject: Review of Premises Licence under Section 52 of the Licensing Act 2003 for Benfleet Tandoori, 7 High Street, Benfleet, Essex, SS7 1NA**

**Report of: Head of Licensing and Safer Communities – Mrs Melanie Harris**

---

**1. Purpose of Report**

To launch the Review of the Premises Licence for Benfleet Tandoori, 7 High Street, Benfleet, Essex as requested by Essex Police.

**2. Background**

2.1 The Review has been submitted to all the Relevant Responsible Authorities as follows:

- Essex Police Licensing Unit
- Essex County Fire & Rescue Service
- Planning Service
- Environmental Health Service
- The Health & Safety Executive
- Children's Safeguarding Service (Essex County Council)
- Essex Trading Standards
- Public Health (Essex County Council)

2.2 Details of the hearing have been shown on the Council's website and public notices have been displayed near the premises.

**3. The Review**

Essex Police have requested a Review of the Premises Licence under the Licensing Act 2003 for Benfleet Tandoori, 7 High Street, Benfleet, Essex following a joint visit with Kent Immigration Arrest Team Officers to the restaurant on 8 June 2017 when illegal workers were found on the premises and arrested.

The business operates under a Premises Licence originally issued to Mr Shadat Miah and then transferred to Mr Bodrul Miah who remains the current licence holder. However the manager/proprietor of the premises is alleged to be Mr Abdul Alim Chowdhury.

A copy of the Review Notice is attached as Appendix 1.

A copy of the blue notification (Public Notice) is attached as Appendix 2.

A copy of the Premises Licence is attached as Appendix 3.

#### **4. The Licensing Act 2003 and Revised Guidance 2017**

The Licensing Act 2003 is designed to uphold the licensing principles and in particular to prevent crime and disorder from occurring in relation to licensed premises.

The procedure in the Act for reviewing premises licences and club premises certificates presents a key protection for the community where problems associated with the licensed premises occur after the grant or variation of a premises licence or club premises certificate

At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or any other person may request the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

Reviews are part of the regulatory framework contained in the 2003 Act and they are not part of the criminal law or procedure. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. In any review case it is for the Licensing Authority to determine whether problems related to the alleged criminal behaviour are taking place on the premises and undermining the licensing objectives.

In order to strengthen the Act in terms of illegal workers the Home Office issued revised Guidance under Section 182 of the Licensing Act 2003 in April 2017 where one of the key changes has been to strengthen the provisions in the Immigration Act 2016.

Section 11.26 specifies that where the Licensing Authority is conducting a review on the grounds that the premises has been used for criminal purposes its role is solely to determine what steps should be taken in connection with the premises licence to discourage the use of illegal workers in the interests of the wider community and public safety.

The revised Guidance under Section 11.27 includes in its list of criminal activity that may arise in connection with licensed premises and which should be treated as particularly seriously the following:

- Employing a person who is disqualified from that work by reason of their immigration status in the UK.

## **5. Unannounced visit to the Benfleet Tandoori Restaurant on 8 June 2017**

The Immigration Arrest Team conducted an enforcement visit at the restaurant gaining entry under Section 179 of the Licensing Act 2003. Five males were found to be illegally working at the premises two of which were arrested and taken from the premises and transferred to a detention centre to process for removal from the UK. The remaining three men were escorted off the premises and advised not to return.

It is contended by Essex Police that right to work checks are not being carried out at this premises and that a lack of management control has been demonstrated and that the prevention of crime and disorder objective in the Licensing Act 2003 has therefore been breached.

## **6. Representations**

Essex Police as a Relevant Responsible Authority have requested the Review pursuant to Section 52 of the Act.

A response has been received from Essex County Council Safeguarding Service who support the request being made by Essex Police. A copy of this response is attached as Appendix 4.

## **7. Statement of Licensing Policy**

Parts 1.47 to 1.50 of the Council's Licensing Policy are brought to the attention of the Sub-Committee.

*"1.47 Any Responsible Authority or any other person may apply for a review of a premises licence or a club premises certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.*

*1.48 An application for review will only be relevant if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitive. An evidentiary basis will be required to be presented to the Licensing Authority.*

*1.49 Where possible and appropriate the Council, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.*

*1.50 Responsible authorities and/or persons who live or are involved in a business in the relevant Licensing area can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Council."*

A copy of the policy extract is attached as Appendix 5.

## 8. Conclusion

Licensing objectives potentially breached when determining this application:

Prevention of Crime and Disorder	✓
Public Safety	✓
Prevention of Public Nuisance	✓
Protection of Children from Harm	✓

Actions to consider:

Modify the conditions of the premises licence	✓
Exclude a licensable activity	✓
Suspend a licensable activity for up to 3 months	✓
Remove the Designated Premises Supervisor	✓
Suspend the licence for a period not exceeding 3 months	✓
Revoke the licence	✓
Dismiss the Review	✓

### Recommendation

**The decision of the Licensing Sub Committee is required following proper consideration of the evidence and any representations made to the Sub Committee.**

**Resolution Required.**

<b>Appendices</b>	<b>Page</b>
Appendix 1 - Review Notice	5
Appendix 2 - Blue notification (Public Notice)	143
Appendix 3 - Premises Licence	145
Appendix 4 - Response from Safeguarding Service	155
Appendix 5 - Extract of the Statement of Licensing Policy parts 1.47 to 1.50	156

### Background Papers:

Licensing Act 2003

Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2017)

Castle Point Borough Council Statement of Licensing Policy