

## AGENDA SUPPLEMENT

### Licensing/Gambling Hearing

**To:** Councillors D'Agorne, Galvin and Mason  
**Date:** Monday, 22 February 2021  
**Time:** 10.00 am  
**Venue:** Remote Meeting

The Agenda for the above meeting was published on **12 February 2021**.  
The attached additional documents are now available for the following  
agenda item:

- 5. The Determination of a Section 18(3) (Pages 1 - 78)**  
**Application by Mr Wing Lun Man for a**  
**premises licence in respect of Regency**  
**Restaurant and Supermarket, 2 -4 George**  
**Hudson Street, York, YO1 6LP (CYC-**  
**067691)**

Additional documents submitted by North  
Yorkshire Police.

This agenda supplement was published on **15 February**  
**2021**.

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**Licensing Hearing 22 February 2021**

**Additional papers submitted by North Yorkshire Police**

1. Statement PS 133 Booth
2. Exhibits JB/01, JB/02, JB/03, JB/04, JB/05, JB/06, JB/07
3. Statement PC 1671 HOLLIS
4. S19 Closure notice
5. Statement Immigration officer Glyn Jones
6. Statement Helen Sefton and exhibit HLS 1
7. Additional hearing information

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**WITNESS STATEMENT****Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

URN

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Statement of: Jacqueline BOOTH

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: POLICE OFFICER

This statement (consisting of three page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: J Booth (witness)

Date: 10<sup>th</sup> February 2021

I am the Force Licensing Manager for North Yorkshire Police and have responsibility for managing a team of Police staff who deliver front-line operational services to over 6,500 premises across eight Licensing Authority areas within North Yorkshire and the City of York.

I am authorised to act on behalf of the Chief Constable of North Yorkshire Police in matters relating to the Licensing Act 2003, Gambling Act 2005, Scrap Metal Dealers Act 2014 and Local Government (Miscellaneous Provisions) Act 1982.

I have completed the Institute of Licensing Professional Licensing Practitioner's Qualification and the British Institute of Inn keeping Awarding Body's Award for Licensing Practitioner's (Alcohol).

My role involves working with statutory partners and key stakeholders to ensure the promotion of the four Licensing objectives, The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety and the Protection of Children from harm, alongside compliance with the Licensing Act 2003.

On Monday 8<sup>th</sup> June 2020, I was on duty when I participated and represented North Yorkshire Police at a remote Licensing Hearing arranged by City of York Council in relation to the review of Premises Licences and a transfer for the following premise:-  
Regency Restaurant and Supermarket 2-4 George Hudson Street.

Members of the Licensing sub-committee heard representations from the Licensing Authority, and North Yorkshire Police and the determination from the hearing was that the Premises Licence was revoked and the transfer application in the name of Ms Tina Feng was refused. The Premises licence holder subsequently lodged an appeal to the decision and so the premises was able to continue to operate pending the outcome of the appeal. The appeal was dismissed by the Magistrates court on 8<sup>th</sup> December 2020.

On 29<sup>th</sup> December 2020 North Yorkshire Police received notification from City of York Licensing Authority in respect of an application for a new Premise Licence for Regency Supermarket and Restaurant. The applicant being Mr Win Lun MAN.

North Yorkshire Police conduct due diligence checks in respect of every application.

Regarding the Premises checks on Companies house reveal the following

York Regency Associates Ltd- Current and sole director since 27 February 2019 Yan Tong FENG. Exhibit JB/01

Checks on North Yorkshire Police systems reveal Yan Tong FENG dob [REDACTED] known by name of Tina FENG.

25<sup>th</sup> February 2020 - North Yorkshire Police receive an application in the name of Yan Tong FENG to transfer the premises Licence for the Regency. PS Booth submits a representation objecting to the Transfer ( referred to above) on the grounds she is associated with the illegal working of persons as the premises.

8<sup>th</sup> June 2020 - Yan Tong FENG attends the Licensing Hearing in respect of the Regency restaurant and stated the following " She confirmed she understood that she was part of the family business if the transfer of the licence was revoked many of her staff would lose their jobs". The determination of the sub-committee found that "Felt, however, given the history of serious failings at the premises whilst the applicant has been involved with the running of the premises (significant breaches of conditions, fire safety issues and the presence of illegal workers), that it was not satisfied that as a premises licence holder Ms Feng would be a responsible licensee, that there would be any change in how the business would be operated in the future if she were the licensee and that the prevention of crime and disorder objective would be undermined by the transfer of the licence to her. They therefore rejected the application for transfer. The Sub-Committee considered this decision to be appropriate for the promotion of the crime prevention objective. " Exhibit JB/02 Determination notice.

21<sup>st</sup> August 2020 - North Yorkshire Police receive a report of a Theft at the Regency Restaurant George Hudson Street. Incident [REDACTED] refers. An appointment was made for an officer to attend on 25<sup>th</sup> August to obtain details and investigate the matter. The investigating officer obtained a statement from Tina FENG who was working at the premises at the time, however CCTV was not available. On 27<sup>th</sup> August the officer had to further emailed FENG to produce images of the suspects. Track and trace details which the restaurant were obtaining at the time due to the Covid Pandemic were inaccurate and the wrong customer details were provided which did not match the suspects. The investigation was closed as no suspects were identified.

On 21<sup>st</sup> January 2021 I contacted Mr MAN by telephone to discuss the application and I subsequently followed this up with an email to advise of my concerns in relation to the premises licence. Please see Appendix 1 submitted with Police Representation. During the conversation with Mr MAN I asked him about the following from his application

" I will appoint myself as the Designated Premises Supervisor (DPS) who has day to day responsibility for the running of the business, as I have been working in the retail and catering industry for over 10 years within the role".

I asked Mr MAN to clarify where he had worked before in the role of DPS. He stated that in fact he had not worked as a DPS and this would be his first time. He confirmed that he was currently working in a Fish shop in Leeds. He advised he would be employed at the restaurant once current lockdown restrictions were lifted. See Appendix 1.

On 26<sup>th</sup> January 2021 following the reply from Mr MAN, regarding the premises intention to use HR consultancy Peninsula UK I contacted Lee Muscroft from the company who had prepared the proposal, He confirmed to me that he had previously met with Tina FENG from the Regency who advised him she was the director of the premises. He stated that at that time the Regency had not engaged the services of the company.

26<sup>th</sup> January 2021 I emailed Mr MAN to advise that I had submitted a police representation in relation to his application but was available to discuss this further with him. He replied to my email advising he would contact me on Wednesday 27<sup>th</sup> January 2021 to discuss. Exhibit JB/03. I never received a call from Mr MAN, on this date.

3<sup>rd</sup> February 2021 I telephoned Mr MAN and asked if he had received the police representation and if wanted to discuss any aspects of relating to the objection. He stated that he had been unwell and hadn't had the opportunity to review but would come back to me if he wanted to discuss further.

3<sup>rd</sup> February 2021 I emailed the Leeds Licensing Authority and obtained confirmation that Mr MAN had obtained his personal licence on 5<sup>th</sup> February 2020. Exhibit JB/04

4<sup>th</sup> February 2021 I received a telephone call from Lee Muscroft from Peninsula Services advising that Tina FENG had been in touch to request a meeting with Peninsula about engaging their services for the Regency Premises.

On 8<sup>th</sup> February 2021 I had a further telephone call with Lee Muscroft which I followed up with a written email, Exhibit JB/05. On 9<sup>th</sup> February 2021 Mr Muscroft replied to my email advising that Pensinsula had been instructed and entered into a contract with Tina FENG. Exhibit JB/06.

On 9<sup>th</sup> February 2021 I received an email from Mr MAN advising that after my phone call to him previously he didn't have any questions. JB/07.

North Yorkshire Police believe that there are exceptional circumstances to consider in relation to this Premises Licence application. The current applicant has attempted to mislead responsible authorities in his written application by suggesting that he has performed the role of a DPS for a period of 10 years. This has been proved to be false and in fact has only obtained his personal licence on 5<sup>th</sup> February 2020.

He will be employed and work alongside Tina FENG at the premises. She has previously been present when illegal persons have been working at the premises, when breaches of Premise Licence conditions have taken place. She is the director on companies house for the premises and is entering into signed contracts with third parties such as Peninsula, not Mr MAN who is applying to be the Premise Licence holder.

It is the view of North Yorkshire Police that Mr MAN is being used as a front for the Regency due to the previous history of FENG, and her transfer application being refused. She will be employing Mr MAN and how will he have day to day responsibility when she is working alongside him as he has stated as a Personal licence holder at the premises. Her association over a period of three years with the management of the business which has been linked to illegal working suggests that Mr MAN will not have control in respect the premises.

I have tried to engage Mr MAN on several occasions to discuss the application and the concerns however it would appear that he is not either willing or in a position to offer any mitigating conditions to address Tina FENG being involved in the operation of this buisness.

North Yorkshire Police have a duty of care to consider information in line with the Prevention of Crime and Disorder objective for Licensing Applications. MAN is not deemed to be suitable due to his inexperience as a DPS to manage a premises which has severley was present and employed in a managerial position at a premises where criminal acitivites were taking place on three separate occasions, and for this reason police deem him unsuitable to be Premise Licence holder and Designated Premises Supervisor.

Signature: J Booth

Signature witnessed by:

<b>Witness contact details</b>		URN				
Name of witness:						
Home Address:		Postcode:				
E-mail address:		Mobile:				
Home Telephone Number:		Work Telephone Number:				
Preferred means of contact ( <i>specify details for vulnerable/intimidated victims and witnesses only</i> ):						
Gender:		Date and place of birth:				
Former name:		Ethnicity Code (16 + 1):				
<b>DATES OF WITNESS NON-AVAILABILITY:</b>						
<b>Witness care</b>						
a)	Is the witness willing to attend court?		If 'No', include reason(s) on form <b>MG6</b> .			
b)	What can be done to ensure attendance?					
c) <b>Victims Only</b> – does the victim fall into one of the 3 priority categories who are eligible for enhanced care under the Code of Practice for Victims of Crime? 1) Victims of most serious crimes <input type="checkbox"/> 2) Persistently targeted victims <input type="checkbox"/> 3) Vulnerable and intimidated <input type="checkbox"/> . If any of the boxes are checked then Inform CPS at <b>pre-charge</b> stage on MG3, and on MG11 at all other stages and/or where necessary MG2						
d) <b>Witness Only</b> - Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <input type="checkbox"/> ( <i>youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case</i> ) If they do submit <b>MG2</b> with file in anticipated not guilty, contested or indictable only cases.						
e) Does the witness have any particular needs? If 'Yes' what are they? ( <i>Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?</i> ).						
<b>Witness Consent (for witness completion)</b>						
a)	The Victim Personal Statement scheme (victims only) has been explained to me			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
b)	I have been given the Victim Personal Statement leaflet			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
c)	I have been given the leaflet "Giving a witness statement to the police..."			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
d)	I consent to police having access to my medical record(s) in relation to this matter ( <i>obtained in accordance with local practice</i> )			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
e)	I consent to my medical record in relation to this matter being disclosed to the defence			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
g)	<b>Child witness cases only.</b> I have had the provision regarding reporting restrictions explained to me.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
	I would like CPS to apply for reporting restrictions on my behalf.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>						
Signature of witness:			PRINT NAME:			
Signature of parent/guardian/appropriate adult:			PRINT NAME:			
Address and telephone number (of parent etc.), if different from above:						
Statement taken by:			Time and place statement taken:			





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# YORK REGENCY ASSOCIATES LTD.

Company number **09197841**

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Registered office address

**4 George Hudson Street, York, England, YO1 6LP**

Company status

**Active**

Company type

**Private limited Company**

Incorporated on

**1 September 2014**

## Accounts

Next accounts made up to **30 September 2020**  
due by **30 June 2021**

Last accounts made up to **30 September 2019**

## Confirmation statement

Next statement date **7 May 2021**  
due by **21 May 2021**

Last statement dated **7 May 2020**

## Nature of business (SIC)

- 47290 - Other retail sale of food in specialised stores
- [Persons with significant control](#)

## Filter officers

Filter officers  Current officers

## 5 officers / 4 resignations

### FENG, Yan Tong

Correspondence address

**4 George Hudson Street, York, England, YO1 6LP**

Role **ACTIVE**

**Director**

Date of birth

**October 1982**

Appointed on

**27 February 2019**

Nationality

**British**

Country of residence

**England**

Occupation

**General Manager**

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### CHEN, Zhong Le

Correspondence address

**4 George Hudson Street, York, England, YO1 6LP**

Role **RESIGNED**

**Secretary**

Appointed on

**1 January 2018**

Resigned on

**5 February 2018**

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## **FENG, Yan Tong**

Correspondence address

**21a Blake Street, Blake Street, York, England, YO1 8QJ**

Role **RESIGNED**

**Secretary**

Appointed on

**1 September 2014**

Resigned on

**26 May 2018**

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## **FENG, Zhen Cheng**

Correspondence address

**4 George Hudson Street, York, England, YO1 6LP**

Role **RESIGNED**

**Director**

Date of birth

**January 1990**

Appointed on

**1 September 2014**

Resigned on

**27 February 2019**

Nationality

**Chinese**

Country of residence

**United Kingdom**

Occupation

**General Manager**

**FENG, Zhencheng**

Correspondence address

**3 Lincombe Bank, Leeds, United Kingdom, LS8 1QG**

Role **RESIGNED**

**Director**

Date of birth

**January 1990**

Appointed on

**1 September 2014**

Resigned on

**1 August 2015**

Nationality

**English**

Country of residence

**England**

Occupation

**Director**



Customer and Corporate Services  
Directorate

Democratic Services  
2<sup>nd</sup> Floor  
West Offices  
Station Rise  
York YO1 6GA

22 June 2020

Dear Ms Yan Tong Feng

**Re: Licensing Sub-Committee Hearing - Application for transfer of Premises Licence for The Regency, 2-4 George Hudson Street, York, YO1 6LP (CYC/053937)**

I am writing to inform you of the decision of the Licensing Sub-Committee which heard your application for a transfer of the Premises licence on 8 June 2020.

In considering your application and the representations made, the Sub-Committee concluded that the following licensing objective(s) were relevant to this Hearing:

1. The prevention of crime and disorder

With the agreement of all the parties, the Sub-Committee decided that it would be expedient to hear the three applications together (Reviews of Premises Licences for The Regency, 16 Barbican Road, York, YO10 5AA (CYC/009221) and Regency, 2 – 4 George Hudson Street, York, YO1 6LP (CYC/053937) and Application for transfer of premises licence for The Regency, 2-4 George Hudson Street, York, YO1 6LP (CYC/053937) as they would cover some of the same ground. In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their

relevance to the issues raised and the above licensing objectives, including:

2. The papers before it.
3. The Head of Public Protection's reports and his comments made at the Hearing. He outlined the reports in respect of the three applications being considered at the Hearing.

In response to questions from Mr Grant (Counsel for the Applicant), the Head of Public Protection clarified that the transfer application related to the premises licence for the George Hudson Street premises. Mr Grant pointed out that on page 346 of the reports pack the legal test for the transfer application in option 4 should state "appropriate" instead of "necessary". The Head of Public Protection thanked Mr Grant for the correction. There were no questions from Mr Shaikh (Solicitor for the Premises Licence Holder and Licence Transfer Applicant), Sgt Booth (North Yorkshire Police) or Members.

4. The representations of Mr Grant, who presented the case for the Applicant for the two reviews. He stated that the two reviews related to two different Regency Premises, one at 16 Barbican Road which was a restaurant, takeaway and karaoke bar, with a Licence to open to 4am each day. The second Premises was also called Regency, at 2-4 George Hudson Street and was a Chinese restaurant and supermarket and was open midweek until midnight until 3am on Saturday and Sunday. These reviews engaged two licensing objectives; the prevention of crime and disorder and public safety. The licensing objective of the protection of children against harm may also be an aspect. He stated that the operators of the restaurants were incorrigible employers of illegal workers, all Chinese nationals. With reference to illegal workers, in April 2017 and on 2 September 2019 for the Barbican Road Premises there had been a total of 4 visits - on one occasion no illegal workers found, but on the three other occasions a total of 10 illegal workers were found on the Premises. Regarding the George Hudson Street premises, over the same period, a total of 3 visits, illegal workers were found on all 3 visits, making a total of 6 illegal workers. He stated that over 2.5 years, there were 7 visits to the two restaurants and on 6 occasions illegal workers found, totalling 16 illegal workers. He stated that this total excludes the 2014 inspection where further illegal workers were found in fairness to Mr Chen as this visit pre-dated the current licence holder.



Mr Grant stated that the employment of illegal workers was taken seriously in the context of licence reviews. He explained that the licensed sector had been found to employ the majority of illegal immigrants in the UK and this usually involved the exploitation of vulnerable people working on unlawfully low rates. In this case, the workers were paid no more than £2-£3 per hour, way under national minimum wage. As vulnerable people who are in the country illegally they could not go to the authorities to complain on their treatment. He stated that another impact of illegal workers was that it undercut other law abiding restaurateurs in York who had to pay the legal, national wage and could not compete with Mr Chen. It also acts as a positive incentive for more illegal immigrants to come to country often using dangerous methods. He stated that there had been additional repeated failures sometimes amounting to criminal failures by the operators of Regency, including persistent breaches of licence conditions and repeated fire safety failures on more than one occasion which was of particular concern as a number of people were sleeping in make shift bedrooms in the premises. Mr Grant stated that there had also been a failure to protect children from being sold knives, and failures to properly have a system at work which ensured that hygiene and food standards were observed. He stated that this undermined the public safety licensing objective.

Mr Grant also said that the Sub-Committee's decision could have a proper deterrent impact on other irresponsible licensees tempted to flout the law. He stated that the Applicant for the licence transfer, Ms Feng provided no acceptable remedy to the reviews as Ms Feng had been part of the problem, so was unlikely to be part of solution. This was the reason that the Applicant for the reviews had something to say about the transfer, as they were linked because the operator was saying that the premises licence for one of the premises should not be revoked as there was someone it could be transferred to. Mr Grant outlined a number of multi-agency visits to the premises as follows:

16 April 2016

Barbican Road – intelligence that there were fire safety issues which led to a visit by Kevin Caulfield (NYFRS) (statement at page 139). Fire safety advice was given to the operators and was not taken up on subsequent visits.

7 April 2017

George Hudson Street – visit by Glyn Jones (Immigration Service) during which one Chinese national was arrested for illegal working and had entered UK without permission. (Statement at page 97).

21 May 2017

Barbican Road – one Chinese national arrested for illegal working. No permission to work.

8 September 2017

Intelligence led multi agency visit by North Yorkshire Police, Licensing Officers, Immigration Officers, HMRC visit to both restaurants. At Barbican Road there were 6 illegal workers on site, and there was sleeping accommodation with bunk beds on the second floor. Mr Chen wasn't there, arrived later, and had difficulties with English. No-one could operate the CCTV, there was a lack of staff training, and there were no notices asking customers to be respectful to residents. There was also no waste management plan. Advice was given to Licence Holder to put matters right.

On the same date the same officers went to the premises in George Hudson Street where one illegal worker was found working in breach of workers permission to enter UK. On this visit to George Hudson Street, Tina Feng who was now the applicant for transfer was present. She described herself as the manager and said she been there for 2 years which would have covered the time when the illegal worker was found on 7 April 2017, and she managed the premises when on at least two occasions illegal workers were found in the George Hudson Street premises. Ms Feng was unable to use the CCTV and show documentation to show staff training. There were also fire safety issues which had a real impact on public safety as means of escape were locked or shut.

11 September 2017

A fire safety officer visit to the Barbican Road premises after a complaint that 20 people were living in the premises in cramped conditions. Advice was given.

14 September 2017

An inspection of the George Hudson Street premises found there was no fire detection system in the basement, a door was held open in the basement, and there was no record of staff training. A notice of the deficiencies was served. Mr Grant noted that Ms Feng was the manager at that time.

18 July 2017

At the George Hudson Street Premises Ms Feng as manager sold a knife to a child. Ms Feng signed a caution admitting the offence on behalf of the company.

16 March 2018

An inspection of the Barbican Road premises was the only occasion no illegal workers found.

14 August 2018

A visit to the Barbican Road premises by Public Protection led to Mr Chen being convicted and fined for three food safety breaches of food safety regulations (Summonses at page 99).

6 September 2019

Both premises were visited. At the Barbican Road premises, there were three illegal workers, rooms were turned into sleeping accommodation on the second floor, decoration work was taking place and fire exits were blocked. There was a defect with the fire alarm and a fire safety prohibition notice to stop people sleeping on the premises was later served. None of the breaches of licence conditions from previous visits had been remedied – there was no staff training, staff management plans, no registers, no incident registers and no working CCTV. Officers were concerned as they smelt cigarette smoke in toilets and karaoke rooms and the small karaoke rooms were being used for sleeping in and this was confirmed by an Eastern European male who appeared to collect a passport.

6 September 2019

George Hudson Street premises– four illegal workers were found. Miss Feng was present while four workers were working with her. There were further breaches with CCTV, no staff training and no incidents and refusals register. There were no notices asking people to leave quietly. Ms Feng was described by officers as being “very uncooperative with Officers”. In the basement there were suitcases with female clothing stored suggesting that the premises was used to house workers.

9 September 2019

Barbican Road premises– safety audit found that padlocks were fitted to sleeping accommodation and fire exits were blocked. A Prohibition notice was served.

24 October 2019

Barbican Road premises – a visit by licensing officers found that licence breaches were the same as identified during the visit 6 weeks earlier. North Yorkshire Police served a closure notice as a warning. A visit to the premises in George Hudson Street the same day found that the same conditions were being breached and another closure notice was served. There were several males residing on the top floor.

A week later faced with closure of Premises, on 31 October 2019 the Barbican Road conditions breached had been rectified and the George Hudson Street breaches had been rectified save for CCTV still showing the wrong date and time.

4 November 2019

An application was made by Ms Feng as manager to change the DPS for the premises at George Hudson Street to Mr Feng, who gave his address as 2-4 George Hudson Street. He had no legal right to work in UK.

Mr Grant also referred to the evidence of Inspector Freer but would not give any details. He submitted that for all of those reasons the revocation was the only course as there were overwhelming failures in this case by the current licence holder and by Miss Feng, the proposed Licence holder of the George Hudson Street premises. He stated that the law had been summarised at page 298 of Agenda papers. In summarising he noted that chapter 11 guidance (page 324) indicated that that some forms of criminality associated with premises are treated particularly seriously, one was illegal workers, and licensing officers should use review procedures effectively to deter such crime and where the Licensing Authority feels that the crime prevention objective has been undermined, it is expected that revocation of licence in first instance should be considered. He noted the deterrent effect or revocation approved by two High Court decisions in the papers bundle and said that an important public interest is raised if licensees can make money through operating illegally and then transfer the license to someone else, as it undermines the whole licensing system.

5. The representations of Mr Shaikh, the Solicitor for the Premises Licence Holder and Ms Feng then provided a response to the two Reviews and he presented the Application for Transfer of the Premises Licence at the George Hudson Street premises.

Mr Shaikh noted that some of the matters referred to in the representations made by Mr Grant were old matters. He explained that the background history was that there had been breaches of the premises licences which have been brought to Mr Chen's and Ms Feng's attention but from November 2019, as stated by Mr Grant, the notices were complied with and there were no further issues.

Mr Shaikh stated that the documents he provided shortly before the hearing established regarding the proposed revocation of the licences and illegal workers was that no action was taken against Mr Chen or Ms Feng on those matters.

Mr Shaikh submitted that revocation of the licences was not necessary or proportionate. Mr Shaikh accepted that there have been past misdemeanours. Addressing the concern raised by Mr Grant regarding the selling of knives Ms Feng had accepted a caution on behalf of the company and she did not herself sell the knife. He added that the matters raised by the multi-agency visits were not minor matters but when running a restaurant his clients could not be there 24 hours a day, 7 days a week and running a restaurant means delegation of responsibility. He said that they had undertaken all due diligence checks as best they could for illegal workers and did not knowingly employ any illegal workers. There had been no prosecution for immigration offences at either restaurant. Mr Shaikh stated that sleeping upstairs or on the premises had never been permitted, but given the nature of business, some employees took a 15 minute nap due to length of hours.

Mr Shaikh stated there had been no further breaches. It was a family run business and all parties are interconnected. He appreciated that Ms Feng had undertaken the training required for a personal licence and understood the responsibilities she had to comply with. The prosecution for food hygiene standards was against Mrs Chen and the company operators, not Mr Chen.

As to Mr Grant's suggestion that one of individuals employed was not entitled to work, Mr Shaikh stated that the individual was employed, had a restricted a visa, 5 year permit to work. This had expired and a further application was made to extend the visa.

Mr Chen gave evidence to the Sub Committee through his interpreter; He had not been convicted or interviewed for immigration offences. He said he had undertaken a programme of training to ensure compliance with the requirements of the licence. Both restaurants were a family

business and he had been involved in them for 3 years. Illegal workers did not sleep at the premises. He had never employed illegal workers to his knowledge. To ensure workers were not illegal he checked passports and their work visas and also checked with the Home Office. As to how Mr Chen would convince the panel that he would ensure above and beyond that no illegal workers will be on his premises, Mr Chen confirmed that he would operate according to the requirements of the licence and will take all steps to ensure that all were legal. As to Mr Grant's assertion that it was too little too late and he tended to do things when it was the final straw, Mr Chen confirmed that in future he will do his best to comply and do everything he can to make improvements. Mr Chen stated that he was not aware that a knife had been sold to a child and that in future he would ensure that ID was produced to prove that the purchaser was over age of 25. He said that for the last 24 months the food hygiene rating at both premises was 3 stars but they were doing their best.

Ms Feng (Applicant for the License Transfer for the premises in George Hudson Street) gave evidence through her interpreter. In relation to the caution, Ms Feng explained that an 18 year old staff member on their probation period was working in the shop and unknown to her sold a knife to a child. Ms Feng admitted responsibility and has since trained staff to check the age was over 24 years old. There had not been any other issues since the section 19 closure notice had been complied with. She confirmed that she had not been interviewed regarding immigration offences against illegal workers and had not knowingly been in control of illegal workers or allowed them to stay on the premises. She checked their passports, work permits and if in doubt would check with the Home Office. Additional checks in place involve keeping a copy of the ID. She confirmed she understood the importance of having working CCTV on the premises. Apart from the caution, she had no convictions recorded against her for any other matters. She confirmed she understood that she was part of the family business if the transfer of the licence was revoked, many of her staff would lose their jobs and she would lose her income. She is a single parent with two children to support. This was her livelihood and she could not lose it.

She explained that to ensure that the licensing objectives were not undermined, they are going to replace all CCTV systems to ones which are easy to operate. They would put posters up in the restaurants to remind customers to leave quietly and warnings for age and alcohol consumption and purchase. They would comply with the fire regulations and update all the fire systems.

As to it being too little too late, Ms Feng said that was not correct and that when they received suggestions they always took action to make improvements. This was done bit by bit.

In response to question from Mr Grant as to why when Mr Chen has given evidence that he carried out checks on all workers over a number of years he still managed to employ 16 illegal workers on 6 occasions, Mr Chen replied that normally workers arrived on Saturdays and Sundays, he would try and contact them then, but then he found it hard to get through and a lot of workers were newcomers, he confirmed that he was aware that he had a legal obligation to keep a copy of the documents and that he did have copies but there were not as many as 16 illegal workers.

Mr Grant asked Miss Feng whether she could you explain why on 25 October 2019 the DPS proposed was also an illegal worker and the name was Zen Cheng Feng which had same home address as Miss Feng. Ms Feng replied that he was her younger brother and this was a family business. She confirmed that she was not related to Mr Chen the licence holder and they were just friends.

In response to questions from Sgt Booth, Mr Chen explained that Zen Cheng Feng told him that he was in the process of applying for an extension of his visa and he believed he was legal which was why he applied for the DPS transfer to him. He said he did carry out Home Office checks and his visa was pending. As to whether the Home Office confirmed he had a right to work in the UK, Mr Chen replied that he saw his previous visa and a letter confirming that he had applied for a visa.

As to why repeatedly he had failed to engage with the Licensing Authority and Police following request for him to contact them on 24 October 2019 and 31 October 2019 and two letters from Licensing Authority on 13 November 2019 and 28 November 2019 regarding the issues raised, Mr Chen replied that he asked his manager to do this.

Members of the Sub-Committee then asked questions as to whether there would there be written evidence of checks being made with the Home Office. Mr Shaikh responded that it was his understanding that it was a direct dial line which was used. Mr Shaikh said he had emailed the Home Office for confirmation regarding Zheng Feng Chen, it was not in the submitted evidence but he did receive an email. He noted that replies from Home Office were usually on the telephone. He confirmed

that the principal position was not to revoke the licences but the imposition of additional conditions would be the lesser of two evils.

Mr Shaikh also noted that all employees were entitled to 15 minute break every hour and because staff were working long hours in kitchens, took naps for 15 minutes. A shelter was to be put outside and naps were to take place outside due to fire risks.

6. Representation from Sgt Booth, North Yorkshire Police. She outlined the North Yorkshire Police representations in relation to the two premises licence review applications and to the application to transfer the premises licence.

She stated that North Yorkshire Police believed that the crime and disorder objective was seriously undermined, as mentioned by Mr Grant. The Guidance states some criminal activity should be treated particularly seriously, including using premises to employ a person who cannot work in UK. She stated that the statements from Helen Sefton and Nigel Woodhead and PC Bolland and PC Hollis was a joint partnership approach to deal with the issues at the premises. In 2017 a number of persons were removed from Barbican Road and George Hudson Street premises who had no right to work, and there was also failure to comply with safety and fire safety issues there was a persistent failure by Mr Chen to address concerns regarding staff. Following the visit on 8 September there was no responsibility taken by Mr Chen. She noted that as a minimum they expected Mr Chen to engage with the Licensing Authority and North Yorkshire Police to work on a stepped approach to ensure the safeguarding of staff and customers attending the premises. She stated that there was no suggestion by the premises licence holder or anyone at the premises of any HR management system to store records for staff, and no copies of documents retained for staff to make available to agencies on request. Although Mr Chen said he had conducted checks on Home office website to ensure all staff were legally employed, there had been no evidence submitted as to how he conducted those immigration checks or if they even have been conducted. She added that there were no new staff details to suggest they had undertaken training to meet any of four licensing objectives. She stated that the failing to take action after first visit resulted in further information being received and further operation on 6 September 2019 when again Immigration staff removed officers, as detailed in Glyn Jones' statement.



Sgt Booth stated that on 4 November 2019 North Yorkshire Police received an application for a new DPS at George Hudson Street and carried out checks and found the person had no right to work in UK. Mr Chen signed the application as premises licence holder but failed to take responsibility and carry out due diligence checks. Mr Chen did not engage with the Licensing Authority or North Yorkshire Police to discuss concerns following their visit to the premises. At the time of the transfer request Mr Chen was the DPS for George Hudson Street and it was expected that the DPS is the person with day to day responsibility and should be available and should contact North Yorkshire Police or the Licensing Authority if requested. No formal communications have taken place with North Yorkshire Police or the Licensing Authority and Mr Chen failed to respond to visits, phone calls or letters.

Regarding the premises transfer licence application, North Yorkshire Police have objected on grounds that granting the application would prejudice and undermine the crime and disorder licensing objective. The transfer was merely a smokescreen to say that Mr Chen was not involved in the business running. However, Members have heard that it was a family run business. Ms Feng had also been at the Premises when illegal persons found and removed and she was closely associated as she had same address as DPS who had no right to work in UK and has been involved when there has been a breach of licence conditions. Sgt Booth noted that PC Hollis attended the premises on 24 October 2019 asked about premises licence holder and Ms Feng said she said not heard of him, and didn't know who he was. Sgt Booth asked whether this was the evidence of a credible person. She reminded Members of Inspector Freer's statement.

She said that Mr Chen had failed to address issues, failed to train staff, not communicated, and failed to implement robust measures to deter criminal activity in the Premises. CCTV not working was also a concern to North Yorkshire Police as CCTV can provide a good deterrent for criminal activity. Sgt Booth submitted that North Yorkshire Police consider that the only choice for the Sub Committee was to revoke both licences and refuse application to transfer to deter further crimes.

In response to questions, Sgt Booth confirmed that during the first visit in 2017 when Mr Chen attended the premises a further staff member had to interpret for him as he was unable to understand what was asked to do of him. That person (who was not Zhong Chen Feng) identified themselves as the manager of the premises.

As to whether there was any evidence to identify who were illegal workers and who were customers, Mr Glyn Jones (Immigration) confirmed that Immigration officers were well trained and versed in who was working and wouldn't ordinarily question customers. Mr Jones stated that some of those who had been removed from the premises were removed from the UK, and others granted bail.

All parties then summarised in the following order: Police, Applicant for Reviews, premises Licence Holder/applicant for transfer.

Sgt Booth stated that North Yorkshire Police were concerned that if revocation was not the outcome, the premises would continue to undermine the licensing objective of crime and disorder. There were grave concerns that the premises licence holder had not attempted to engage, respond or work with the Licensing Authority or North Yorkshire Police to ensure compliance with the licences for George Hudson Street and Barbican Road. She strongly asked the Sub Committee to consider Inspector Freer's evidence and ask for the revocation of the licences and for and the transfer to be refused.

Mr Grant stated that in terms of number of failed illegal worker inspections and workers, of seven inspections there had been six failures and a total of 16 illegal workers. He stated that the response on behalf of Mr Chen and Ms Feng appeared to be that they did check out illegal workers, but they can't produce evidence to demonstrate that, including no photocopies of passport or visas, which they had a legal obligation to retain. He said the Sub-Committee were being misled by the operators, who didn't check, didn't look at passports or visas as they didn't care if workers were legal or illegal and knew that if they were illegal they could pay them next to nothing, so there was financial gain for them. The other option was that they did carry out checks but for reasons which can't be explained 16 workers were illegal and weren't customers. Glyn Jones confirmed in his statement was clear that they were workers, not customers. Mr Grant stated that if the Sub Committee needed further evidence to decide the factual issues as to whether Mr Chen deliberately employed those workers, they should look at the recent DPS application in October 2019 by Mr Chen, which was Miss Feng's younger brother who had no right to work in the UK. Mr Grant added that Mr Chen's evidence was that he would allow people to work at weekends before carrying out right to work checks. This spoke volumes about their approach. Referring to paragraph 18 of the Abu

Hanif case on page 303 of the Agenda pack, Mr Grant said that the question was not whether there had been criminal convictions as prevention of crime and disorder can be retrospective and that the reviews applicant says that prevention and deterrence calls for full revocation of the licences. Lately there were no issues but this was late in the day and the licence should be revoked due to concerns with crime and disorder.

Mr Grant stated that the information on pages 96, 141 and 143 of the Agenda pack all confirmed that the workers were illegal.

Mr Shaikh stated that Mr Chen and Ms Feng had done things wrong and there was a history of rectification notices which had been sorted and all was now in order apart from the CCTV. He added that there had been speculative criminal activities and he had not seen evidence that all 16 persons removed were illegal workers. He added that Mr Chen had not been interviewed by the immigration authorities and there had been no issues since November 2019. He added that Ms Feng was not responsible for the supply of the knife.

### **Decision**

Having regard to the transfer application and any relevant representations, the Sub-Committee had to determine the application in accordance with Section 44 (5)(b) and consider the following two options:

Option 1: Grant the application.

Option 2: Reject the application if considered appropriate for the promotion of the crime prevention objective to do so.

Taking into consideration the evidence and submissions received, the Sub-Committee deliberated the two different options available to them. The Sub-Committee's decision was to agree Option 2: to reject the application because it was considered appropriate for the promotion of the crime prevention objective to do so. The Committee rejected Option 1: to grant the application.

The Sub-Committee noted that this application was discussed alongside the review for this premises and the review of the Regency at Barbican Road as the applications covered some of the same ground. They noted that if the transfer was refused the licence would revert to Mr Chen but any revocation of the licence would also apply in that case.

### **Reasoning for decision**

In reaching its decision, the Sub-Committee gave due consideration to:

- The promotion of the licensing objectives as set out in the Licensing Act 2003, in particular the prevention of crime.
- The Council's Statement of Licensing Policy.
- The Home Office Guidance issued under section 182 of the Licensing Act 2003.
- The Licensing Sub-Committee agenda pack for the applications, the additional statement of Inspector Freer dated 29 May and the additional documents submitted by Mr Shaikh on 5 June 2020 and circulated before the start of the hearing.
- The oral representations made during the hearing.

In making its decision, the Sub-Committee:

- Noted from the evidence presented that the multi-agency raids to the premises on 8 September 2017 and 6 September 2019 indicated a history of repeated serious failings at the premises including:
  - Significant and persistent breaches of licence conditions, in particular relating to CCTV
  - Illegal workers found on the premises (including one person found on 8 September 2017 and four persons on 6 September 2019).
- Noted that on the occasion of the raid on 6 September 2019, Ms Feng was present on the premises as restaurant manager.
- Noted that there have been repeated fire safety failures at the premises.
- Felt from the evidence presented that Ms Feng is closely associated with Mr Chen and had been involved with the running of the premises at the time of these failings.
- Noted that it was the Police's belief that the prevention of crime and disorder objective would be undermined by the transfer of the licence to the applicant and the Sub-Committee shared those concerns. In particular they considered the employment of illegal workers at the premises as wholly unacceptable and that it clearly undermines the licensing objective of prevention of crime and disorder.

- Took into consideration the submission by and/or on behalf of the applicant including that paperwork regarding a person's right to work in the UK is being checked, that illegal workers have not knowingly been employed at the premises, that Home Office Immigration have not taken any enforcement action against the management and that CCTV systems would be replaced and fire systems would be upgraded.
- Attached no weight to the food hygiene convictions in 2018 in respect of the Barbican Road premises, no weight to the caution of Ms Feng in 2017 for the sale of a knife to a child at the Regency Street premises and no weight to the ongoing wider criminal investigation (beyond the employment of illegal workers) referred to in the two restricted statements of Inspector Freer.
- Felt, however, given the history of serious failings at the premises whilst the applicant has been involved with the running of the premises (significant breaches of conditions, fire safety issues and the presence of illegal workers), that it was not satisfied that as a premises licence holder Ms Feng would be a responsible licensee, that there would be any change in how the business would be operated in the future if she were the licensee and that the prevention of crime and disorder objective would be undermined by the transfer of the licence to her. They therefore rejected the application for transfer. The Sub-Committee considered this decision to be appropriate for the promotion of the crime prevention objective.

The decision will not take effect until the end of the period for appealing against the decision. In the event of an appeal, the existing licence will continue until the appeal is determined.

### **Right of Appeal**

There is a right of appeal for the Applicant to the Magistrates Court against this decision. Any appeal to the Magistrates Court (preferably in writing), must be made within 21 days of receipt of this letter and sent to the following address:

Chief Executive  
York and Selby Magistrates Court  
The Law Courts  
Clifford Street

York  
YO1 9RE

Thank you for attending the hearing.

Yours sincerely

Angela Bielby  
Democracy Officer  
(01904) 552599

cc. Representors  
cc. Licensing Officer

**Exhibit JB/03**

**From:** Booth, Jackie  
**Sent:** 27 January 2021 07:06  
**To:** 'Alan Man' <[mansalan@hotmail.co.uk](mailto:mansalan@hotmail.co.uk)>  
**Subject:** RE: New Premises Licence- Regency Supermarket & Restaurant 2-4 George Hudson Street York

Good Morning Mr Man,

I am free after 12pm today if you want to call then.

Kind Regards

Jackie

PS133 Booth  
Force Licensing Manager  
Partnership Hub  
Tel 101 Ext 30133  
Mobile: 07710977979  
Email:- [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

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**From:** Alan Man <[mansalan@hotmail.co.uk](mailto:mansalan@hotmail.co.uk)>  
**Sent:** 26 January 2021 20:48  
**To:** Booth, Jackie <[Jacqueline.Booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.Booth@northyorkshire.pnn.police.uk)>  
**Subject:** Re: New Premises Licence- Regency Supermarket & Restaurant 2-4 George Hudson Street York

Hi Jackie Good Evening,

Yes, sure what time is best to call you tomorrow?

Best Regards,

W Man

Get [Outlook for Android](#)

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**From:** Booth, Jackie <[Jacqueline.Booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.Booth@northyorkshire.pnn.police.uk)>

**Sent:** Tuesday, January 26, 2021 8:19:21 PM

**To:** Alan Man <[mansalan@hotmail.co.uk](mailto:mansalan@hotmail.co.uk)>

**Subject:** RE: New Premises Licence- Regency Supermarket & Restaurant 2-4 George Hudson Street York

Good Evening Mr Man

Please be advised that this evening I have submitted a representation to the licensing authority in respect of your application.

Should you wish to discuss this further I am available tomorrow Wednesday 27th after midday.

Kind Regards

Jackie Booth

Sent from my Galaxy



**Exhibit JB-04**

**From:** Duckworth, Sue <[Susan.Duckworth@leeds.gov.uk](mailto:Susan.Duckworth@leeds.gov.uk)>  
**Sent:** 03 February 2021 17:03  
**To:** Booth, Jackie <[Jacqueline.Booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.Booth@northyorkshire.pnn.police.uk)>  
**Subject:** RE: Request for Info

[REDACTED]

He was granted his personal licence on 05/02/20.

Sue Duckworth  
Principal Licensing Officer  
Entertainment Licensing  
Leeds City Council  
Tel: 0113 378 5331  
Web: [www.leeds.gov.uk](http://www.leeds.gov.uk)

**From:** Booth, Jackie [<mailto:Jacqueline.Booth@northyorkshire.pnn.police.uk>]  
**Sent:** 03 February 2021 16:51  
**To:** Duckworth, Sue <[Susan.Duckworth@leeds.gov.uk](mailto:Susan.Duckworth@leeds.gov.uk)>  
**Subject:** Request for Info

[REDACTED]

[REDACTED]

I would be grateful if you could assist me by advising when an individual has obtained his personal licence from Leeds LA.

It is Wing Lun MAN [REDACTED]. Licence LEEDS/PERL/10410/20

[REDACTED]

[REDACTED]

Any queries please do not hesitate to give me a call.

Kind Regards

Jackie

PS133 Booth  
Force Licensing Manager  
Partnership Hub  
Tel 101 Ext 30133  
Mobile: 07710977979  
Email:- [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

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**Exhibit JB-05**

**From:** Booth, Jackie  
**Sent:** 08 February 2021 17:47  
**To:** 'Lee Muscroft' <Lee.Muscroft@peninsula-uk.com>  
**Subject:** Regency 2-4 George Hudson Street York

Good Afternoon Lee,

Following our telephone conversation earlier today can you please confirm if Peninsula-UK have been instructed to conduct HR consultancy in respect of the above premises? If so can you please provide the name of the person who has instructed you and how long the contract is in place?

I am looking at the above in respect of a Premise Licence under the Licensing Act and considering relevant licensing conditions. Such conditions can include the requirement for the premises to ensure that they operate a full HR management system where all relevant documents are stored for each individual member of staff, including details of Right to work checks, position held, training and copies of verification documents. If a Premise Licence is granted with such conditions, failure to adhere by the Premises would then be a breach of the premises licence and a criminal offence.

If you have any queries, in relation to the above please do not hesitate to get in touch.

Your assistance in relation to this matter is greatly appreciated.

Kind Regards

Jackie

PS133 Booth  
Force Licensing Manager  
Partnership Hub  
Tel 101 Ext 30133  
Mobile: 07710977979  
Email:- [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

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**Exhibit JB-06**

**From:** Lee Muscroft <Lee.Muscroft@peninsula-uk.com>  
**Sent:** 09 February 2021 10:16  
**To:** Booth, Jackie <Jacqueline.Booth@northyorkshire.pnn.police.uk>  
**Subject:** RE: Regency 2-4 George Hudson Street York

Good morning Jackie.

Thank you for your email below.

Yes I can confirm that the business has now engaged our support services under a 5 year agreement option for Employment Law/HR and Health and Safety support and the person I dealt with was a lady called Tina Feng.

Within our agreement we supply the client a full HR management system which is GDPR compliant and will store all the relevant information required and as an example when documents are due for renewal like work visa's this would inform the client in advance should they input this information, should you require a full demo of this system please feel free to call or email me.

I hope this helps

Kind regards

**Lee Muscroft**  
Business Development Manager

**t:** 0844 892 2773  
**m:** 07966112062  
**w:** [peninsulagrouplimited.com](http://peninsulagrouplimited.com)



 Peninsula, Victoria Place, Manchester, M4 4FB

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**Exhibit JB-07**

**From:** Alan Man <mansalan@hotmail.co.uk>

**Sent:** 09 February 2021 12:12

**To:** Booth, Jackie <Jacqueline.Booth@northyorkshire.pnn.police.uk>

**Subject:** Re: New Premises Licence- Regency Supermarket & Restaurant 2-4 George Hudson Street  
York

Good Afternoon Jackie,

Regarding our telephone conversation early on last week, I don't have any questions at the moment.

Thank You

Regards,

W L Man

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MG11

**WITNESS STATEMENT****Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

URN

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Statement of: Kimberley HOLLIS

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: Police Constable

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: K Hollis (witness)

Date: 11<sup>th</sup> February

I am PC 1671 Kim HOLLIS of North Yorkshire Police currently stationed at FULFORD ROAD POLICE STATION, YORK. I am an Alcohol Licensing Officer covering York and Selby and I have been in the role since April 2018.

At 11.15hrs on 24<sup>th</sup> October 2019 I attended The Regency restaurant and supermarket 2-4 GEORGE HUDSON STREET, YORK in company with Nigel WOODHEAD City of York Council Licensing enforcement Officer with the intention to carry out a licensing check under Section 179 of the Licensing Act 2003.

We entered the restaurant and spoke with Juan LI, who asked to be called 'Julie', identifying ourselves and explaining that we were conducting a licensing check. I asked to speak with the designated premises supervisor and premises licence holder Zhong le CHEN. Julie explained she did not know who this person was but the manager was not in and that she would assist us.

I asked her to clarify if Mr Zhong le CHEN ever attended the premises as she confirmed again that she did not know him and had not seen him.

At 11.19hrs I noted that the CCTV in the main restaurant was incorrect showing the time as 10.30hrs and I made a note of this as it breached conditions as per the premises licence. Juan LI advised she did not know how to use the CCTV and that only Tina knew how to change it.

I proceeded to go through the conditions of the licence and document any breaches.

The breaches were as follows:

- CCTV displaying incorrect time
- No notices on the exit asking patrons to be quiet/respect neighbours
- No challenge 25 posters on display
- No incident book
- Staff being unaware of who authorised the sale of alcohol (DPS)
- No staff training records

I documented these on a closure notice under Section 19 of the Criminal Justice and Police Act 2001 and numbered these CYC-053937-1 and CYC-053937-2.

I placed on the notice steps to be taken to address these issues which included:

- Immediate DPS Change
- CCTV time to be made correct (7 days given)
- Challenge 25 posters (7 days given)
- Incident book (7 days given)

- Notices (7 days given)
- Staff refresher training and records (7 days given)

I explained the notice to Julie and asked for her signature on both parts. After signing I left a copy of the two S.19 notices with Juan LI.

Myself and Nigel WOODHEAD then left the premises,

On 31<sup>st</sup> October 2019 at around 10.30hrs I again attended Regency, GEORGE HUDSON STREET, YORK in company with Nigel WOODHEAD and we again spoke with Juan LI (Julie).

A follow up check was conducted after issue of the Section 19 notice and I noted that the notices had been placed up, the challenge 25 posters were displayed, an incident register was in place and a note about authorisation to sell alcohol showing the new DPS Zhen Cheng FENG who I was advised had submitted an application to transfer DPS from Zong Le CHEN, a refusals register had been created and staff training records had been created but unfortunately did not have signatures on them.

I also noted that the CCTV at 10.30hrs was now showing 11.29hrs.

Julie explained that she had not realised the staff had to sign the training records and the CCTV had been attempted to be changed but this must not have been done.

Due to this I made the decision to issue a further section 19 notice allowing a further 7 days to rectify these final issues. The notice breaches were as follows:

- CCTV time incorrect
- Staff training records to be filled in correctly

I asked for the following steps to be taken:

- CCTV time to be made correct
- Staff training forms to be signed (7 days given for both)

I again explained this to Julie and asked her to sign the notice leaving her a copy before we left number CYC-053937-3.

On Wednesday 21<sup>st</sup> October 2020 at approximately 1325hrs I attended Regency George Hudson Street, York in order to conduct a routine licensing check. On arrival I spoke with the manager Yang Tong FENG who is known by the name Tina.

I explained the purpose of my visit and I checked through the conditions of the Licence.

At 1330hrs I observed that the CCTV time was incorrect showing a time of 1238hrs at 1330hrs. This was in breach of conditions on the premises licence and as such I pointed this out to Tina and issued a Section 19 closure notice for this to be rectified. Tina signed this and left her a copy before leaving.

On Thursday 30<sup>th</sup> October 2020 at around 1330hrs I again attended Regency, George Hudson Street, York and spoke with Tina. She showed me the CCTV was now showing the correct date and I advised her the Section 19 notice was now closed and I followed this with a confirmation letter in the days that followed.

Signature: K.Hollis

Signature witnessed by:

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MG11

<b>Witness contact details</b>		URN			
Name of witness:					
Home Address:		Postcode:			
E-mail address:		Mobile:			
Home Telephone Number:		Work Telephone Number:			
Preferred means of contact ( <i>specify details for vulnerable/intimidated victims and witnesses only</i> ):					
Gender:		Date and place of birth:			
Former name:		Ethnicity Code (16 + 1):			
<b>DATES OF WITNESS NON-AVAILABILITY:</b>					
<b>Witness care</b>					
a) Is the witness willing to attend court?		If 'No', include reason(s) on form <b>MG6</b> .			
b) What can be done to ensure attendance?					
c) <b>Victims Only</b> – does the victim fall into one of the 3 priority categories who are eligible for enhanced care under the Code of Practice for Victims of Crime? 1) Victims of most serious crimes <input type="checkbox"/> 2) Persistently targeted victims <input type="checkbox"/> 3) Vulnerable and intimidated <input type="checkbox"/> . If any of the boxes are checked then Inform CPS at <b>pre-charge</b> stage on MG3, and on MG11 at all other stages and/or where necessary MG2					
d) <b>Witness Only</b> - Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <input type="checkbox"/> ( <i>youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case</i> ) If they do submit <b>MG2</b> with file in anticipated not guilty, contested or indictable only cases.					
e) Does the witness have any particular needs? If 'Yes' what are they? ( <i>Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?</i> ).					
<b>Witness Consent (for witness completion)</b>					
a) The Victim Personal Statement scheme (victims only) has been explained to me		Yes <input type="checkbox"/>	No <input type="checkbox"/>		
b) I have been given the Victim Personal Statement leaflet		Yes <input type="checkbox"/>	No <input type="checkbox"/>		
c) I have been given the leaflet "Giving a witness statement to the police..."		Yes <input type="checkbox"/>	No <input type="checkbox"/>		
d) I consent to police having access to my medical record(s) in relation to this matter ( <i>obtained in accordance with local practice</i> )		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
e) I consent to my medical record in relation to this matter being disclosed to the defence		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
g) <b>Child witness cases only.</b> I have had the provision regarding reporting restrictions explained to me.		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
I would like CPS to apply for reporting restrictions on my behalf.		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>					
Signature of witness:		PRINT NAME:			
Signature of parent/guardian/appropriate adult:		PRINT NAME:			
Address and telephone number (of parent etc.), if different from above:					
Statement taken by:			Time and place statement taken:		

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**MG11**

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**CLOSURE NOTICE MADE UNDER SECTION 19 OF THE CRIMINAL JUSTICE AND POLICE ACT 2001**



NO. KH/10

Date and time of the Closure Notice:

21/10/20 1330

Person making the Notice:

Pc 1671 Kim Hollis

Signature:

Name (if applicable) and address of the affected premises:

REGENCY - (GEORGE HUDSON STREET - YORK

Alleged unauthorised use of the premises:

① CCTV in restaurant showing 12.38hrs @ 13.30hrs

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:

① CORRECT TIME SHOWING ON CCTV AS PER LICENCE CONDITIONS BY MONDAY 28TH OCT.

The person (if applicable) on whom the closure notice has been served :

Name:

Yan Long FENG (Tina)

Signature:

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**WITNESS STATEMENT**

**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates’ Courts Act 1980, s.5B**


URN	GRJ	6633	12022021	02
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Statement of: Glyn R Jones

Age if under 18: over 18 (if over 18 insert 'over 18')

Occupation: Immigration Officer

This statement (consisting of 2 (two) page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:.......... (witness) Date: 11/02/2021

I am the person named above and I am employed by the Home Office as an Immigration Officer. I am currently a member of the Arrest Team, Yorkshire & Humberside ICE (YHICE) based at Waterside Court, Kirkstall Road, Leeds LS4 2QB. I have been employed by the Home Office since October 2003. My position as an IMMIGRATION OFFICER grants me access to information held on Home Office systems that stores details of enforcement visits conducted by YHICE and the numbers of arrested persons and their nationalities from each of those visits.

On 9<sup>th</sup> FEBRUARY 2021 I was requested by NORTH YORKSHIRE POLICE to provide a summary of enforcement visits conducted by IMMIGRATION ENFORCEMENT to the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP since 2017, in terms of breaches of the IMMIGRATION ACT 1971 (AS AMENDED); and whether a YANTONG FENG Born [REDACTED] had been noted by IMMIGRATION ENFORCEMENT as either being present or involved at the time of the visits. The request was made as part of on-going enquiries into the business.

HOME OFFICE records show YHICE have conducted THREE enforcement visits to the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP from 2017 onwards, which are listed below.

- 1). 6<sup>th</sup> APRIL 2017 – 1 Chinese national arrested for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE) (never had permission to work). The record of the visit shows a YAN TONG, born [REDACTED] as granting consent to enter the premises to IMMIGRATION ENFORCEMENT.
- 2). 8<sup>th</sup> SEPTEMBER 2017 – 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work) and admitted to the breach. The record of the visit shows an illegal working civil penalty notice was posted to a MRS YAN TONG FENG, born [REDACTED] as the manager of the business.
- 3). 6<sup>th</sup> SEPTEMBER 2019 – 4 Chinese nationals arrested; 1 for WORKING IN BREACH (held extant leave with no permission to work), 1 for ILLEGAL ENTRY (VERBAL DECEPTION) by providing information to an Entry Clearance Officer which was later found not to be true, which, if it had been disclosed at the time of the application would have led to the entry clearance being refused (hence never had permission to work), 1 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE) (and therefore never had permission to work), and 1 for being a PERSON LIABLE TO DETENTION (previously served as an ILLEGAL ENTRANT (ENTRY WITHOUT LEAVE) and failed to adhere to their immigration bail conditions by failing to report to the Home Office as required, and also working without permission). The record of the visit also shows that a YAN TONG FENG, born [REDACTED] BRITISH CITIZEN was encountered by IMMIGRATION ENFORCEMENT on the premises. The record makes a reference to YANTONG FENG as being a

manager. Two of those arrested were recorded as naming a female called “TINA” as being the manger and are noted as indicating towards YANTONG FENG.

This witness statement was made and completed on FRIDAY 12<sup>th</sup> FEBRUARY 2021 at 09:34hrs.

Signature:.......... Signature witnessed by: .....



**Witness contact details**

Name of witness: Home address: Postcode:  
Home telephone No: Work telephone No:  
Mobile: E-mail address:  
Preferred means of contact (*specify details*):  
Best time to contact (*specify details*):  
Gender: Date and place of birth:  
Former name: Ethnicity Code (16 + 1):

**DATES OF WITNESS NON-AVAILABILITY:**

**Witness care**

- a) Is the witness willing to attend court? If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*) If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? If 'Yes' what are they? (*Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?*).

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the Home Office..." Yes  No
- d) I consent to Home Office Immigration Enforcement having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A

I would like CPS to apply for reporting restrictions on my behalf. Yes  No  N/A   
*'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.*

Signature of witness: ..... PRINT NAME: .....

Signature of parent/guardian/appropriate adult: ..... PRINT NAME: .....

Address and telephone number (of parent etc.), if different from above:

Statement taken by: Office / station: Time and place statement taken:



**This tear off section to be completed and handed to the witness**

**The Home Office (Immigration Enforcement) – Contact Details**

The officer dealing with your case/taking this statement is:

Officer: \_\_\_\_\_ Rank & Number: \_\_\_\_\_

Office: \_\_\_\_\_

Telephone: \_\_\_\_\_

Contact E-Mail: \_\_\_\_\_

Reference No: \_\_\_\_\_

The officer dealing with your case can help but may not always be available.

**Giving a witness statement to the Home Office– what happens next?**

**Thank you for coming forward. We value your help and we will do everything we can to help you.**

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

#### Is there anything else I can do?

Yes. It is important to tell the Home Office:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

#### Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front.

Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

#### What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, the Home Office, the police and CPS are separate organisations.

#### Who will read my statement?

Everyone involved with the case will read your statement (e.g. Home Office, the police, CPS, defence and the magistrate or judge).

#### What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the Home Office in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the Home Office officer dealing with your case.

#### Will I be told what is happening in the case?

The Home Office and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact the Home Office at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare). Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

#### Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

#### What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

#### Where will the case be heard?

Most cases are heard in the magistrates' court. More serious crimes are heard in the crown court before a jury.

#### Who can help?

Every court has a free and confidential Witness Service and you can contact them before the trial. Their trained volunteers offer:

- information on what happens in court
- emotional support and someone to talk to in confidence
- someone to be with you in court when you give evidence
- a visit to the court before the trial, including where possible, a look around a court room so you know what to expect.

The officer dealing with your case will be able to provide you with contact details.

The Witness Service does not discuss evidence or give legal advice.

Extra Help is available to support vulnerable or intimidated witnesses. If the CPS lawyer thinks that a witness qualifies for this help, known as 'Special Measures', he/she will ask the court for permission to use them. The Witness Service, police or Home Office will tell you what is available and the police or CPS will be able to discuss your needs.

### Victim Support and Witness Service

The Victim Support scheme operates from a number of locations across the UK, and their volunteers are specially trained to provide free and confidential information, support and advice.

All victim and witnesses will be offered support from Victim Support's Witness Service, which is **independent**, confidential and free. This support will include someone to talk to, a quiet place in which to wait and a chance to see the court before the day of the trial. Although the Witness Service volunteers will explain the court process to you, they cannot discuss the specific details of the case.

Victim Support Helpline

0845 30 30 900

## The Witness Charter

The Home Office Immigration Enforcement is not a signatory of the Witness Charter but adheres to the spirit of charter which sets out the standards of service that witnesses can expect to receive at every stage of the Criminal Justice process from:

- The Home Office, if you are a witness to a crime or incident
- Other Criminal Justice agencies and lawyers, if you are asked to give evidence for the prosecution or defence in a criminal court

The standards apply to all witnesses, regardless of whether you are also the victim. If you are a victim of a crime, you have rights that are set out in the Code of Practice for Victims of Crime.

Unlike the Victims Code of Practice, the Witness Charter is not set out in law, and there may be constraints which affect the ability of the Criminal Justice agencies to provide the service to all witnesses in all cases.

### **Being kept updated on progress during the investigation:**

After you have given a statement, if the offence is of a **very serious nature** and the Home Office have told you that you are likely to be called to give evidence in court, the Home Office will seek to update you:

- at least once a month on the progress of the case until the point of closure of the investigation or
- at the point at which someone is charged, summoned, or dealt with out of court.

### **Being kept updated on progress after charge:**

If you are a prosecution witness to any offence, the Home Office will seek to inform you:

- when the defendant has been charged
- whether the defendant has been released on bail to attend court, or held in custody until the first court appearance
- what relevant bail conditions apply.

**Further information** about being a witness can be downloaded from the Crown Prosecution Service website at [www.cps.gov.uk/victims\\_witnesses](http://www.cps.gov.uk/victims_witnesses)

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**STATEMENT OF WITNESS**

(*Criminal Procedure Rules, r. 27.2;*  
*Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B*)

**STATEMENT OF** Helen Louise SEFTON

**Age of witness (if over 18 , enter "over 18"):** Over 18

**This statement (consisting of 5 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe it to be true.**

I am a Senior Licensing Officer employed by the City of York Council to administer and enforce a wide range of licensable activities. I have been a Licensing Officer for over 20 years, I am trained, qualified and authorised in several licensing regimes. Part of my role is to inspect licensed and unlicensed premises in accordance with the Licensing Act 2003.

On 8 September 2017 I was tasked to attend a multi-agency operation targeting two licensed premises within the district of York. At that time I held the position of Licensing Enforcement Officer. The operation was led by North Yorkshire Police, also in attendance were officers from the Home Office Immigration Enforcement Team. At 18:00 on 8 September 2017 I attended a briefing at Fulford Road Police Station in York where Inspector FREER outlined the plan for the evening and allocated roles and responsibilities to the Officers. I was to attend an address in York entering the premises under my powers conferred under Section 179 of the Licensing Act 2003, once I had carried out my inspection at the first address I was then to attend a premises at 2-4 George Hudson Street, York, YO1 6LP also under the powers conferred by Section 179 of the Licensing Act 2003.

Continuation statement of Helen Louise SEFTON

At approximately 20:00 on the 8 September 2017 PC BOLLAND Licensing Officer from North Yorkshire Police and I attended a premises, called REGENCY Supermarket located at 2 – 4 George Hudson Street, York, YO1 6LP. Police and Immigration Officers were already in attendance at this premises and had already searched the premises and spoken with staff. The premises consisted of a supermarket to the left of the front door/entrance and a restaurant/takeaway to the right. I met the Manager who introduced herself as Tina FENG although her actual name was Yan Tong FENG. FENG advised me she had worked at the premises for 2 years, she was unable to use or view the CCTV as she did not have the necessary permission to use the system. FENG stated staff were trained but it was not documented. She stated the Designated Premises Supervisor (DPS) was Zhong Le CHEN. She stated the restaurant side of the premises also had a manager but did not provide a name for that person. She advised the premises did not open beyond 1am. I noted that the front glass door of the premises which was also a fire exit was broken and in need of urgent repair, one side of the door was in a locked position due to the damage – I asked FENG to get this done as a priority as this meant the fire escape route was effectively reduced in width by 50%. FENG was advised that someone on site needed to be able to access the CCTV and that all training must be documented. I was also informed by a Police Officer on site that when they first attended the premises the rear fire door, which had a push bar, was locked shut. I was made aware on the night that the Immigration Officers had detained members of staff from this premises who



Continuation statement of Helen Louise SEFTON

potentially did not have the right to work in the UK, I do not know the specific number of staff members detained.

In the summer of 2019 I was contacted by Inspector FREER of North Yorkshire Police, he told me of his intention to organise another multi agency visit to both to two licensed premises in York, he wanted support from the Licensing Team. At 16:30 on 6 September 2019 I attended a briefing at Fulford Road Police Station. In attendance were officers from North Yorkshire Police, HMRC, Home Office Immigration Enforcement, the Gangmasters and Labour Abuse Authority, North Yorkshire Fire Authority Officers, City of York Council Housing Enforcement Officers and several interpreters. I was tasked to attend a restaurant on Barbican Road, York whilst my colleague Nigel WOODHEAD was to visit the premises at 2-4 George Hudson Street, York.

On 28 November 2019 I visited the REGENCY Supermarket with PS BOOTH to assess compliance with a Section 19 notice that had been issued by North Yorkshire Police and to hand deliver a letter from myself regarding a recent application that had been made to the Licensing Authority to apply to vary the Designated Premises Supervisor (DPS) at the address. PS BOOTH requested to speak with the Manager, a member of staff name Julie LI stated the Manager was Tina FENG but she was not available. PS BOOTH and I were shown some training records and the CCTV system. The training records stated the DPS was Zhen Cheng FENG however this was not correct, the DPS at this time according to the records held by the Licensing Authority, was Zhong Le CHEN. My letter was left

Continuation statement of Helen Louise SEFTON

with LI with instructions to pass onto the current DPS and premises licence holder CHEN as soon as possible.

On 24 February 2020 the Licensing Authority received an application to transfer the premises licence at 2 – 4 George Hudson Street, York. The applicant was Yan Tong FENG (Tina).

On 10 March 2020 North Yorkshire Police objected to the transfer application by made FENG. North Yorkshire Police objected to the application on the grounds of the prevention of crime and disorder.

On 8 June 2020 at a Licensing sub-committee hearing the Licensing Authority refused the transfer application on the grounds on Crime and Disorder. On the same date the premises licence for 2 – 4 George Hudson Street was revoked following an application to review the premises Licence made by the Licensing Authority. The reasons being stated in the decision letter exhibited as HLS/1.

29 October 2020 I accompanied PC Hollis on a visit to the REGENCY at 2 – 4 George Hudson Street to assess compliance with a Section 19 notice previously served by PC HOLLIS. We asked for the manager and were introduced to Tina FENG. Tina spoke with PC HOLLIS regarding the notice.

Continuation statement of Helen Louise SEFTON

**Signed:** *HL Sefton*..... (witness)

**Date:** 08/02/2021.....

*(To be completed if applicable: .....*

being unable to read the above statement, I .....

of .....

read it to him/her before he/she signed it.

**Signed:** ..... **Date:** .....

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Anthony Dean  
Public Protection Manager  
City of York Council  
Eco Depot  
Hazel Court

Customer and Corporate Services  
Directorate

Democratic Services  
2<sup>nd</sup> Floor  
West Offices  
Station Rise  
York YO1 6GA

22 June 2020

Dear Mr Dean

**Re: Licensing Sub-Committee Hearing – Review of Premises  
Licence for Regency, 2 – 4 George Hudson Street, York, YO1 6LP  
(CYC/053937)**

I am writing to inform you of the decision of the Licensing Sub-Committee which heard your application for a review of the Premises licence on 8 June 2020.

In considering your application and the representations made, the Sub-Committee concluded that the following licensing objective(s) were relevant to this Hearing:

1. The prevention of crime and disorder
2. Public Safety

With the agreement of all the parties, the Sub-Committee decided that it would be expedient to hear the three applications together (Reviews of Premises Licences for The Regency, 16 Barbican Road, York, YO10 5AA (CYC/009221) and Regency, 2 – 4 George Hudson Street, York, YO1 6LP (CYC/053937) and Application for transfer of premises licence for The Regency, 2-4 George Hudson Street, York, YO1 6LP (CYC/053937) as they would cover some of the same ground. In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

3. The papers before it.

4. The Head of Public Protection's reports and his comments made at the Hearing. He outlined the reports in respect of the three applications being considered at the Hearing.

In response to questions from Mr Grant (Counsel for the Applicant), the Head of Public Protection clarified that the transfer application related to the premises licence for the George Hudson Street premises. Mr Grant pointed out that on page 346 of the reports pack the legal test for the transfer application in option 4 should state "appropriate" instead of "necessary". The Head of Public Protection thanked Mr Grant for the correction. There were no questions from Mr Shaikh (Solicitor for the Premises Licence Holder and Licence Transfer Applicant), Sgt Booth (North Yorkshire Police) or Members.

5. The representations of Mr Grant, who presented the case for the Applicant for the two reviews. He stated that the two reviews related to two different Regency Premises, one at 16 Barbican Road which was a restaurant, takeaway and karaoke bar, with a Licence to open to 4am each day. The second Premises was also called Regency, at 2-4 George Hudson Street and was a Chinese restaurant and supermarket and was open midweek until midnight until 3am on Saturday and Sunday. These reviews engaged two licensing objectives; the prevention of crime and disorder and public safety. The licensing objective of the protection of children against harm may also be an aspect. He stated that the operators of the restaurants were incorrigible employers of illegal workers, all Chinese nationals. With reference to illegal workers, in April 2017 and on 2 September 2019 for the Barbican Road Premises there had been a total of 4 visits - on one occasion no illegal workers found, but on the three other occasions a total of 10 illegal workers were found on the Premises. Regarding the George Hudson Street premises, over the same period, a total of 3 visits, illegal workers were found on all 3 visits, making a total of 6 illegal workers. He stated that over 2.5 years, there were 7 visits to the two restaurants and on 6 occasions illegal workers found, totalling 16 illegal workers. He stated that this total excludes the 2014 inspection where further illegal workers were found in fairness to Mr Chen as this visit pre-dated the current licence holder.

Mr Grant stated that the employment of illegal workers was taken seriously in the context of licence reviews. He explained that the licensed sector had been found to employ the majority of illegal immigrants in the UK and this usually involved the exploitation of vulnerable people working on unlawfully low rates. In this case, the

workers were paid no more than £2-£3 per hour, way under national minimum wage. As vulnerable people who are in the country illegally they could not go to the authorities to complain on their treatment. He stated that another impact of illegal workers was that it undercut other law abiding restaurateurs in York who had to pay the legal, national wage and could not compete with Mr Chen. It also acts as a positive incentive for more illegal immigrants to come to country often using dangerous methods. He stated that there had been additional repeated failures sometimes amounting to criminal failures by the operators of Regency, including persistent breaches of licence conditions and repeated fire safety failures on more than one occasion which was of particular concern as a number of people were sleeping in make shift bedrooms in the premises. Mr Grant stated that there had also been a failure to protect children from being sold knives, and failures to properly have a system at work which ensured that hygiene and food standards were observed. He stated that this undermined the public safety licensing objective.

Mr Grant also said that the Sub-Committee's decision could have a proper deterrent impact on other irresponsible licensees tempted to flout the law. He stated that the Applicant for the licence transfer, Ms Feng provided no acceptable remedy to the reviews as Ms Feng had been part of the problem, so was unlikely to be part of solution. This was the reason that the Applicant for the reviews had something to say about the transfer, as they were linked because the operator was saying that the premises licence for one of the premises should not be revoked as there was someone it could be transferred to. Mr Grant outlined a number of multi-agency visits to the premises as follows:

16 April 2016

Barbican Road – intelligence that there were fire safety issues which led to a visit by Kevin Caulfield (NYFRS) (statement at page 139). Fire safety advice was given to the operators and was not taken up on subsequent visits.

7 April 2017

George Hudson Street – visit by Glyn Jones (Immigration Service) during which one Chinese national was arrested for illegal working and had entered UK without permission. (Statement at page 97).

21 May 2017

Barbican Road – one Chinese national arrested for illegal working. No permission to work.

8 September 2017

Intelligence led multi agency visit by North Yorkshire Police, Licensing Officers, Immigration Officers, HMRC visit to both restaurants. At Barbican Road there were 6 illegal workers on site, and there was sleeping accommodation with bunk beds on the second floor. Mr Chen wasn't there, arrived later, and had difficulties with English. No-one could operate the CCTV, there was a lack of staff training, and there were no notices asking customers to be respectful to residents. There was also no waste management plan. Advice was given to Licence Holder to put matters right.

On the same date the same officers went to the premises in George Hudson Street where one illegal worker was found working in breach of workers permission to enter UK. On this visit to George Hudson Street, Tina Feng who was now the applicant for transfer was present. She described herself as the manager and said she been there for 2 years which would have covered the time when the illegal worker was found on 7 April 2017, and she managed the premises when on at least two occasions illegal workers were found in the George Hudson Street premises. Ms Feng was unable to use the CCTV and show documentation to show staff training. There were also fire safety issues which had a real impact on public safety as means of escape were locked or shut.

11 September 2017

A fire safety officer visit to the Barbican Road premises after a complaint that 20 people were living in the premises in cramped conditions. Advice was given.

14 September 2017

An inspection of the George Hudson Street premises found there was no fire detection system in the basement, a door was held open in the basement, and there was no record of staff training. A notice of the deficiencies was served. Mr Grant noted that Ms Feng was the manager at that time.

18 July 2017 – At the George Hudson Street Premises Ms Feng as manager sold a knife to a child. Ms Feng signed a caution admitting the offence on behalf of the company.

16 March 2018



An inspection of the Barbican Road premises was the only occasion no illegal workers found.

14 August 2018

A visit to the Barbican Road premises by Public Protection led to Mr Chen being convicted and fined for three food safety breaches of food safety regulations (Summonses at page 99).

6 September 2019

Both premises were visited. At the Barbican Road premises, there were three illegal workers, rooms were turned into sleeping accommodation on the second floor, decoration work was taking place and fire exits were blocked. There was a defect with the fire alarm and a fire safety prohibition notice to stop people sleeping on the premises was later served. None of the breaches of licence conditions from previous visits had been remedied – there was no staff training, staff management plans, no registers, no incident registers and no working CCTV. Officers were concerned as they smelt cigarette smoke in toilets and karaoke rooms and the small karaoke rooms were being used for sleeping in and this was confirmed by an Eastern European male who appeared to collect a passport.

6 September 2019

George Hudson Street premises– four illegal workers were found. Miss Feng was present while four workers were working with her. There were further breaches with CCTV, no staff training and no incidents and refusals register. There were no notices asking people to leave quietly. Ms Feng was described by officers as being “very uncooperative with Officers”. In the basement there were suitcases with female clothing stored suggesting that the premises was used to house workers.

9 September 2019

Barbican Road premises– safety audit found that padlocks were fitted to sleeping accommodation and fire exits were blocked. A Prohibition notice was served.

24 October 2019

Barbican Road premises – a visit by licensing officers found that licence breaches were the same as identified during the visit 6 weeks earlier. North Yorkshire Police served a closure notice as a warning. A visit to the premises in George Hudson Street the same day found that the same conditions were being breached and another closure notice was served. There were several males residing on the top floor.

A week later faced with closure of Premises, on 31 October 2019 the Barbican Road conditions breached had been rectified and the George Hudson Street breaches had been rectified save for CCTV still showing the wrong date and time.

4 November 2019

An application was made by Ms Feng as manager to change the DPS for the premises at George Hudson Street to Mr Feng, who gave his address as 2-4 George Hudson Street. He had no legal right to work in UK.

Mr Grant also referred to the evidence of Inspector Freer but would not give any details. He submitted that for all of those reasons the revocation was the only course as there were overwhelming failures in this case by the current licence holder and by Miss Feng, the proposed Licence holder of the George Hudson Street premises. He stated that the law had been summarised at page 298 of Agenda papers. In summarising he noted that chapter 11 guidance (page 324) indicated that that some forms of criminality associated with premises are treated particularly seriously, one was illegal workers, and licensing officers should use review procedures effectively to deter such crime and where the Licensing Authority feels that the crime prevention objective has been undermined, it is expected that revocation of licence in first instance should be considered. He noted the deterrent effect or revocation approved by two High Court decisions in the papers bundle and said that an important public interest is raised if licensees can make money through operating illegally and then transfer the license to someone else, as it undermines the whole licensing system.

6. The representations of Mr Shaikh, the Solicitor for the Premises Licence Holder and Ms Feng then provided a response to the two Reviews and he presented the Application for Transfer of the Premises Licence at the George Hudson Street premises.

Mr Shaikh noted that some of the matters referred to in the representations made by Mr Grant were old matters. He explained that the background history was that there had been breaches of the premises licences which have been brought to Mr Chen's and Ms Feng's attention but from November 2019, as stated by Mr Grant, the notices were complied with and there were no further issues.

Mr Shaikh stated that the documents he provided shortly before the hearing established regarding the proposed revocation of the licences and illegal workers was that no action was taken against Mr Chen or Ms Feng on those matters.

Mr Shaikh submitted that revocation of the licences was not necessary or proportionate. Mr Shaikh accepted that there have been past misdemeanours. Addressing the concern raised by Mr Grant regarding the selling of knives Ms Feng had accepted a caution on behalf of the company and she did not herself sell the knife. He added that the matters raised by the multi-agency visits were not minor matters but when running a restaurant his clients could not be there 24 hours a day, 7 days a week and running a restaurant means delegation of responsibility. He said that they had undertaken all due diligence checks as best they could for illegal workers and did not knowingly employ any illegal workers. There had been no prosecution for immigration offences at either restaurant. Mr Shaikh stated that sleeping upstairs or on the premises had never been permitted, but given the nature of business, some employees took a 15 minute nap due to length of hours.

Mr Shaikh stated there had been no further breaches. It was a family run business and all parties are interconnected. He appreciated that Ms Feng had undertaken the training required for a personal licence and understood the responsibilities she had to comply with. The prosecution for food hygiene standards was against Mrs Chen and the company operators, not Mr Chen.

As to Mr Grant's suggestion that one of individuals employed was not entitled to work, Mr Shaikh stated that the individual was employed, had a restricted a visa, 5 year permit to work. This had expired and a further application was made to extend the visa.

Mr Chen gave evidence to the Sub Committee through his interpreter; He had not been convicted or interviewed for immigration offences. He said he had undertaken a programme of training to ensure compliance with the requirements of the licence. Both restaurants were a family business and he had been involved in them for 3 years. Illegal workers did not sleep at the premises. He had never employed illegal workers to his knowledge. To ensure workers were not illegal he checked passports and their work visas and also checked with the Home Office. As to how Mr Chen would convince the panel that he would ensure above and beyond that no illegal workers will be on his premises, Mr Chen confirmed that he would operate according to the requirements of

the licence and will take all steps to ensure that all were legal. As to Mr Grant's assertion that it was too little too late and he tended to do things when it was the final straw, Mr Chen confirmed that in future he will do his best to comply and do everything he can to make improvements. Mr Chen stated that he was not aware that a knife had been sold to a child and that in future he would ensure that ID was produced to prove that the purchaser was over age of 25. He said that for the last 24 months the food hygiene rating at both premises was 3 stars but they were doing their best.

Ms Feng (Applicant for the License Transfer for the premises in George Hudson Street) gave evidence through her interpreter. In relation to the caution, Ms Feng explained that an 18 year old staff member on their probation period was working in the shop and unknown to her sold a knife to a child. Ms Feng admitted responsibility and has since trained staff to check the age was over 24 years old. There had not been any other issues since the section 19 closure notice had been complied with. She confirmed that she had not been interviewed regarding immigration offences against illegal workers and had not knowingly been in control of illegal workers or allowed them to stay on the premises. She checked their passports, work permits and if in doubt would check with the Home Office. Additional checks in place involve keeping a copy of the ID. She confirmed she understood the importance of having working CCTV on the premises. Apart from the caution, she had no convictions recorded against her for any other matters. She confirmed she understood that she was part of the family business if the transfer of the licence was revoked, many of her staff would lose their jobs and she would to lose her income. She is a single parent with two children to support. This was her livelihood and she could not lose it.

She explained that to ensure that the licensing objectives were not undermined, they are going to replace all CCTV systems to ones which are easy to operate. They would put posters up in the restaurants to remind customers to leave quietly and warnings for age and alcohol consumption and purchase. They would comply with the fire regulations and update all the fire systems.

As to it being too little too late, Ms Feng said that was not correct and that when they received suggestions they always took action to make improvements. This was done bit by bit.

In response to question from Mr Grant as to why when Mr Chen has given evidence that he carried out checks on all workers over a number

of years he still managed to employ 16 illegal workers on 6 occasions, Mr Chen replied that normally workers arrived on Saturdays and Sundays, he would try and contact them then, but then he found it hard to get through and a lot of workers were newcomers, he confirmed that he was aware that he had a legal obligation to keep a copy of the documents and that he did have copies but there were not as many as 16 illegal workers.

Mr Grant asked Miss Feng whether she could you explain why on 25 October 2019 the DPS proposed was also an illegal worker and the name was Zen Cheng Feng which had same home address as Miss Feng. Ms Feng replied that he was her younger brother and this was a family business. She confirmed that she was not related to Mr Chen the licence holder and they were just friends.

In response to questions from Sgt Booth, Mr Chen explained that Zen Cheng Feng told him that he was in the process of applying for an extension of his visa and he believed he was legal which was why he applied for the DPS transfer to him. He said he did carry out Home Office checks and his visa was pending. As to whether the Home Office confirmed he had a right to work in the UK, Mr Chen replied that he saw his previous visa and a letter confirming that he had applied for a visa.

As to why repeatedly he had failed to engage with the Licensing Authority and Police following request for him to contact them on 24 October 2019 and 31 October 2019 and two letters from Licensing Authority on 13 November 2019 and 28 November 2019 regarding the issues raised, Mr Chen replied that he asked his manager to do this.

Members of the Sub-Committee then asked questions as to whether there would there be written evidence of checks being made with the Home Office. Mr Shaikh responded that it was his understanding that it was a direct dial line which was used. Mr Shaikh said he had emailed the Home Office for confirmation regarding Zheng Feng Chen, it was not in the submitted evidence but he did receive an email. He noted that replies from Home Office were usually on the telephone. He confirmed that the principal position was not to revoke the licences but the imposition of additional conditions would be the lesser of two evils.

Mr Shaikh also noted that all employees were entitled to 15 minute break every hour and because staff were working long hours in kitchens, took naps for 15 minutes. A shelter was to be put outside and naps were to take place outside due to fire risks.

7. Representation from Sgt Booth, North Yorkshire Police. She outlined the North Yorkshire Police representations in relation to the two premises licence review applications and to the application to transfer the premises licence.

She stated that North Yorkshire Police believed that the crime and disorder objective was seriously undermined, as mentioned by Mr Grant. The Guidance states some criminal activity should be treated particularly seriously, including using premises to employ a person who cannot work in UK. She stated that the statements from Helen Sefton and Nigel Wood head and PC Bolland and PC Hollis was a joint partnership approach to deal with the issues at the premises. In 2017 a number of persons were removed from Barbican Road and George Hudson Street premises who had no right to work, and there was also failure to comply with safety and fire safety issues there was a persistent failure by Mr Chen to address concerns regarding staff. Following the visit on 8 September there was no responsibility taken by Mr Chen. She noted that as a minimum they expected Mr Chen to engage with the Licensing Authority and North Yorkshire Police to work on a stepped approach to ensure the safeguarding of staff and customers attending the premises. She stated that there was no suggestion by the premises licence holder or anyone at the premises of any HR management system to store records for staff, and no copies of documents retained for staff to make available to agencies on request. Although Mr Chen said he had conducted checks on Home office website to ensure all staff were legally employed, there had been no evidence submitted as to how he conducted those immigration checks or if they even have been conducted. She added that there were no new staff details to suggest they had undertaken training to meet any of four licensing objectives. She stated that the failing to take action after first visit resulted in further information being received and further operation on 6 September 2019 when again Immigration staff removed officers, as detailed in Glyn Jones' statement.

Sgt Booth stated that on 4 November 2019 North Yorkshire Police received an application for a new DPS at George Hudson Street and carried out checks and found the person had no right to work in UK. Mr Chen signed the application as premises licence holder but failed to take responsibility and carry out due diligence checks. Mr Chen did not engage with the Licensing Authority or North Yorkshire Police to discuss concerns following their visit to the premises. At the time of the transfer request Mr Chen was the DPS for George Hudson Street and it was

expected that the DPS is the person with day to day responsibility and should be available and should contact North Yorkshire Police or the Licensing Authority if requested. No formal communications have taken place with North Yorkshire Police or the Licensing Authority and Mr Chen failed to respond to visits, phone calls or letters.

Regarding the premises transfer licence application, North Yorkshire Police have objected on grounds that granting the application would prejudice and undermine the crime and disorder licensing objective. The transfer was merely a smokescreen to say that Mr Chen was not involved in the business running. However, Members have heard that it was a family run business. Ms Feng had also been at the Premises when illegal persons found and removed and she was closely associated as she had same address as DPS who had no right to work in UK and has been involved when there has been a breach of licence conditions. Sgt Booth noted that PC Hollis attended the premises on 24 October 2019 asked about premises licence holder and Ms Feng said she said not heard of him, and didn't know who he was. Sgt Booth asked whether this was the evidence of a credible person. She reminded Members of Inspector Freer's statement.

She said that Mr Chen had failed to address issues, failed to train staff, not communicated, and failed to implement robust measures to deter criminal activity in the Premises. CCTV not working was also a concern to North Yorkshire Police as CCTV can provide a good deterrent for criminal activity. Sgt Booth submitted that North Yorkshire Police consider that the only choice for the Sub Committee was to revoke both licences and refuse application to transfer to deter further crimes.

In response to questions, Sgt Booth confirmed that during the first visit in 2017 when Mr Chen attended the premises a further staff member had to interpret for him as he was unable to understand what was asked to do of him. That person (who was not Zhong Chen Feng) identified themselves as the manager of the premises.

As to whether there was any evidence to identify who were illegal workers and who were customers, Mr Glyn Jones (Immigration) confirmed that Immigration officers were well trained and versed in who was working and wouldn't ordinarily question customers. Mr Jones stated that some of those who had been removed from the premises were removed from the UK, and others granted bail.

All parties then summarised in the following order: Police, Applicant for Reviews, premises Licence Holder/applicant for transfer.

Sgt Booth stated that North Yorkshire Police were concerned that if revocation was not the outcome, the premises would continue to undermine the licensing objective of crime and disorder. There were grave concerns that the premises licence holder had not attempted to engage, respond or work with the Licensing Authority or North Yorkshire Police to ensure compliance with the licences for George Hudson Street and Barbican Road. She strongly asked the Sub-Committee to consider Inspector Freer's evidence and ask for the revocation of the licences and for and the transfer to be refused.

Mr Grant stated that in terms of number of failed illegal worker inspections and workers, of seven inspections there had been six failures and a total of 16 illegal workers. He stated that the response on behalf of Mr Chen and Ms Feng appeared to be that they did check out illegal workers, but they can't produce evidence to demonstrate that, including no photocopies of passport or visas, which they had a legal obligation to retain. He said the Sub-Committee were being misled by the operators, who didn't check, didn't look at passports or visas as they didn't care if workers were legal or illegal and knew that if they were illegal they could pay them next to nothing, so there was financial gain for them. The other option was that they did carry out checks but for reasons which can't be explained 16 workers were illegal and weren't customers. Glyn Jones confirmed in his statement was clear that they were workers, not customers. Mr Grant stated that if the Sub Committee needed further evidence to decide the factual issues as to whether Mr Chen deliberately employed those workers, they should look at the recent DPS application in October 2019 by Mr Chen, which was Miss Feng's younger brother who had no right to work in the UK. Mr Grant added that Mr Chen's evidence was that he would allow people to work at weekends before carrying out right to work checks. This spoke volumes about their approach. Referring to paragraph 18 of the Abu Hanif case on page 303 of the Agenda pack, Mr Grant said that the question was not whether there had been criminal convictions as prevention of crime and disorder can be retrospective and that the reviews applicant says that prevention and deterrence calls for full revocation of the licences. Lately there were no issues but this was late in the day and the licence should be revoked due to concerns with crime and disorder.



Mr Grant stated that the information on pages 96, 141 and 143 of the Agenda pack all confirmed that the workers were illegal.

Mr Shaikh stated that Mr Chen and Ms Feng had done things wrong and there was a history of rectification notices which had been sorted and all was now in order apart from the CCTV. He added that there had been speculative criminal activities and he had not seen evidence that all 16 persons removed were illegal workers. He added that Mr Chen had not been interviewed by the immigration authorities and there had been no issues since November 2019. He added that Ms Feng was not responsible for the supply of the knife.

### **Decision**

Having regard to this review application and any relevant representations, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 52(4) that it considered necessary for the promotion of the licensing objectives. Taking into consideration the papers, evidence and submissions received and answers to questions, the Sub-Committee deliberated the 5 different options available to them and agreed to reject the following options:

Option 1: To modify the conditions of the licence (i.e. to alter, omit or add any new condition).

Option 2: To exclude a licensable activity from the scope of the licence.

Option 3: To remove the Designated Premises Supervisor.

Option 4: To suspend the licence for a period not exceeding three months.

The Sub-Committee's decision was to agree to the following option:

Option 5: To revoke the licence.

The Sub-Committee noted that this application was discussed alongside the review for the other Regency premises and the application to transfer the premises licence for Regency in George Hudson Street as the applications covered some of the same ground

### **Reasoning for decision**

In reaching its decision, the Sub-Committee gave due consideration to:

- The promotion of the licensing objectives as set out in the Licensing Act 2003, in particular the prevention of crime and disorder and public safety.
- The Council's Statement of Licensing Policy.
- The Home Office Guidance issued under section 182 of the Licensing Act 2003.
- The Licensing Sub-Committee agenda pack for the application, the additional statement of Inspector Freer dated 29 May and the additional documents submitted by Mr Shaikh on 5 June 2020 and circulated before the start of the hearing.
- The oral representations made during the hearing.

In making its decision, the Sub-Committee:

- Considered the following parts of the section 182 Guidance:

#### Section 182 Guidance

"2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when

considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;

11.28 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 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.”

- Took account of the evidenced cases of repeated immigration offences at the premises, specifically the recorded incidents of 8

September 2017 and 6 September 2019 during which a number of immigration offenders were encountered. The Sub-Committee further noted that during submissions the premises licence holder disputed that the persons identified as working illegally at the premises on those dates were in fact employees. However, the Sub-Committee was of the view that on the basis of the evidence submitted by the Home Office, which are an intelligence-led organisation, and on the balance of probabilities it was more likely than it was not that they were so employed by the premises licence holder. The Sub-Committee was satisfied that the management was ineffective in any checking of the documentation of staff they were employing at the premises to ensure that they had a legal right to work in the UK and noted that the premises licence holder had not actually produced any documents to evidence that any such checks had in fact been carried out..

- Found the employment of illegal workers at the premises as wholly unacceptable and that it clearly undermines the licensing objective of prevention of crime and disorder.
- Were satisfied on the evidence that there had been sustained and significant breaches of licensing conditions and fire safety issues and that this undermined the prevention of crime and disorder and public safety licensing objectives.
- Noted that Mr Chen had been premises licence holder during the whole time that these immigration issues and fire safety and licence breaches had occurred.
- Took into consideration the fact that there have been no further incidents at the premises reported since November 2019 and that that the premises licence holder had not been convicted or questioned by the Home Office with regard to immigration offences at the premises. They also noted that the revocation of the premises licence would be likely to harm the business and its employees.
- Noted that in light of the High Court decision in the case of *East Lindsey DC v Abu Hanif (t/a Zara's restaurant and Takeaway)*, the crime prevention objective did not require a crime to have been reported, prosecuted or established in court. The crime prevention objective is not retrospective; it is concerned with the avoidance of harm in the future.

- Put weight on the fact that despite several attempts by the Police and the Licensing Authority to work with the premises licence holder, there had been no engagement with those responsible authorities by the premises licence holder.
- Attached no weight to the food hygiene convictions in 2018 in respect of the Barbican Road premises, no weight to the caution of Ms Feng in 2017 for the sale of a knife to a child at the Regency Street premises and no weight to the ongoing wider criminal investigation (beyond the employment of illegal workers) referred to in the two restricted statements of Inspector Freer.
- Considered all the options open to them and noted that whilst the Sub-Committee had to consider what appropriate steps to take on review, such steps taken must also be proportionate. It recognised that a request for revocation of a licence was a major and severe step that had to be treated seriously, and that they had to consider whether there were alternative measures such as imposing conditions or adopting another sanction using its powers available to it under section 52 (4) of the Licensing Act 2003.
- They noted that the premises licence holder had a history of failure to comply with licensing conditions. They felt that given the history of repeated failings at the premises (significant breaches of conditions, fire safety issues and the presence of illegal workers) the premises suffers from either a lack of regard or poor management control had no faith in the premises license holder being able to sustainably uphold the licensing objectives in the future, particularly prevention of crime and disorder and public safety.
- Due to the gravity of the situation and taking into particular account the promotion of the crime prevention objective, including acting as a deterrent, believed that other sanctions including the imposition of further or amended conditions or a suspension of the licence would be ineffective in the promotion of the licensing objectives of prevention of crime and disorder and public safety. Accordingly it was determined that the premises licence should be revoked.

The decision will not take effect until the end of the period for appealing against the decision. In the event of an appeal, the existing licence will continue until the appeal is determined.

**Right of Appeal**

There is a right of appeal for the Premises Licence holder to the Magistrates Court against this decision. Any appeal to the Magistrates Court (preferably in writing), must be made within 21 days of receipt of this letter and sent to the following address:

Chief Executive  
York and Selby Magistrates Court  
The Law Courts  
Clifford Street  
York  
YO1 9RE

Thank you for attending the hearing.

Yours sincerely

Angela Bielby  
Democracy Officer  
(01904) 552599

cc. Representors  
cc. Licensing Officer

Additional Information The Regency 2-4 George Hudson Street

Regarding Exhibit JB/06 email from Peninsula UK confirming they have been instructed as a HR consultancy firm for the Regency, I would draw members attention to the Section 182 guidance Para 2.6 which states the following:-

*“2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises. “*

Members are further asked to note Exhibit JB/07 email from applicant Mr Man ( after an agreement was made with Peninsula) advising that he has nothing to ask in respect of the Police Representation.

No additional conditions have been offered to mitigate any concerns surrounding illegal working at the Premises from the applicant.

Members are also asked to consider the Section 182 Guidance Para 9.12

*“9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local areas. The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective. 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. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. “*

In line with Section 18 (9) of the licensing act which states the following:-

(9)The requirements of this subsection are that the representations—

(a)were made by a chief officer of police for a police area in which the premises are situated, and

(b)include a statement that, due to the exceptional circumstances of the case, he is satisfied that the designation of the person concerned as the premises supervisor under the premises licence would undermine the crime prevention objective.

Given the additional witness statements and evidence from the Police members are asked to consider that there are exceptional circumstances in this case to suggest that the applicant who has applied to be the premises licence holder and DPS is not the person who will be responsible for day to day management of the Premises, but is a front person for the director Yan Tong FENG, who has been previously associated with Immigration offences at the Premises and failure to adhere to Premise Licence Conditions. It is for this reason the police would respectfully request the licence be refused.