

## **Licensing/Gambling Hearing**

**To:** Councillors Hook, Norman and Orrell

**Date:** Monday, 8 June 2020

**Time:** 10.00 am

**Venue:** Remote Meeting

### **A G E N D A**

#### **1. Chair**

To elect a Member to act as Chair of the meeting.

#### **2. Exclusion of Press and Public**

To consider the exclusion of press and public for part or all of the hearing in relation to Agenda Items 6, 7 and 8 if the Sub-Committee considers that any information is exempt in accordance with paragraph 7 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

#### **3. Introductions**

#### **4. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

## **5. Minutes**

To approve and sign the minutes of Licensing Hearings held on 4 July 2019, 7 November 2019 and 27 February 2020. (Pages 7 – 32)

- 6. The Determination of an Application by Anthony Dean for the Review of Premises Licence [Section 52(2)] in respect of The Regency, 16 Barbican Road, York, YO10 5AA (CYC/009221) (Pages 33 - 148)**
- 7. The Determination of an Application by Anthony Dean for the Review of Premises Licence [Section 52(2)] in respect of Regency, 2-4 George Hudson Street, York, YO1 6LP (CYC - 053937) (Pages 149 – 344)**
- 8. The Determination of an Application by Yan Tong Feng for the Transfer of Premises Licence [Section 44(5)(a)] in respect of Regency, 2-4 George Hudson Street, York YO1 6LP (CYC - 053937) (Pages 345 – 388)**

Democracy Officer:

Name: Angela Bielby

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### **Distribution:**

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press

## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Licensing Hearing**

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

### **The Remote Licensing Hearing**

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.



12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

### ORDER OF PROCEEDINGS AT THE REMOTE HEARING

#### **Chair's introduction and opening comments**

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their

representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

### **Licensing Manager**

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

### **The Application**

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time [*maximum 15 minutes*].

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

### **The Representations**

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation [*maximum 15 minutes each party*]:

- Police
- Other Responsible Authorities

- Ward Councillors
  - Public representation
24. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

## Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
- Police
  - Other Responsible Authorities
  - Ward Councillors
  - Local residents
27. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

## Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not) usually within 5 working days of the hearing. There can be no further questions or statements.
31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.

The notification will include information about the rights of appeal against the determination made.

City of York Council

Committee Minutes

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Meeting	Licensing/Gambling Hearing
Date	4 July 2019
Present	Councillors Galvin, Mason and Norman

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**18. Chair**

Resolved: That Councillor Mason be appointed to Chair the meeting.

**19. Introductions****20. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

**21. The Determination of an Application by Marston's PLC to Vary Premises Licence [Section 35(3)(a)] in respect of Corner Pin, 17 Tanner Row, York, YO1 6JB (CYC-008996)**

Members considered an application by Marston's PLC to Vary Premises Licence [Section 35(3)(a)] in respect of Corner Pin, 17 Tanner Row, York, YO1 6JB (CYC-008996).

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The prevention of public nuisance

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:

1. The application form.
2. The following late evidence, circulated prior to and at the hearing:

- Updated proposed conditions received from the applicant's solicitor
3. The Senior Licensing Officer's report and her comments given at the Hearing. She outlined the report noting the proposed variation to the extension of licensable hours and activities for Fridays and Saturdays only and the information contained within the annexes to the report. She advised that the premises were in the red zone area of the cumulative impact assessment area. She explained that consultation had been carried out correctly.

The Senior Licensing Officer advised that North Yorkshire Police had made a representation on the grounds that that the licensing objectives of the prevention of crime and disorder and prevention of public nuisance would be undermined by the granting of the application. The representation had been withdrawn as the Police and applicants had agreed to an additional condition. There was one representation received from 'other persons' mainly on the grounds that the 'prevention of public nuisance' licensing objective will be undermined if the variation is granted. The Senior Licensing Officer noted the additional information submitted by the applicant's solicitor and from the representor. She then outlined the options available to Members in determining the application.

The Senior Licensing Officer was asked and explained that the patio is not included in the licensable area and is used for the consumption of alcohol.

4. The representations made by Mr Patrick Robson, Solicitor on your behalf at the hearing. The premises Manager and Area Manager of the premises also attended the hearing but did not make any representations. Mr Robson explained the reason for the extended hours on Fridays and Saturdays and during British summertime was for late night events and to allow flexibility to stay open later. He highlighted that the premises was not going to be open later than other premises in the vicinity and that there had been no objections from the Police or environmental health officer. He noted the condition that had been mediated with North Yorkshire Police.

With reference to the objection from the representor based on noise nuisance, Mr Robson referred to licensing guidance and in response to the representor's complaints about noise; he had submitted a Freedom of Information (Fol) request to City of York Council which stated that there had been no noise complaints to City of York Council. He added that there had not been any complaints regarding

the noise to the premises. Regarding noise he noted that doors had been left open during the day and the noise on a quiz night took place on a Wednesday, which had not been included in the licence variation. With regard to the outside festoon lighting, he noted that there had been a fault which had been rectified. He added that the outdoor CCTV was not directed at the representor's window and that the outside speakers were deregulated and were no longer in use.

Mr Robson commented on the personal relationship between the representor and premises manager noting that the representor had been banished from the premises since February and had entered the premises three times since. Mr Robson advised Members of the current licence conditions and he outlined the conditions the applicant was willing to put forward. He ended by stating that the applicant did not seek to trade every Friday and Saturday.

In response to questions, Mr Robson confirmed that:

- There had been two temporary event notices over the last year and under the further licence conditions offered, the licensable activities on Fridays and Saturdays would not be provided beyond 01:00 hours the following mornings more than 50 times per calendar year. The proposed condition related to a total of 50 Fridays and Saturdays.
- It was unlikely that the premises would trade later every Friday and Saturday.
- If incidents were report an incident register would be kept.
- The premises did not have any noise complaints.
- The Temporary Event Notices in the past had run to 02:00 hours with some being at 02:30 hours and 03:00 hours.
- The external lighting included festoon lighting and spotlights. The spotlights were turned off at 23:00 hours.

5. A Representor in writing and at the hearing. The Representor stated that the issue was the noise and lighting coming from the conservatory at the premises. He explained that his property was a Tudor house and because of this there were limitations with the building, for example with sound insulation which meant that from his home he could hear people talking in the outside area of the premises. He noted that if the door to the conservatory was open from 11:00 hours he could noise and this would become an issue if loud bass music was being played 01:00 hours. He added that the doors were open during club nights and he could hear the music from his house and that during the temporary event notices there was loud music from bass music.

The Representor stated that he didn't want loud music coming through his walls past 23:00 hours on a night and that the outside speakers faced his wall. He explained that he had made complaints about noise to the manager and that the speakers were on during the day. He explained that there was an issue with lights being on all night which illuminated his house and two bedroom windows. He expanded on how noise and lighting were an issue and in noting that there was after hours drinking and card games he referred to the photographs he submitted as additional information. He noted that up to 50 nights of extended hours could make his weekends hell and as the spotlights, outside speakers and doors being left open were an issue. He noted that doors and windows at the premises needed to be closed after 23:00 hours and that the current conditions needed to be adhered to.

In response to questions The Representor confirmed that:

- He was not happy that the outdoor spotlights did not face his home as they still illuminated his bedroom. He would be happy if the spotlights faced away from his house and were off by 11:00 hours.
- Only music being played from the conservatory was audible from his property.
- It would be useful to have a route of contact to make complaints.

The Senior Licensing Officer was asked and clarified that:

- Under the current licence the outdoor area needed to be cleaned and vacated by 23:00 hours every day. Mr Robson was then asked and confirmed that the applicant would be happy for all external lighting to be turned off at 11:00 hours and he requested that such a condition referred to the beer garden.
- Music was deregulated, resulting in existing conditions relating to this being unenforceable.

The Senior Solicitor was asked and advised that the outdoor lighting could be conditioned in relation to the proposed variation as offered as a condition by the applicant.

The applicant and representor were then given the opportunity to sum up. The Representor noted that the issues went back to the 2005 condition with the problems with lighting, bass music and doors being open. He concluded that to put back the times to 03:00 hours was unacceptable and the conditions needed to be controlled.



Mr Robson then summed up noting that the proposed condition regarding lighting may help. He was happy to propose limiting the number of times that licensable activities will be provided under the extended hours to a total of 40 times per calendar year. He noted the current conditions concerning the conservatory and entertainment. He added that there was a proven track record of the applicant was good, there had been no complaints, including during the Temporary Event Notices. He asked the Sub-Committee to grant the licence with the additional conditions as discussed and referred to the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court* [2008] that he had included as additional information. He was asked and explained how the two door staff would be managed on Friday and Saturday nights under the variation.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 35(3)(a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

In agreeing Option 2 the following conditions and modified/additional conditions were added to the licence:

1. On Fridays and Saturdays two SIA registered door staff will be deployed from 22:00 hours until the premises closes to the public but only when the premises is open to provide licensable activities after 01:00 hours. At all other times, door staff will be deployed on a risk assessed basis. When on duty, SIA door supervisors will wear high visibility armbands and sign in and out of the premises providing their full name and SIA number.

2. When regulated entertainment comprising live or recorded music is provided then external doors and windows will be kept closed except for the purposes of immediate access/egress. All external floodlights/spotlights shall be directed away from the neighbouring residential property.
3. All external lighting in the beer garden shall be turned off at 23:30 hours each and every day.
4. There shall be no regulated entertainment in the conservatory area shown edged [green] on the attached plan on Fridays and Saturdays after 00:30 hours.
5. Telephone contact details for the management of the premises shall be made available to the neighbouring residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee were not minded to grant the British Summer Time variation because this would adversely affect the neighbouring residential property.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached which addressed representation made both in writing and at the hearing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy especially in relation to cumulative impact, the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003 and the High Court's decision in *Daniel Thwaites Plc v Wirral Magistrates' Court* (relating to the standard of evidence at licensing hearings).

The Sub-Committee notes that the premises is located in the cumulative Impact Zone and that the Police had withdrawn their representation on the basis that a condition relating to door staff had been agreed with the applicant. The Sub-Committee also noted that none of the other Responsible Authorities had objected.

The Sub-Committee considered very carefully the representation of Mr Clark, who lived in a property adjacent to the premises. The Sub-Committee had careful regard to the concerns of the neighbouring resident

about the noise and light nuisance created by the current licensable activities and the close proximity of the application site to his residential property. The Sub-Committee noted that the proposed extended timings relate to licensable activities on Fridays and Saturdays only.

The Sub-Committee concluded that if the variation application were to be granted in the terms originally applied for there would be the likelihood of the resident being subjected to public nuisance in terms of noise nuisance from licensable activity in the conservatory and from outside lighting in the beer garden. The Sub-Committee therefore considered that the additional hours for licensable activities should not apply to the conservatory area of the premises and that, together with the imposition of other additional conditions including with regard to outside lighting and the exclusion of an additional hour on the commencement of British Summer Time, the variation to the premises could operate without undermining the licensing objectives. It also considered that this would not lead to an increase in the cumulative impact of premises in this area. Therefore the steps it had taken were appropriate for the promotion of the licensing objectives.

The Sub-Committee therefore agreed to grant the licence with the additional and mandatory conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr Mason, Chair

[The meeting started at 10.00 am and finished at 11.30 am].

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Meeting	Licensing/Gambling Hearing
Date	7 November 2019
Present	Councillors Galvin, Hook and Mason

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**22. Chair**

Resolved: That Councillor Mason be appointed to Chair the meeting.

**23. Introductions****24. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

**25. The Determination of an Application by Deniz Durdu for A Premises Licence [Section 18( 3) (a)] in respect of Cecils, 7 Kimbelow Hill retail Park, York, YO10 5LA (CYC-065069)**

Members considered an application by Deniz Durdu for a Premises Licence [Section 18( 3) (a)] in respect of Cecils, 7 Kimbelow Hill retail Park, York, YO10 5LA (CYC-065069)

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The prevention of public nuisance

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:

1. The application form.
2. The following late evidence, circulated prior to and at the hearing:

- Updated proposed conditions received from the applicant's solicitor and corresponding emails between the solicitor and representor.
3. The Senior Licensing Officer's report and the Licensing Manager's comments given at the Hearing. The Licensing Manager outlined the report noting the opening and operating hours and schedule, she noted the information contained within the annexes to the report. She advised that the premises was not in the cumulative impact assessment area. She advised that North Yorkshire Police had made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application. The representation had been withdrawn. There was one representation received from 'other persons' mainly on the grounds that the 'prevention of public nuisance' licensing objective will be undermined if the variation is granted. She noted the additional information submitted by the applicant's solicitor and from the representor, which had been circulated to all parties. She then outlined the options available to Members in determining the application.
  4. The representations made by Mr Walker, the Applicant's Solicitor at the hearing. Mr Walker distributed a map which the location of the premises in proximity to other licensed premises and residential properties. He explained that the premises sold hot food to eat in or take away, opened at 11.00am and closed no later than 11.00pm. He added that the application was to sell alcohol with food and clarified that no one would be able to buy alcohol and take it away. This meant that alcohol would only be provided as part of the delivery service post 11.00pm. He noted that the applicant was asking to sell alcohol with food for delivery.

Mr Walker advised that included in the additional information was two similar licenses and that the application being considered was more modest than those two applications. He explained that residential properties were not significantly affected by the premises because of their distance to it. He noted that the lease from the university was stringent. He added that that Unit 7 on the site was able to sell alcohol until 10.00pm without food.

Mr Walker reminded Members that the police had withdrawn their representation and advised that if the licence was breached, it could be reviewed. He ended by stating that the

application showed that the applicant has considered all of the licensing objectives.

In response to questions to the Applicant and Mr Walker it was confirmed that:

- Most orders came via the telephone
- There had been no consultation with the security team at the university. However, there had been no objection from the university.

5. The representations made by Cllr Norman, Hull Road Ward Councillor on behalf of the University of York Student Union and Graduate Student Union. Cllr Norman welcomed the condition offered by the Applicant. He asked Members to consider the Council Plan and noted that the nature of the campus was residential. The location of the premises was important, in particular because of the number of takeaways in the local area. He noted that the premises presented a high likelihood for students to purchase alcohol late. Cllr Norman was asked and explained that the University of York Student Union and Graduate Student Union had not made representation because of the timescale and complexity of making a representation. He added that it would have been useful for both to have been consulted on the application.

Cllr Norman highlighted that there was two issues with the application – the late night sale of alcohol which could contribute to public nuisance and the litter caused by the disposal of items from the takeaway. He requested an additional condition for the premises to help the local community pick to litter.

In response to questions from Members Cllr Norman explained that:

- Most of the litter came from takeaway packaging
- Residential properties were 150yds away from the premises and there were concerns about noise and disorder as a result of the late night alcohol being sold.
- His main concern was about alcohol being sold on the premises.

The applicant and representor were then given the opportunity to sum up. Mr Norman had nothing further to add in his summing up.

In summing up, Mr Walker, on behalf of the Applicant, stated that there was no noise issue at the premises at present and that alcohol would only be served with food. He offered the conditions to consult with the university and to assist with the collection of litter if assistance was needed. He was asked and clarified that customer could sit and dine until 11.00pm and that there would be no alcohol after 11.00pm.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

In agreeing Option 2 the following conditions and modified/additional conditions were added to the licence:

1. Alcohol only be sold after 11.00pm as part of the home delivery service – ie it will not be possible to buy alcohol at the unit itself after 11pm.
2. Alcohol would only be available for purchase with food at all times.
3. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.
4. The CCTV equipment shall have constant time /date generation which must be checked on a daily basis for accuracy.



5. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises and entrances / exits and outside designated smoking areas (excluding toilets).
6. The CCTV system recordings must be kept for a minimum of 28 days.
7. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
8. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.
9. All CCTV recordings will have sufficient clarity / quality / definition to allow facial recognition.
10. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:
  - retail sale of alcohol;
  - age verification policy;
  - conditions attached to the premises licence;
  - permitted licensable activities;
  - the licensing objectives;
  - opening times for the venue,with such records being kept for a minimum of one year. (For the avoidance of doubt the one year period relates to each entry in the log book and runs from the date of the particular entry.)
11. A refusal register / incident report record shall be maintained for the premises. Such registers, electronic or otherwise stored, will record incidents of staff refusals of underage or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Such registers shall be kept for a minimum of one year. (For the avoidance of doubt the one year period relates to each entry in the log book and runs from the date of the particular entry.)
12. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached which addressed representation made both in writing and at the hearing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

The Sub-Committee considered very carefully the representation of Cllr Norman, Hull Road Ward Councillor. The Sub-Committee considered that on balance, it had received sufficient assurances and evidence from the applicant in order to have a high level of confidence that the premises would be operated responsibly and that it could, with the imposition of conditions, operate without undermining the licensing objectives of prevention of public nuisance. They felt that this decision was proportionate on the basis of Home Office and local guidance and they concluded that on balance that all four licensing objectives would be met in granting the application with the mandatory and the above additional conditions.

The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above which were appropriate, proportionate and necessary in the circumstances to promote the licensing objectives.

Cllr Mason, Chair

[The meeting started at 10.20 am and finished at 10.55 am].

## City of York Council

## Committee Minutes

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Meeting	Licensing/Gambling Hearing
Date	27 February 2020
Present	Councillors Melly, Norman and Wells

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**30. Chair**

Resolved: That Cllr Wells be appointed to Chair the meeting.

**31. Introductions****32. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

**33. The Determination of an Application by Live Nation (Music) UK Ltd for a Premises Licence [Section 18(3)(a)] in respect of York Sports Club Fields, Event Site, Clifton Park, Shipton Road, York, YO30 5RE (CYC-065763)**

Members considered an application by Live Nation (Music) UK Ltd for a Premises Licence [Section 18(3)(a)] in respect of York Sports Club Fields, Event Site, Clifton Park, Shipton Road, York, YO30 5RE (CYC-065763).

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. Public Safety
3. The Prevention of Public Nuisance
4. The Protection of Children from Harm

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:

1. The application form.
2. The following information circulated prior to and at the hearing:
  - Proposed noise conditions received from the applicant's solicitor
3. The Licensing Manager's report and the comments of the Senior Licensing Officer given at the Hearing. The Senior Licensing Officer outlined the report noting that the application was for 3 event days per calendar year indefinitely. She noted the opening and operating hours and schedule, that it had an occupancy of 19,000 she noted the information contained within the annexes to the report. She advised that consultation had been carried out and that conditions had been agreed with North Yorkshire Police. She gave an overview of all representations, from the City of York Council Public Protection (Environmental Protection) from 'other persons' which had been received in support and objection. She advised that there were no planning issues and she then outlined the options available to Members in determining the application.
4. The representations made by the Applicant's Solicitor at the hearing, and his witnesses:  
Commercial Director Cuffe & Taylor  
Senior Event Manager, Cuffe & Taylor  
Technical Operations Manager, Cuffe & Taylor  
Managing Director, Cuffe & Taylor  
Acoustic Consultants

Mr Crier explained the application as being over three concert days from 3.00pm – 10.00pm, noting that 40% of ticket sales to date were from the York area. He noted the target audience for the event and economic and social benefits to the City. He advised that the applicants had engaged with the local community, and noted that the representors had been in support and objection. He advised that traffic management was not a licensing matter and will be dealt with through the SAG and that the logistical planning for the event was comprehensive.

Mr Crier referred to conditions agreed with the police and the proposed condition from City of York Council Public Protection (Environmental Protection) (PPU) for a Noise Management Plan to contain a requirement that the Music Noise Level expressed as an LAeq shall not exceed 65dB(A) over a 15 minute period as

measured at the nearest noise sensitive premises. Mr Crier explained that from noise modelling the noise would go above 65dB(A) which was why the applicant had requested the noise condition of 75 dB(A) at two locations and 65 dB(A) at other locations. He referred to guidance on noise levels in context of overall noise levels. He advised that his clients would comply with noise level conditions and the higher noise levels proposed were to allow a more flexible approach to avoid a breach of the licence. He then invited the applicant's noise consultants to speak. The noise consultants referred to examples of other festival around the country where the permitted noise was above 65 dB(A) and explained that the national code of practice was under review and it is likely that the distinction between urban and rural locations will be removed. Mr Cuffe, the Managing Director of Cuffe & Taylor then explained that the company is a part of Live Nation, not a large corporate organisation but is a local business with a long term approach to using York as a destination for the festival.

In response to questions from the parties Mr Crier and his witnesses clarified:

- The sound checks would take place the day before or the morning of the event and although this was not licensable, residents would be notified.
- The locations of the noise survey and clarification that the background noise level would be referred to as 51 dB(A) although the application is not based on background noise levels.
- An operational plan would be adopted in accordance with the conditions.
- That most acts wanted to finish earlier than the timings stated
- The Vanguardia noise report included information on the sound levels
- The total noise level on Shipton Road was 69 dB(A) on average, which was why it was unfair to set a limit of 65 dB(A). An explanation was then given about the location of the noise survey for the noise modelling.
- There would be sound propagation tests carried out in advance at nominated control points and this would be kept under review continuously throughout the event.
- The role of the Safety Advisory Group (SAG) in developing plans for the event.

5. The representations made by Mr Golightly, on behalf of City of York Council Public Protection (Environmental Protection) (PPU) in writing and at the hearing. He explained their objection on the

grounds of public nuisance noting the location of the festival as being in an area with a large number of residential properties nearby. He outlined the previous complaints received about live music at the venue. He advised that the noise levels within national guidance had been incorporated into local guidance for an urban to rural venue such as this, and he explained that the limit of 65 dB(A) had been requested in order to avoid public nuisance. Mr Golightly referred to his witness Mr Gray (York Council Public Protection (Environmental Protection)). Mr Gray expanded on the points made by Mr Golightly in relation to the noise survey and modelling and he explained that the difference between 65 dB(A) and 75 dB(A) was effectively a doubling of the noise level. He cited examples of festivals with a limit of 65 dB(A). There is no reason to deviate from the national guidance in this location.

In response to questions, Mr Golightly and Mr Gray clarified

- The request for 65 dB(A) was in line with local guidance
- There were no examples of events in York where noise levels had gone above 65 dB(A)
- If national noise guidance changed the position of Public Protection would be to retain their current recommendations.
- The rationale for their requested noise condition of 65 dB(A) and that 70 dB(A) would not be acceptable.
- Where events had exceeded 65dB(A) there had been noise complaints.
- An explanation of the process for investigating noise complaints was given.

6. The representations made by Cllr Sam Waudby, Rawcliffe and Clifton Without Ward Councillor on behalf of Rawcliffe and Clifton Without Ward Councillors in writing and at the hearing. She outlined the concerns of the Ward Councillors and local residents and she gave an update on the discussions at a Ward Committee meeting about the festival on 23 January 2020. She noted that the views expressed by residents had been mixed and she noted concerns about the licence being in perpetuity, traffic and parking and noise. During questions to the Councillor, Mr Crier noted that traffic was not relevant to the licensing application and he advised that the traffic management plan was being done in consultation with traffic management at the council. In answer to a question Cllr Waudby confirmed that there are a number of care homes in the area and she pointed these out on the location map.
7. The representations made by Rawcliffe Parish Council and Clifton Without Parish Council in writing and represented by Cllr Darryl

Smalley (Rawcliffe and Clifton Without Ward Councillor) at the hearing. He explained that the main issues were with traffic, parking and noise. He explained concern about the proposed traffic permit scheme creating increased congestion outside the area and trapping residents in for the three days. He noted concern about car parking and noise from the festival affecting residents, including the impact of this on Limetrees Child and Adolescent Mental Health Service (CAMHS) and Clifton Park hospital. He requested that if the Sub-Committee were minded to grant the licence, that it be for one year. During questions to the Councillor, the applicant stated that they would be willing to meet with the Parish Councils to discuss their concerns about the parking permits and it was suggested that there would be a large number of people walking to the festival.

Cllr Smalley was asked and explained the concerns of the Parish Councils about public safety and he was asked and advised that Limetrees and Clifton Park hospital were open on Fridays.

8. A Representor in writing and in person at the hearing. The Representor outlined his concerns that traffic management and parking at the festival would create a public nuisance and he suggested that the site was not suitable for an event of that size. He added that trialling the event for one year would not change the unsuitability of the site. He explained his role as Vice Chair of the York and North Yorkshire Modern Slavery Partnership and cited their concerns about county lines drugs problems at the event. He also explained that the bus drop off at Clifton Alliance Cricket ground was unsuitable and that there would be problems with public safety from people leaving the site after the event.
9. A Representor in writing and in person at the hearing. The Representor explained his concerns about public safety and crime and disorder from people leaving the site, and he added that during the festival on Fridays, children would walk home from school at the same time people would arrive at the venue and would have to navigate their way through the restricted area. He explained where he resided in close proximity to the venue and that he had not received any satisfactory answers from the applicant or any consultation on his concerns about noise. He stated that his concerns had not been addressed in the noise report submitted on 18 February 2020 and he requested that the acoustic survey be made available. He would be happy for his house to be used as a noise monitoring point. Mr Crier explained that the baseline report could be made available.

10. A Representor in support in writing and represented by his wife at the hearing. She explained that parking was a perpetual problem on her street and she acknowledged the issue of public nuisance caused by the festival. She expressed support for the economic benefits of the event and noted that the profile of people attending the event would be different to those visiting the city centre.

The Chair then asked PC Hollis (North Yorkshire Police Alcohol Licensing Department) to clarify the proposed police condition no. 1 on page 101 of the Agenda papers. PC Hollis clarified the role of the SAG in the context of the condition and confirmed that traffic management was within the remit of the SAG and that the Event Management Plan required by the condition could include a dispersal policy.

- The applicant and representors then summed up. In response to further questions from the Sub-Committee on points for clarification the applicant confirmed:
- The security measures in place at the festival
- That there could be two under 16s per adult and under 18s could not queue at bars
- There would be SIA security on each bar
- There was no reason for the showing of films in section 18 of the application

Mr Golightly, on behalf of City of York Council Public Protection (Environmental Protection) (PPU) confirmed that a noise restriction of 70 dB(A) would not be acceptable.

Mr Crier, on behalf of the applicant stated that the applicant wished to amend its application to a one year only licence to start at 5pm on the Friday. He also said that the applicant would be willing to agree to a noise limit of 70 dB(A) (15 minutes) for the headline acts on Shipton Road and Clifton Park Avenue and 65 dB(A) for the support acts.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 35(3)(a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:



Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

In agreeing Option 2 the following conditions and modified/additional conditions were added to the licence:

1. Prior to an event taking place a documented noise management plan shall be submitted to, and approved in writing by City of York Council. Once approved, it shall be implemented immediately. No event shall take place until the approval of the plan. The agreed Noise Management Plan must contain a requirement that the Music Noise Level expressed as an LAeq shall not exceed 65dB(A) over a 15 minute period as measured at any of the agreed noise sensitive locations.
2. A draft of the Event Management Plan (EMP) will be produced three months prior to the event each year and will be submitted to the Licensing Authority and all the members of the Safety Advisory Group (SAG). Following consultation with the SAG, the Licensing Authority shall notify the premises licence holder in writing that the draft EMP is acceptable or unacceptable not less than one calendar month prior to the event taking place. The event shall not take place until the draft Event Management Plan has been approved by the Licensing Authority in consultation with the SAG. Once approved no change shall be made to the EMP without the agreement of the Licensing Authority or Police. The event shall operate at all time in accordance with the EMP as approved by the Licensing Authority.
3. With the exception of private areas exclusively for artists and bona fide guests, all drinks shall be served in non-glass vessels only. For glass bottled drinks, the drink is to be decanted into non-glass vessels.

4. The licence holder will operate a Challenge 25 Age Verification Policy. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in force.
  - Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-
  - Retail sale of alcohol
  - Age verification policy
  - Conditions attached to the Premises Licence
  - Permitted Licensable activities
  - The Licensing objectives and
  - The Opening Times of the venue.
  - Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.
5. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.
6. Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]: They will be made available immediately upon a reasonable request from any responsible authority.
7. No retail sale of alcohol shall take place from a bar or beer tent unless there is a Personal Licence holder present to authorise sales. The Personal Licence holder shall be based on the bar and will be available within 5 minutes of request by authorities when alcohol sales take place.
8. It is the responsibility of the Designated Premises Supervisor to conduct a risk assessment to decide the number of SIA registered security staff needed for the event. This shall include a minimum of 2 x SIA door supervisors on each bar and be included in the Event management plan which is to be submitted to the Licensing authority and Safety advisory group (SAG) before the event.
9. When SIA Door Supervisors are on duty, they shall wear high visibility arm bands and sign in and out of the premises in a register providing their full name and SIA number.

10. Music Noise Levels to be monitored regularly throughout the event by the appointed noise consultants at the agreed noise monitoring locations to check both compliance with the specified maximum levels and the avoidance of any noise nuisance. The measures stated in the Noise Management Plan shall be implemented so that the noise limits are met.
11. Low frequency levels between 30 and 125Hertz shall also be monitored by the appointed noise consultants throughout the event at the agreed monitoring locations.
12. The premises licence holder shall ensure that the promoter, sound system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the appointed noise control consultant shall be implemented.
13. A sound propagation test will be undertaken either the day before or on the day of the event in order to set appropriate guideline limits at the sound mixer position. The sound system will be configured and operated in a similar manner as intended for the event and the noise source used for the test will be similar in character to the music likely to be produced during the event.
14. A dedicated complaints line shall be set up prior to and operated throughout the event. All noise complaints shall be communicated immediately to the consultant's noise monitoring team who will investigate immediately including visiting the nearest noise monitoring location to the complainant and requesting immediate action as required.
15. Information regarding the event shall be circulated to local residents within an area agreed with the local authority at least 2 weeks prior to the event taking place. The information will include details of the timings for the show including propagation tests and the dedicated telephone line number for any complaints.
16. All complaints shall be recorded together with the action taken and, together with the data of sound levels taken during the event, shall be included in a summary Noise Report to be prepared by the appointed noise consultants. This report should be submitted to the Environmental Health Department at York City Council no later than 3 weeks following the event.
17. A post-event meeting will be held between the premises licence holder and the environmental health department following

submission of the Noise Report with a view to assessing the noise levels during the 2020 event.

18. The licence is limited to one calendar year for a maximum of three event days.
19. All licensable activities shall not commence before 5.00pm Monday to Friday (excluding Bank Holidays).
20. The licensable activities for Saturdays, Sundays and Bank Holidays were granted for the hours as applied for.
21. There shall be no age restricted films.

***All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.***

**The Sub-Committee noted that the applicant amended its application at the hearing to be limited to a licence for one calendar year to start at 5pm on a Friday and that it had amended its proposed condition as to maximum noise levels.**

**The Sub-Committee carefully considered all the evidence placed before them including the application and all the representations and had regard to the licensing objectives, the section 182 Guidance issued by the Secretary of State and the Council's own statement of licensing policy.**

They considered the likely effects of the grant of the premises licence on the promotion of the licensing objectives. The Sub-Committee considered very carefully the representation of Mr Golightly on behalf of City of York Council Public Protection (Environmental Protection). The Sub-Committee had careful regard to the concerns of the neighbouring residents about the noise created by the licensable activities and the close proximity of the application site to his residential properties.

**The Sub-Committee concluded that if the application were to be granted in the terms applied for there would be the likelihood of residents being subjected to public nuisance in terms of noise nuisance from licensable activity on the site. The Sub-Committee considered that the noise condition proposed by PPU was appropriate and proportionate to address the issue of noise**

**nuisance and ensure that noise levels from the premises could be reduced to an acceptable level for nearby residents. The Sub-Committee was encouraged by the other measures stated in the application to satisfy the four licensing objectives and the conditions agreed with the Police. The overall conclusion of the Sub-Committee was that a one year licence should be granted for the licensable activities requested but subject to the additional and amended conditions set out above. It was considered that all these measures should ensure that an appropriate balance is met in order to promote the licensing objectives.**

**The Sub-Committee considered only those issues that relate to the licensing objectives. As a result the Sub-committee considered that it was not within its remit to consider traffic/parking control issues on event days and did not take into account the fact that tickets have already been sold for the event.**

The Sub-Committee therefore agreed to grant the licence with the additional and mandatory conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

, Chair

[The meeting started at 10.00 am and finished at 1.50 pm].

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## Meeting of Licensing Act 2003 Sub-Committee

8 June 2020

Report from the Assistant Director – Planning and Public Protection

### Section 52(2) Review of Premises Licence CYC/009221 for The Regency, 16 Barbican Road, York, YO10 5AA

#### Summary

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 (the Act) in respect of The Regency, 16 Barbican Road, York YO10 5AA, premises licence number CYC/00921.
2. Name of applicant: Anthony Dean, Public Protection Manager, on behalf of the Licensing Authority, City of York Council, Eco Depot, Hazel Court, York, YO10 3DS.
3. Summary of Review: The application to review the premises licence relates to the following licensing objective;
  - The prevention of crime and disorder.
  - Public safety.
4. A copy of the 'application for review' is attached at Annex 1 and is briefly summarised as follows:
  - a) On two occasions, 8 September 2017 and 6 September 2019, City of York Council (CYC) Licensing Officers have accompanied North Yorkshire Police (NYP), the Home Office Immigration Service and Gang Master and Labour Abuse Authority to the premises following the receipt of intelligence that staff working at the premises did not have the right to remain in this country and therefore did not have the right to work in this country. An Officer from North Yorkshire Fire and Rescue Service (NYFRS) as well as Enforcement Officers from CYC Housing Standards were also present on both

occasions. Officers from the HMRC were also present on 6 September 2019.

- b) On both occasions Immigration Officers removed people working at the premises who did not have the right to remain in this country.
  - c) On both occasions CYC Licensing Officers recorded that the Designated Premises Supervisor (DPS) was not present at the premises and that some of the premises licence conditions were not being complied with.
  - d) NYFRS had served notice on the premises, under the provisions of the Regulatory Reform (Fire Safety) Order 2005, on two occasions.
5. A copy of the current premises licence is attached at Annex 2. The premises licence currently authorises the following:

<b>Licensable Activity</b>	<b>Current Days &amp; Hours</b>
Live music Recorded music Performance of dance Activities like music/dance	10:00 to 3:30 Monday to Sunday
Late night refreshment	23:00 to 03:30 Monday to Sunday
Supply of alcohol	10:00 to 03:30 Monday to Sunday
Opening Hours	10:00 to 04:00 Monday to Sunday

6. The premises licence issued on conversion with variation under the Licensing Act 2003 was granted on 28 September 2005.

## Consultation

7. Consultation was carried out by the Applicants and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which



concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder. Notice of the application was displayed in the vicinity of the premises, on the exterior noticeboard at the West Offices and on the Councils website. In addition relevant Ward Councillors were informed by way of register.

8. Representations were made by North Yorkshire Police on the 'application for review', and a copy is attached at Annex 3.
9. Witness statements were received from North Yorkshire Fire and Rescue Service, the statement is attached at Annex 4.
10. Please note that within the 'application for review' there is a witness statement from Immigration Officer Glynn Jones (appendix 3), within this statement Mr Jones first name is incorrectly spelt (due to an autocorrect function). Mr Jones submitted an amended statement attached at Annex 5 with the correct spelling of his name, Glyn Jones.
11. To provide further clarification, a second witness statement was received from Immigration Officer Glyn Jones, the statement is attached at Annex 6.
12. A map showing the location of the premises is attached at Annex 7.

### **Other Relevant Information**

13. There are no planning implications in relation to this application.

### **Options**

14. By virtue of S52(4) of the Act, the Sub-Committee may in making their decision take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
15. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
16. Option 2: To exclude a licensable activity from the scope of the licence.

17. Option 3: To remove the Designated Premises Supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.
20. Where the Sub-Committee takes a step mentioned in Option 1 or Option 2, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Otherwise the modification of conditions or the exclusion of a licensable activity will be permanent.
21. Where the Sub-Committee determines to takes a decision as mentioned in Option 4 or Option 5, Members should be mindful that this will not close the premises, they will still be able to continue trading as a restaurant. It will however prevent licensable activities taking place, in this case the supply of alcohol, the provision of late night refreshment, and the provision of regulated entertainment after 23:00 hours - the playing of live and recorded music, the performance of dance and activities like music/dance.
22. In deciding which, if any, of these steps to take, the Sub-Committee should direct its mind to the cause or causes of the concerns which the application and representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
23. The Sub-Committee may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

## **Analysis**

24. The following could be the result of any decision made by this Sub-Committee:
25. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.

26. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
27. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
28. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
29. Option 5: This decision could be appealed by the premises licence holder.
30. The decision of the Sub-Committee will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.
31. Members are reminded that they may only use their discretion to take remedial action in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

### **Council Priorities**

32. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
33. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications for review the Council are supporting the licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

### **Implications**

34.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A

- **Equalities** – N/A
- **Legal** – The legislation and policy considerations associated with this report are contained in Annex 8. The decision made by this Sub Committee is subject to appeal rights to the Magistrates Court.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

### **Risk Management**

35. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
36. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

37. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

## Contact Details

**Author:**

Matt Boxall  
Head of Public Protection  
Ext 1528

**Chief Officer Responsible for the report:**

Michael Slater  
Assistant Director  
Planning and Public Protection  
Ext 1300

**Report  
Approved**



**Date** 29/05/20

**Wards Affected: Fishergate Ward**

## Annexes

- Annex 1** - Copy of application for review of premises licence, plus appendices
- Annex 2** - Copy of premises licence, including layout plan
- Annex 3** - Representation from North Yorkshire Police
- Annex 4** - Witness statement North Yorkshire Fire and Rescue
- Annex 5** - Amended witness statement from Home Office Immigration Service
- Annex 6** - Second witness statement from Home Office Immigration Service
- Annex 7** - Map showing location of premises
- Annex 8** - Legislation and Policy Considerations

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Annex 1



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We **Anthony Dean of PUBLIC PROTECTION** (insert name(s) of applicant) apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

**Part 1 – Premises or club premises details**

<b>Postal address of premises or club premises, or if none, ordinance survey map reference or description</b>	
Regency 16 Barbican Road	
<b>Post town</b> York	<b>Post code:</b> YO10 5AA

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
Mr Zhongle (Zhong Le) Chen

<b>Number of premises licence or club premises certificate (if known)</b>
CYC – 009221

**Part 2 – Applicant details**

I am

Please tick ✓ yes

- 1 An interested party (please complete (A) or (B) below)
  - a) A person living in the vicinity of the premises
  - b) A body representing persons living in the vicinity of the premises
  - c) A person involved in business in the vicinity of the premises
  - d) A body representing persons involved in business in the vicinity of the premises
- 2 A responsible authority (please complete (C) below) ✓
- 3 A member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title ☐  
 (for example, Rev)

Surname First names

--	--

Please tick ☒ Yes

I am 18 years old or over

☐

Current postal address  
if different from  
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**(B) DETAILS OF OTHER APPLICANT**

Name
Address
Telephone number (If any)
E-mail (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name, Public Protection (Anthony Dean)
Address  City of York Council Public Protection Hazel Court Eco Depot York YO10 3DS
Telephone number (if any) 01904 551588
E-mail (optional) <a href="mailto:anthony.dean@york.gov.uk">anthony.dean@york.gov.uk</a> / <a href="mailto:public.protection@york.gov.uk">public.protection@york.gov.uk</a>

**This application to review relates to the following licensing objectives(s)**

Please tick one or more boxes ✓

1. the prevention of crime and disorder
2. public safety
3. the prevention of public nuisance
4. the protection of children from harm

✓  
✓

**Please state the ground(s) for review (please read guidance note 1)**

I make this application on behalf of the Licensing Authority, City of York Council (CYC), who wish to seek a review of the above premises licence as the Licensing Objectives in relation to 'prevention of crime and disorder' and 'public safety' have been undermined on a number of occasions.

Mr Zhongle (Zhong Le) Chen has been the premises licence holder and designated premises supervisor (DPS) for this premises since 25 June 2015.

On two occasions CYC Licensing Officers have accompanied North Yorkshire Police (NYP) and the Home Office Immigration Service to the premises following the receipt of intelligence that staff working at the premises did not have the right to remain in this country and therefore did not have the right to work in this country.

On both occasions, on 8 September 2017 and 6 September 2019, Immigration Officers removed people working at the premises who did not have the right to remain in this country.

On both occasions CYC Licensing Officers recorded that the DPS was not present at the premises and that some of the premises licence conditions were not being complied with.

North Yorkshire Fire and Rescue Service (NYFRS) has served notice on the premises, under the provisions of the Regulatory Reform (Fire Safety) Order 2005, on two occasions

Please provide as much information as possible to support the application (please read guidance note 2)

On 8 September 2017 CYC Licensing Enforcement Officer, Helen Sefton, took part in an operation with officers from NYP and the Home Office Immigration Enforcement Team at the premises. On arrival at the premises it was noted that the premises were open to customers. Six people working at the premises were removed by Immigration Officers as they did not have the right to remain in this country and therefore did not have the right to work in this country or for illegal entry. During this visit it was noted that sleeping accommodation was provided on the second floor, this information was given to colleagues in CYC's HMO Licensing team and also to NYFRS.

Mr Zhong Le Chen was not present when officers arrived at the premises, Helen Sefton spoke to the duty manager, [REDACTED] (also known as [REDACTED]). Mr Chen arrived later on during the visit and advised officers that he did not understand English very well, so [REDACTED] translated on his behalf. During the visit a number of licensing issues were found including the CCTV system which no one on site appeared to be able to operate, lack of staff training in relation to licensing matters, no documented noise management plan, and no notices regarding customers leaving quietly. Verbal advice was given to Mr Chen and [REDACTED] on this occasion.

On 6 September 2019 Helen Sefton took part in an operation with officers from NYP, Home Office Immigration Enforcement Team, NYFRS, HMRC, Gangmasters and Labour Abuse Authority and CYC Housing Enforcement Team. On arrival at the premises it was noted that the premises was open to customers. Three people working at the premises were removed by Immigration Officers as they did not have the right to remain in this country and therefore did not have the right to work in this country. During this visit it was noted that sleeping accommodation was provided on the second floor of the premises, with some staff identifying a room as their bedroom. In addition decoration works were taking place on the second floor and access routes to means of escape were restricted/blocked.

At the request of the Fire Safety Officer (who had had to leave the premises to visit another location), Helen Sefton asked [REDACTED] to test the fire alarm. The alarm activated but could not be reset, identifying faults. Due to this the Fire Safety Officer returned to the premises and issued a notice under the provisions of the Regulatory Reform (Fire Safety) Order 2005 to prevent use of the upper floors and sleeping on the premises.

Mr Chen was not present during this visit, the Senior Licensing Officer and Licensing Manager spoke to the duty manager [REDACTED]. It was evident to the Senior Licensing Officer that no action had been taken following the verbal advice given to Mr Chen and [REDACTED] on 8 September 2017, as there were still a number of licensing issues including the CCTV system which no one on site appeared to be able to operate, lack of staff training in relation to licensing matters, no documented noise management plan, no refusals register or incident report register, and inadequate notices regarding customers leaving quietly.

On 24 October 2019 CYC Licensing Enforcement Officer, Nigel Woodhead, and PC Kim Hollis carried out a further unannounced visit to the premises, to check for compliance with premises licence conditions. Mr Chen was not present during this visit. Officers spoke to [REDACTED]. A number of breaches of the premises licence were identified including CCTV not being connected, no staff records, no incident or refusals book, and no notices asking customers to leave quietly. As a result PC Hollis served a closure notice under Section 19 of the Criminal Justice and Police Act 2001, giving the premises licence holder and DPS seven days to rectify these matters.

On the **31 October 2019** Nigel Woodhead and PC Kim Hollis carried out an unannounced revisit to the premises to check for compliance with Section 19 notice in relation to the outstanding issues. At the time of the visit all the previous conditions breaches had been rectified and the previously served Section 19 notice was lifted.

In addition to the above licensing matters, it is also worthy on note that on the **14 August 2018** China Regency Ltd, trading as Regency Restaurant, and Xiu Lan Chen were prosecuted by Public Protection for three breaches of Food Safety and Hygiene Regulations at the Barbican Road, York site.

Ms Chen pleaded guilty to all offences on behalf of both herself and China Regency Ltd at York City Magistrates' Court on 14 August 2018. China Regency Ltd were fined £8,000, with prosecution costs of £1,906.63 and a £170 Court Surcharge. Ms Chen was fined £540 fine and £54 court surcharge.

Furthermore on the **19 November 2017** Tina Feng signed, on behalf of York Regency Associates Ltd of 4 George Hudson Street, York, a simple caution in relation to the sale of a knife to a person under the age of eighteen in July 2017, contrary to the Criminal Justice Act 1988. Tina Feng, as detailed in Nigel Woodhead's statement, was a manager of the Regency Restaurant at 2-4 George Hudson Street and took control of the premises in the absence of the DPS Mr Chen.

A statement from Helen Sefton, Senior Licensing Officer, is attached at Appendix 1

A statement from Nigel Woodhead, Licensing Enforcement Officer, is attached at Appendix 2

A statement from Glynn Jones, Immigration Officer at the Home Office, is attached at Appendix 3

A copy of the summonses relating to Food Safety and Hygiene Offences are attached as Appendix 4

A copy of the signed simple caution relating to the sale of the knife to a person under the age of eighteen is attached at Appendix 5

Please tick ✓ yes

Have you made an application for review relating to this premises before?

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick ✓ Yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent.** (See guidance note5). **If signing on behalf of the applicant please state in what capacity.**

Signature: 

Date: 07/02/2020

Capacity: Public Protection Manager (Investigations and Compliance)

<b>Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 6)</b>	
Victoria Waudby Legal Services Station Rise	
<b>Post town: YORK</b>	<b>Post code: YO1 6GA</b>
<b>Telephone number (if any): 01904 554350</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	
<u><a href="mailto:victoria.waudby@york.gov.uk">victoria.waudby@york.gov.uk</a></u>	

This authority is under a duty to protect the public funds it administers and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

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**Notes for guidance**

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1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 1**

A statement from Helen Sefton, Senior Licensing Officer

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**FIRST WITNESS STATEMENT OF HELEN LOUISE SEFTON**

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I, Helen Louise SEFTON, Senior Licensing Officer of City of York Council, Hazel Court, EcoDepot, James Street, YORK, YO10 3DS, make this statement in support of an application by The Council Of The City Of York for a review of premises licences, namely The REGENCY Barbican Road and The REGENCY George Hudson Street, YORK.

1. I declare that the contents of this my statement are true and correct to the best of my knowledge and belief. I make this statement in the knowledge that it will be used in premises licence review proceedings.
2. I make this statement based upon the records held by the Council. The information provided in this witness statement is within my own knowledge, unless expressly stated otherwise.

I am a Senior Licensing Officer employed by the City of York Council to administer and enforce a wide range of licensable activities. 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

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Enforcement Team. At 18:00 on 8 September 2017 I attended a briefing at Fulford Road Police Station in York where Inspector FREAR outlined the plan for the evening and allocated roles and responsibilities to Officers. I was to attend the address at 16 Barbican Road, York, YO10 5AA entering the premises under my powers conferred under Section 179 of the Licensing Act 2003, once I had carried out my inspection at 16 Barbican Road 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.

At 18:45 accompanied by PC BOLLAND Police Licensing Officer, North Yorkshire Police, I entered the licensed premises known as REGENCY Restaurant at 16 Barbican Road, York, YO10 5AA. The restaurant was busy with customers and staff. I identified myself as a Licensing Enforcement Officer and spoke with the person who identified himself as the manager, he told me his name was [REDACTED] and he advised his actual name was [REDACTED] [REDACTED] but preferred to be called [REDACTED] [REDACTED] advised he had been the manager at the premises for 2 years. PC BOLLAND and I proceeded to speak to [REDACTED] about the various permissions and conditions contained within the premises licence, issued in accordance with the Licensing Act 2003. At this time other Officers from North Yorkshire Police and the Home Office Immigration Team proceeded to search the premises and speak with other members of staff. We asked to see the CCTV system and [REDACTED] stated that only the business owner could operate the system as it required a passcode which he did not have access to. At approximately 19:25 the premises licence holder and named Designated Premises Supervisor (DPS), ZHONG LE CHEN arrived at



the premises. At first he spoke with Staff members in a language I could not understand. PC BOLLAND and I proceeded to speak with CHEN about the licence permissions and conditions. CHEN stated he could not fully understand English and asked [REDACTED] to interpret for him. I asked CHEN who owned the business and he stated it was his [REDACTED] [REDACTED] he further stated [REDACTED] [REDACTED] was away in China and when asked about the CCTV system he stated only [REDACTED] could operate the CCTV system.

Both [REDACTED] and CHEN stated the restaurant did not stay open past midnight. They stated that staff were trained in licensing matters but it was not documented. I noted there were no notices displayed asking customers to leave the premises quietly and there was no documented noise management plan. After speaking with both gentlemen PC BOLLAND and I carried out a full inspection of the entire premises which included the ground floor bar area, waiting area, restaurant and kitchen. We also went upstairs to the first floor and noted several rooms set up with karaoke equipment, televisions/screens, bench seating and gambling equipment such as dice and dice shakers. The first floor had a locked room with a name plate stating 'Reception'. CHEN provided entry to this room. Once entry was gained to this room it contained alcoholic drinks, various items of stock, several packets of playing cards and the CCTV system. On the second floor of the premises there were more karaoke rooms and also bedrooms containing bunk beds and personal effects. Several more rooms on this floor were locked via external padlocks. PC BOLLAND and I were made aware by the Police Officer in charge that the Immigration Officers were in the

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process of detaining four members of staff as they potentially did not have the right to work in the UK

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PC BOLLAND and I left the premises at Barbican Road with Police and Immigration Officers still present. We then made our way to the second premises to be visited at George Hudson Street, York.

At approximately 20:00 on the 8 September 2017 PC BOLLAND and I attended a premises, called REGENCY 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 was introduced to the Manager who introduced herself as Tina 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 in licensing matters 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 staff

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

After the visits I reported my findings on the night to colleagues in the Council Housing Enforcement Team, Gambling Commission and Fire Service.

In the summer of 2019 I was contacted by Inspector FREAR of North Yorkshire Police, he told me of his intention to organise another multi agency visit to both the REGENCY premises in York, he wanted support from the Licensing Team. He also advised a premises in the Selby area would be involved in the visits and some residential addresses in York and Selby.

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.

At 18:10 on 6 September 2019, in company of Lesley COOKE Licensing Manager at City of York Council I entered the premises known as REGENCY Restaurant at 16 Barbican Road, York, YO10 5AA. We entered the premises

under powers conferred by Section 179 of the Licensing Act 2003. Police and Immigration Officers were already in the premises as they had entered using powers granted under a warrant.

I spoke with the manager of the premises [REDACTED], real name [REDACTED]. [REDACTED] showed me his personal licence with Number [REDACTED] issued by Manchester City Council and showing his address as [REDACTED]. [REDACTED] advised however this address needed to be changed to [REDACTED]. I advised [REDACTED] to contact Manchester City Council to amend his licence ASAP. I reminded [REDACTED] that we had met 2 years earlier, he advised me he had left his job at the premises shortly after September 2017 but had recently returned. I sat in the waiting area of the restaurant with [REDACTED] and went through the conditions on the premises licence whilst the Officers from the other agencies carried out the inspections and interviews with staff. [REDACTED] stated he was not the DPS at the premises that was Mr CHEN. He stated CHEN was not often at the premises but was in regular contact with [REDACTED] and did call [REDACTED] when he needed to. Whilst going through the conditions on the premises licence several breaches were identified as follows; (*the corresponding condition appears in brackets*)

The CCTV system was running 36 minutes behind (7). [REDACTED] had no idea how many days the CCTV recordings were kept (5). Staff were trained verbally how to lawfully operate the CCTV but this training was not documented (16, 18 and 19). There was no refusals register or incident report register (20, 21, and 22). There were no notices asking customers to leave quietly (23). [REDACTED] stated the premises closed before midnight and therefore they do not use door

staff at any time. There was no evidence of a noise management plan on site nor was there evidence of one being submitted to the Licensing Authority (35). I produce a copy of the Part A of the premises licence including the conditions as **Exhibit HLS/1**.

After speaking with [REDACTED] I undertook a full inspection of the premises in company of Lesley COOKE. On the first floor I noted a strong smell of cigarette smoke in both the karaoke rooms and evidence of cigarette smoking (smell and used cigarettes and ash) in the Gentleman's toilet. There were also sets of dice and dice shakers in each karaoke room. On the second floor there was evidence of persons sleeping in some of the karaoke rooms this included bedding (duvets, pillows etc.), personal effects such as clothing, shoes, toothbrushes and luggage. Some rooms on the second floor were in the process of being renovated/decorated. Whilst I was in one of the karaoke rooms a young white male with an Eastern European accent came into the room, he said he'd come to get his passport. When asked where he was sleeping he stated it was in this karaoke room. At the ground floor level I met my colleague Nigel WOODHEAD, Licensing Enforcement Officer in the rear car park I noted there was evidence of a severely blocked drain at the rear entrance to the car park which was overflowing with foul water and grease. I then met with Kevin CAULFIELD from North Yorkshire Fire and Rescue Service who informed me that due to a defect on the fire alarm system he would be Issuing a Prohibition Notice which would prohibit any persons sleeping on the premises. The Police Officer in charge informed me that several members of staff had been detained and four persons had been detained for potential immigration offences.

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After the inspection I reported my findings on the night to colleagues in the Council Gambling Commission, the City of York Council Neighbourhood Enforcement Team (regarding the blocked drain), I also contacted Manchester City Council's Licensing Team regarding [REDACTED] Personal Licence details.

On 4 November 2019 an application was received by the City of York Council's Licensing Team to apply to vary the Designated Premises Supervisor (DPS) at the premises known as Regency 2-4 George Hudson Street, York. I produce a copy of the application as **Exhibit HLS/2**. The DPS is the person who holds overall control and day to day management of a licensed premises, they are also responsible for authorising the sale of alcohol. As part of the application process the Licensing Authority must consult with North Yorkshire Police. Enquiries were made with North Yorkshire Police who in turn consulted Home Office Immigration Officers as to the status of the person named to be the new DPS at the premises [REDACTED]

As a result Immigration Officer Glyn JONES provided a statement regarding [REDACTED] and his status regarding being unable to work in the UK. The application to vary the DPS was ultimately rejected by the Licensing Authority due to the application being incomplete. This was confirmed in my letter dated 28 November 2019 and hand delivered to the premises address, copied to the DPS home address and the registered office of the premises licence holder. The letters were all hand delivered on 28 November 2019. I produce a copy of the letter dated 28 November 2019 as **Exhibit HLS/3**.

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**I BELIEVE THAT THE FACTS STATED IN THIS WITNESS STATEMENT  
ARE TRUE.**

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Signed: .....

Dated: 4 February 2020

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**EXHIBIT**  
**Copy of Premises Licence for The REGENCY 16 Barbican Road,**  
**YORK, YO10 5AA**

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This is the **Exhibit HLS/1** referred to in the statement of Helen Louise SEFTON,  
dated 3 February 2020.



425/1

**LICENSING ACT 2003****PREMISES LICENCE****Schedule 12****Part A****Part 1 Premises details**

Premises licence number.  
CYC - 009221

Postal address of premises:

**16 Barbican Road**

Post town: York

Post code: **YO10 5AA**

Telephone number: 01904 623134

**Expiry date:** This licence has no expiry date.**Licensable activities authorised by the licence:**

Live Music  
Recorded Music  
Performances of Dance  
Activities like music/dance  
Late Night Refreshment  
Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**LIVE MUSIC**  
Indoors

**Monday**  
10:00 - 03:30

**Tuesday**  
10:00 - 03:30

**Wednesday**  
10:00 - 03:30

**Thursday**  
10:00 - 03:30

**Friday**  
10:00 - 03:30

**Saturday**  
10:00 - 03:30

**Sunday**  
10:00 - 03:30

**RECORDED MUSIC**  
**Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**PERFORMANCES OF DANCE**  
**Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**ACTIVITIES LIKE MUSIC/DANCE**  
**Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**LATE NIGHT REFRESHMENT**  
**Indoors**

<b>Monday</b> 23:00 - 03:30	<b>Tuesday</b> 23:00 - 03:30	<b>Wednesday</b> 23:00 - 03:30	<b>Thursday</b> 23:00 - 03:30
<b>Friday</b> 23:00 - 03:30	<b>Saturday</b> 23:00 - 03:30	<b>Sunday</b> 23:00 - 03:30	

**SUPPLY OF ALCOHOL**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

Non Standard Timings for Live Music, Recorded Music, Performances of Dance, Activities like Music/Dance, Late Night Refreshment and Supply of Alcohol:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**The Opening Hours of the Premises**

Monday 10:00 - 04:00	Tuesday 10:00 - 04:00	Wednesday 10:00 - 04:00	Thursday 10:00 - 04:00
Friday 10:00 - 04:00	Saturday 10:00 - 04:00	Sunday 10:00 - 04:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

Email address: None

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Selby District Council  
LN/000006043

## Annex 1 ~ Mandatory conditions

### MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
 (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
 (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –  $P = D + (D \times V)$   
where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pence, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### **Prevention of Crime & Disorder**

1. CCTV recordings will include, as a minimum, a head and shoulders image of each individual who enters the premises through the main entrance.

#### **Protection of Children from Harm**

2. There shall be a "Challenge 21" policy in operation at the premises requiring any individual who appears to be under the age of 21 to produce identification to prove that they are over the age of 18, the sale of alcohol being refused where they are unable to do so.
3. The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representatives of North Yorkshire Police Licensing Unit.

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

1. Prior to using the karaoke rooms customers must have consumed a meal in the restaurant, excluding snacks.
2. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms and stairways to which the public have access for licensable activities and where the public can consume alcohol.
3. It will be maintained, working and recording at all times when the premises are open.
4. The recordings should be of sufficient quality to be produced in Court or other such hearing.
5. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
6. Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.
7. Copies of the recordings will display the correct time and date of the recording.
8. All off sales shall be made in sealed containers save for those that are intended for consumption within the building.
9. After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.
10. Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).
11. After 24:00hrs customers who have left the venue to smoke shall be monitored by a Door Supervisor in a clearly demarked area at the front of the venue which will not block the footpath.

12. Two SIA Door Supervisors shall be provided at the venue from 24:00hrs until the close of business, with at least one staffing the main door on to Barbican Road.
13. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
14. Standard one pint capacity, half pint capacity and "high ball tumbler" drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.
15. Drinking glasses of any type should not be allowed to enter or leave the premises whilst under the customers care.
16. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and the opening times of the venue.
17. Such training (referred to in Condition 16) will be refreshed and documented every 6 months.
18. Such training records (referred to in Condition 16) should be kept for at least 3 years.
19. Such training records (referred to in Condition 16) will be made available for inspection upon request by any Responsible Authority.
20. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people, as well as incidents of any anti-social behaviour and ejections from the premises.
21. Both the above documents (referred to in Condition 20) will be kept for at least 3 years.
22. Both the above documents (referred to in Condition 20) will be available for inspection upon request by any Responsible Authority.
23. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
24. So as to ensure the Licensing Objective the prevention of crime and disorder is not undermined there shall be a maximum capacity of 100 persons of which there shall be no more than 30 persons on the first floor and no more than 20 persons on the second floor.
25. When the karaoke rooms are being used there shall be at least one member of staff permanently situated on each floor of the venue on which the room is being used.
26. The member of staff shall monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.
27. The members of staff situated on the first and second floor shall be in direct radio link with the Door Staff.
28. All alcohol consumed in the karaoke rooms shall be served by way of waiter/waitress service.
29. No dancing is to take place on the ground floor of the building at anytime.
30. All users of the karaoke rooms must have evidence of their room hire on their food bill as suitable evidence of food purchase.

31. All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress).

32. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.

33. The use of external areas shall be restricted to 10:00hrs – 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

35. A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

**Annex 4 – Approved Plan - Plan Number BR.(16)/01**

For and on behalf of  
The Director of Communities  
& Neighbourhoods

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Date: 28/09/2005  
25/06/2015 (Transfer and DPS Variation)

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)

Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)



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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

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**EXHIBIT**

**Copy of Application to Vary the Designated Premises Supervisor at The  
REGENCY, 2-4 George Hudson Street, YORK, YO1 6LP**

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This is the **Exhibit HLS/2** referred to in the statement of Helen Louise SEFTON, dated  
3 February 2020.

HLS/2



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/we ZHONG LE CHEN

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

CYC-053937

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description

REGENCY  
2-4 GEORGE HUDSON STREET,

Post town

YORK

Post code (if known)

YO1 6LP

Telephone number (if any)

01904 659976

Description of premises (please read guidance note 1)

CHINESE RESTAURANT & SUPERMARKET



IT IS AN OFFENCE, UNDER SECTION 15B OF THE LICENSING ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS.

THOSE WHO EMPLOY AN ADULT WITHOUT A VALID LEAVE TO ENTER OR REMAIN IN THE UK OR AN ADULT WHO IS SUBJECT TO CONDITIONS WHICH WOULD PREVENT THAT PERSON FROM TAKING UP EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED BY VIRTUE OF THEIR IMMIGRATION STATUS.

**Part 3 – Signatures** (please read guidance note 5)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

Date 25/10/2019

Capacity MANAGER

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8)	
[REDACTED]	
1 REGENCY	
2-4 GEORGE HUDSON STREET	
Post town	Post Code
YORK	YO1 6LP
Telephone number (if any)	
[REDACTED]	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	
[REDACTED]	



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

**Consent of Individual to being specified as premises supervisor**

[redacted]  
[full name of prospective premises supervisor]

of

[redacted]  
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

APPLICATION TO VARY DPS  
[type of application]

by

[redacted]  
[name of applicant]

relating to a premises licence

CYC - 053937  
[number of existing licence, if any]

for

REGENCY, 2-4 GEORGE HUDSON STREET, YORK  
[name and address of premises to which the application relates] YO1 6LP

# Guidance notes

1. Describe the premises. For example the type of premises it is.
2. An application to vary the premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time the application is received by the licensing authority) if the premises licence holder requests it at the time he makes an application under Section 37. Section 38 enables the holder of a premises licence to continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work. If the application is rejected, the licence reverts to the form it took before the application was made.
3. A full copy of the application form must be sent to the chief officer(s) of police for the police area(s) in which the premises are situated. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
4. Section 37(4)(b) of the Licensing Act 2003 requires the premises licence holder to notify the existing designated premises supervisor (if any) about this application. It is sufficient for the licensee to inform the existing premises supervisor in writing, without the need to share the specific details of the application. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
5. The application form must be signed.
6. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
7. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
8. This is the address which we shall use to correspond with you about this application.

and any premises licence to be granted or varied in respect of this application made by

[redacted]  
*[name of applicant]*

concerning the supply of alcohol at

REGENCY, 2-4 GEORGE HUDSON STREET, YORK  
*[name and address of premises to which application relates]* VO: 16LP

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

[redacted]  
*[insert personal licence number, if any]*

Personal licence issuing authority

LEEDS CITY COUNCIL  
*[insert name and address and telephone number of personal licence issuing authority, if any]*

Signed

Name (please print)

Date

25/10/19



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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

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**EXHIBIT**  
**Copy of Letter dated 28 November 2019**

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This is the **Exhibit HLS/3** referred to in the statement of Helen Louise SEFTON, dated  
3 February 2020.



Mr Zhong Le Chen  
21a Blake Street  
York  
YO1 8QJ

**Delivered by hand**

**Economy and Place**  
Eco Depot  
Hazel Court  
York  
YO10 3DS

Tel: 01904 552422

E-mail: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Ask for: Helen Sefton  
Our ref: cyc 53937

28 November 2019

Dear Sir

**Licensing Act 2003**  
**The Regency, 2-4 George Hudson Street, York**

I am writing to you as the premises licence holder at the above address and further to receipt of an application to vary the Designated Premises Supervisor (DPS) made in accordance with Section 37 of the above Act.

My colleague Mr Woodhead wrote to you on 13 November 2019 to advise that we were not in a position to proceed with this application. Furthermore the Licensing Authority has not received the original premises licence as required by Section 37 (3), (b) of the Act.

I would like to speak to both you and your proposed new DPS M [REDACTED] about this application. We have made attempts to call and email you in addition to the hand delivered letters but so far no contact has been made. You are therefore invited to attend an informal interview at the City of York Council Hazel Court, Eco Depot, James Street, York, YO10 3DS.

I would be grateful if you could contact me on 01904 552422 or via the email address above to arrange a mutually beneficial date for that interview. If I do not hear from you within 14 days we will be following this up by making visits to the premises to resolve this matter.

Yours sincerely

Helen Sefton  
Senior Licensing Officer

Director: Neil Ferris

[www.york.gov.uk](http://www.york.gov.uk)

Public Protection

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Copy to:

- North Yorkshire Police Licensing Team, via email
- Mr Zhong Le Chen, 2-4 George Hudson Street, York YO1 6LP
- [REDACTED]

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 2**

A statement from Nigel Woodhead, Licensing Enforcement Officer

IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE

THE LICENSING ACT 2003

WITNESS STATEMENT OF Nigel Phillip Woodhead

I, Nigel Phillip Woodhead the Licence Enforcement Officer of City of York Council, Eco Depot, Hazel Court, York, make this statement in support of an application by The Council Of The City Of York for a review of a premises licence, namely Regency Restaurant, George Hudson Street, York and Regency Restaurant, Barbican Road, York

1. I declare that the contents of this my statement are true and correct to the best of my knowledge and belief. I make this statement in the knowledge that it will be used in premises licence review proceedings.
2. I make this statement based upon the records held by the Council. The information provided in this witness statement is within my own knowledge, unless expressly stated otherwise.

3.  
I am the Licence Enforcement Officer for the City of York Council and part of my duties are to enforce all legislation with premises licensed by this authority under the Licensing Act 2003.

In the summer of 2019 I was asked by the Senior Licensing Officer Helen Sefton to assist in a multi agency visit to two premises in York by the name of Regency. About 16.30hrs on Friday 6<sup>th</sup> 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.~~

About 18.00hrs the same day I attended at the Regency Restaurant and Supermarket at 2-4 George Hudson Street, York. Also in attendance were officers from HMRC, Immigration and North Yorkshire Police. Two interpreters were also in attendance. Once inside the premise I spoke to the female manager named as YAN FENG. Ms FENG also goes by the name of 'Tina'. The Premise Licence Holder (PLH) and Designated Premise Supervisor (DPS) ZHONG LE CHEN was not present.

I took 'Tina' to a table to go through the conditions on the Premise Licence. Whilst speaking to her she was constantly looking around and trying to use her mobile phone and told not to by the police as well as looking at a CCTV monitor which showed various areas of the premises. Several breaches of the conditions were identified as follows with the number of the condition appearing in brackets

- (2)The CCTV was displaying wrong time and date
- (6) Yan Feng is the only person who can download footage
- (7) There is no documented staff training
- (9) There is no incident book/refusals register
- (16) No notices asking the public to leave quietly

Throughout my dealings with her she was very un co-operative and wouldn't say much to me. She was then spoken to by Immigration and HMRC.

I can produce a copy of Part A of the premise licence as an exhibit marked NPW/1.

I then walked round the premises including going into the basement under the supermarket part of the premises where I saw that two police officers had found several suitcases containing female clothing along with paperwork that appeared to be in Chinese and also unsigned letters from the University of York. About 19.30hrs I was then called to the Regency Restaurant on Barbican Road, York where I met up with my colleagues, Lesley COOKE (Licensing Manager) and Helen SEFTON. I noted near the entrance to the premises from the car park there was a blocked drain which was overflowing with foul water and grease. I went up onto the first floor where the karaoke rooms were and found a strong smell of cigarette smoking as well as used cigarettes and ash in a basin on the floor of the gent's toilet. There were also sets of dice and dice shakers in each karaoke room.

I went into the kitchen where the fire alarm was being tested and noted that there was a large amount of water on the floor which was flowing out of the bottom of a kitchen unit.

Kevin CAULFIELD from North Yorkshire Fire and Rescue service was testing the alarm with a Chinese male I now know to be the Manager [REDACTED] whose real name is [REDACTED]. The Fire Officer informed us that due to a defect on the fire alarm system he would be issuing a prohibition notice which would prohibit any persons from sleeping on the premises.

About 11.15hrs on Thursday 24<sup>th</sup> October 2019 in company with the North Yorkshire Police Licensing Officer Pc Kim HOLLIS we attended at The Regency Restaurant on George Hudson Street, York for the purpose of carrying out a routine inspection. The manager YAN FENG was not present and neither was the PLH and DPS ZHONG LE CHEN. WE spoke to another female who gave

her name as [REDACTED]. She said that she was in charge and on going through the conditions of licence it was noted that the same conditions were being breached as of my 6<sup>th</sup> September visit. Ms [REDACTED] said that did not know how to work the CCTV system. As a result of the inspection Pc HOLLIS issued the premises with a Section 19, Criminal Justice and Police Act 2001 closure notice giving the premises seven days to rectify the breaches. This was clearly explained to Ms [REDACTED] and she signed the notice.

About 12.10hrs the same day again with Pc HOLLIS we attended at the Regency Restaurant on Barbican Road, York, again to carry out a routine inspection. We spoke with the manager [REDACTED]. The PLH and DPS ZHONG LE CHEN was not present. It was seen when the top floor of the premises were checked that several males were resident in bedrooms who appeared to be of Eastern European descent. Details of the males were obtained by Pc HOLLIS. They stated that they were not employed by the restaurant. On checking the karaoke rooms the dice and dice shakers were still in situ. Several breaches of the licence conditions were noted including the fact that the CCTV was not connected, no staff paper records, no incident/refusals book and no notices asking for customers to leave the premises quietly. Pc HOLLIS then issued [REDACTED] with a Section 19, Criminal Justice and Police Act 2001 closure notice giving the premises seven days to rectify the breaches which he duly signed.

At 10.30hrs on Thursday 31<sup>st</sup> October again with Pc HOLLIS we attended at The Regency Restaurant on George Hudson Street where we again spoke with [REDACTED]. Neither YAN FENG or PLH and DPS ZHONG LE CHEN were present. All the condition breaches had been rectified apart from the fact that



the CCTV system was still showing the wrong date and time, and the premises were again issued with a Section 19, Criminal Justice and Police Act 2001

notice by Pc HOLLIS giving them another seven days to rectify the CCTV fault.

About 12.15hrs the same day again with Pc HOLLIS we attended at the Regency Restaurant on Barbican Road where we spoke with [REDACTED]

[REDACTED] It was noted that all the licence conditions were now being applied with and the Section 19, Criminal Justice and Police Act 2001 notice was lifted.

On Monday 4<sup>th</sup> November 2019 the Licensing office received an Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003. The application was in the name of Zhong Le Chen and was for the Regency premises at 2-4 George Hudson Street, York, YO1 6LP.

The new DPS who had signed the necessary consent form was to be a [REDACTED] of 3 [REDACTED]. He had a personal licence [REDACTED] issued by Leeds City Council.

The application was copied and sent to the North Yorkshire Licensing Office at Fulford Road, York.

As a result of information then received I wrote a letter to ZHONG LE CHEN stating that we couldn't accept the application over problems with [REDACTED] right to work in this country. This was hand delivered to both 2-4 George Hudson Street and the PLH address at 21a Blake Street, York, YO1 8QJ. I can produce a copy of this letter as NPW/2

**I BELIEVE THAT THE FACTS STATED IN THIS WITNESS STATEMENT ARE TRUE.**

Signed

Dated 2<sup>nd</sup> January 2020

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**EXHIBIT**

**Copy of Premise Licence for Regency Restaurant, 2-4 George Hudson  
Street, York**

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This is the **Exhibit NPW/1** referred to in the statement of Nigel Philip  
Woodhead, dated 2<sup>nd</sup> January 2020.



## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

##### Part 1 Premises details

Premises licence number  
CYC - 053937

Postal address of premises:

**2-4 George Hudson Street  
York**

Post town: **York**

Post code: **YO1 6LP**

Telephone number: 01904 623656

**Expiry date:** This licence has no expiry date.

##### Licensable activities authorised by the licence:

Recorded Music  
Late Night Refreshment  
Supply of Alcohol

##### RECORDED MUSIC Indoors

Monday  
10:00 - 24:00

Tuesday  
10:00 - 24:00

Wednesday  
10:00 - 24:00

Thursday  
10:00 - 24:00

Friday  
10:00 - 03:30

Saturday  
10:00 - 03:30

Sunday  
10:00 - 24:00

**LATE NIGHT REFRESHMENT**

Indoors

Monday 23:00 - 24:00	Tuesday 23:00 - 24:00	Wednesday 23:00 - 24:00	Thursday 23:00 - 24:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 23:00 - 24:00	

**SUPPLY OF ALCOHOL**

Monday 10:00 24:00	Tuesday 10:00 24:00	Wednesday 10:00 24:00	Thursday 10:00 24:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 24:00	

**The Opening Hours of the Premises**

**OPENING HOURS**

Monday 10:00 24:00	Tuesday 10:00 24:00	Wednesday 10:00 24:00	Thursday 10:00 24:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 10:00 - 24:00	

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premise

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Mr Zhongle Chen

Address: 21a Blake Street  
York  
YO1 8QJ

Telephone number: 07477030338

Email address: service@ukregency.com

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mr Zhongle Chen  
 Address: 21a Blake Street  
 York  
 YO1 8QJ  
 Telephone number: 01757 705101

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Selby District Council  
 LN/000006043

**Annex 1 – Mandatory conditions**

**MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –  $P = D + (D \times V)$  where –

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and  
(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### **MANDATORY CONDITION: DOOR SUPERVISION**

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

2. But nothing in subsection (1) requires such a condition to be imposed -

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
- (b) in respect of premises in relation to -
  - (i) any occasion mentioned in paragraph 8 (3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
  - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
- (b) paragraph 8(5) of that Schedule (Interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### **Prevention of Crime & Disorder**

1. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.



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2. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.

3. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets).

4. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.

5. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.

6. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

7. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- a) retail sale of alcohol;
- b) age verification policy;
- c) conditions attached to the Premises Licence;
- d) permitted licensable activities;
- e) the licensing objectives; and
- f) opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

8. The premises shall operate the Challenge 25 policy for the sale of alcohol.

9. An incident book / refusals register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:-

- a) all alcohol related crimes reported to the venue
- b) any complaints received regarding alcohol related crime and disorder
- c) any faults in the CCTV system
- d) any refusal of the sale of alcohol
- e) any visit by a relevant authority or emergency service.

10. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

11. All alcohol on sales will be ancillary to a meal, sold by waitress service and for seated consumption only.

12. The restaurant section of the premises will be securely dividable from the Supermarket area when the Supermarket is not in use. The restaurant will be laid out with seating and tables to accommodate a minimum of 40 seated patrons at any one time.

13. There shall be a minimum of one door supervisor on duty at the restaurant premises from 23:00hrs to close of business at all times when open to the public & undertaking licensable activity beyond 01:00hrs.

14. Where door supervisors are on duty they shall sign in and out of the premises log book, providing full details of their name and SIA number.

15. The Designated Premises Supervisor shall be responsible for risk assessing the need for additional door staff at the venue on days of York Races, on Fridays, Saturdays or bank holidays or other locally or nationally significant events.

**Public Nuisance**

16. Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and area quietly.

17. Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

**Annex 3 – Conditions attached after a hearing by the licensing authority**

No hearing held

**Annex 4 – Approved Plan**

Plan Number                      Endorsed on the 12/08/2015

For and on behalf of  
The Director of Communities  
& Neighbourhoods

Date: 10/09/2015

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**



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**EXHIBIT**

**Copy of letter sent to DPS ZHONG LE CHEN at 21a Blake Street, York**

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This is the Exhibit NPW/2 referred to in the statement of Nigel Phillip  
Woodhead, dated 2<sup>nd</sup> January 2020.



Economy & Place

Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Mr Zhong Le CHEN  
21a Blake Street  
York  
YO1 8QJ

Tel: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)

13<sup>th</sup> November 2019

Dear Mr Chen

Licensing Act 2003

Application for Variation of Designated Premise Supervisor  
Regency, 2-4 George Hudson Street, York, YO1 6LP

I am writing to you today to inform you that we cannot proceed with the proposed variation to your Designated Premise Supervisor at the above premises to [REDACTED]. It has been brought to our attention by the relevant Authorities that Mr [REDACTED] does not have the right to work in this country and therefore his Personal Licence to supply alcohol is not valid, this having lapsed at the time that his right to work ended or at the time that Schedule 4 of the Immigration Act 2016 came into force.

In order to proceed we will have to receive another application and until we do you will be remaining as the Designated Premise Supervisor unless we hear to the contrary.

Further investigations will need to be made into this matter and it may well be that we will have to formally interview you with regard to the checks that you make on your employees

Yours sincerely

Nigel Woodhead  
Licence Enforcement Officer  
City of York Council

Director: Neil Ferris

[www.york.gov.uk](http://www.york.gov.uk)

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 3**

**A statement from Glynn Jones, Immigration Officer at the Home Office**

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use – April 2014

MG11

## WITNESS STATEMENT

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

URN GRJ 6633 07012020 1

Statement of: Glynn Ronald 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: 07/01/2020

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 10<sup>th</sup> DECEMBER 2019, I was requested to provide a summary of YHICE visits conducted to both the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP in terms of breaches of the IMMIGRATION ACT 1971 (AS AMENDED), as part of on-going enquiries into the two businesses.

HOME OFFICE records show YHICE have conducted FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA which are recorded below.

- 1). 7<sup>th</sup> JUNE 2014 - 2 Chinese nationals arrested; 1 for OVERSTAYING, and 1 for ILLEGAL ENTRY (CLANDESTINE) (initially provided false details and later found to have been previously served as an ILLEGAL ENTRANT (CLANDESTINE)).
- 2). 21<sup>st</sup> MAY 2017 - 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work).
- 3). 8<sup>th</sup> SEPTEMBER 2017 - 6 Chinese nationals arrested; 4 for OVERSTAYING their leave, and 2 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 4). 16<sup>th</sup> MARCH 2018 - No arrests were made, all staff present had permission to live and work in the United Kingdom.
- 5). 6<sup>th</sup> SEPTEMBER 2019 - 3 Chinese nationals arrested; 1 for OVERSTAYING their leave, 1 for WORKING IN BREACH (held extant leave with no permission to work) and 1 as a PERSON LIABLE TO DETENTION (previously REFUSED LEAVE TO ENTER but granted temporary admission/bail at port following an application for leave to remain, and subsequently failed to appear for an interview to progress their application).

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

2014

Government Security Classification OFFICIAL SENSITIVE

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use – April 2014

MG11

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

- 1). 7<sup>th</sup> APRIL 2017 – 1 Chinese national arrested for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 2). 8<sup>th</sup> SEPTEMBER 2017 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work)
- 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, 1 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE), and 1 for being a PERSON LIABLE TO DETENTION (previously served as an ILLEGAL ENTRANT (ENTRY WITHOUT LEAVE) and failed to adhere to their bail conditions by failing to report to the Home Office, and working without permission).

This witness statement was made and completed at WATERSIDE COURT, LEEDS on 7<sup>th</sup> JANUARY 2020 at 14:15 hrs.

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

2014

Government Security Classification OFFICIAL SENSITIVE

**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 4**

**A copy of the summonses relating to Food Safety and Hygiene Offences**



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**SUMMONS**

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**IN THE COUNTY OF NORTH YORKSHIRE**

**YORK MAGISTRATES COURT**

The Law Courts, Clifford Street, York, YO1 9RE  
01904 818300

**CODE: 2541**

**ACCUSED:** China Regency Ltd

**Co. NUMBER:** 10961793

**ADDRESS:** 16 Barbican Road  
York  
YO10 5AA

You are hereby summonsed to appear on **14 August 2018 at 10am** before the Magistrates' Court at The Law Courts, Clifford Street, York, to answer the following information:

**ALLEGED OFFENCE:**

**Count 1**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community provision, namely to keep food premises clean and maintained in good repair and condition, contrary to Annex II Chapter I Paragraph I and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972

**Count 2**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community Provision, namely to provide washbasins with materials for cleaning hands and hygienic drying, contrary to Annex II Chapter 1 Paragraph 4 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972

**Count 3**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator you failed to comply with a Community provision, namely to effectively clean and disinfect all articles, fittings and equipment with which food comes into contact, contrary to Annex II Chapter V Paragraph I(a) and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the

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Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972

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**PROSECUTOR:**

Andrew Docherty, Assistant Director Legal & Governance  
on behalf City of York Council

**ADDRESS:**

Legal Services, West Offices, Station Rise, York, YO1 6GA

**DATE OF INFORMATION:** 22 June 2018

.....  
Clerk to the Justices / Justices of the Peace  
.....

**DATE:**

**28 JUN 2018**

**SUMMONS**

**IN THE COUNTY OF NORTH YORKSHIRE**

**YORK MAGISTRATES COURT**

The Law Courts, Clifford Street, York, YO1 9RE  
01904 818300

**CODE: 2541**

**ACCUSED:** Xlu Lan Chen

**DATE OF BIRTH:** 16 August 1976

**ADDRESS:** 16 Barbican Road  
York  
YO10 5AA

You are hereby summonsed to appear on **14 August 2018 at 10am** before the Magistrates' Court at The Law Courts, Clifford Street, York, to answer the following information:

**ALLEGED OFFENCE:**

**Count 1**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community provision, namely to keep food premises clean and maintained in good repair and condition, contrary to Annex II Chapter I Paragraph I and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

**Count 2**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community Provision, namely to provide washbasins with materials for cleaning hands and hygienic drying, contrary to Annex II Chapter 1 Paragraph 4 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

**Count 3**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator you failed to comply with a Community provision, namely to effectively clean and disinfect all articles, fittings and equipment with which food comes into contact, contrary to Annex II Chapter V Paragraph I(a) and Article 4(2) of Regulation (EC) No 853/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

**PROSECUTOR:**

Andrew Docherty, Assistant Director Legal & Governance  
on behalf City of York Council

**ADDRESS:**

Legal Services, West Offices, Station Rise, York, YO1 6GA

**DATE OF INFORMATION:** 22 June 2018

.....  
Clerk to the Justices/Justice of the Peace

**DATE:**

28 JUN 2018

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 5**

A copy of the signed simple caution relating to the sale of the knife to a person under  
the age of eighteen





Public Protection  
Ecc Depot, Hazel Court  
York YO10 3DS  
Telephone: 01904 551546

CASE REFERENCE: 2628 /9

## SIMPLE CAUTION (COMPANY)

COMPANY NAME: York Regency Associates Ltd.  
COMPANY REGISTERED ADDRESS: 4 George Hudson Street, York, YO1 6LP  
COMPANY REGISTERED NO: 09197841

DATE of OFFENCE(S): 18 July 2017  
PLACE of OFFENCE(S): In the City of York

### BRIEF CIRCUMSTANCES of OFFENCE(S)

That you on 18 July 2017 in the City of York sold to a person under the age of eighteen an article, namely a knife, contrary to section 141A of the Criminal Justice Act 1988.

PLEASE READ THE <sup>1</sup>NOTES AND DECLARATION AND MAKE SURE YOU UNDERSTAND IT BEFORE YOU SIGN.

### DECLARATION

I have read and understand all this information.

I hereby declare that I Tina Fens am authorised by the Company<sup>2</sup> to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the Company may be under a duty to disclose the existence of this Caution.

NAME (Block capitals) Tina Fens SIGNED: [Signature]  
POSITION WITH THE COMPANY Manager

DATED THIS 19 DAY of 11 2017

AFTER A SIGNATURE HAS BEEN ADDED ABOVE, AN OFFICER OF CITY OF YORK COUNCIL WILL COUNTERSIGN AND RETURN A COPY.

NAME (Block capitals) MATTHEW BOXALL SIGNED: [Signature]  
DESIGNATION Acting Head of Public Protection

DATED THIS 23 DAY of November 2017

<sup>1</sup> SEE NOTES OVERLEAF

<sup>2</sup> ONLY DIRECTORS/AUTHORISED OFFICERS OF THE COMPANY MAY SIGN

**NOTES:**

- 
1. The Company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
  2. If new evidence comes to light suggesting that the offence(s) the Company has committed are more serious, you might still take legal action against the Company.
  3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the Company's registered office to the victims so they can do this.
  4. If the Company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution.
  5. If the Company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
  6. I also understand that in some circumstances the Company may be under a duty to disclose the existence of this Caution.



Economy and Place Directorate

Eco Depot  
Hazel Court  
York YO10 3DS

For the addressee only  
Yantong Feng  
3 Lincombe Bank  
Leeds  
LS8 1QG

Tel: 01904 551598  
Email: [jane.aird@york.gov.uk](mailto:jane.aird@york.gov.uk)  
Our ref: 2629  
Date: 21 November 2017

Dear Yantong Feng

**Simple Caution – Sale of a Knife to a Minor**

Public Protection has received a signed caution in relation to the sale of a knife to a minor. I have noted that the caution has been signed by Tina Feng (please see the copy enclosed), whom I note is not a Director or Company Secretary of York Regency Associates Ltd. We are happy to accept the signed caution however we would like to make sure you are aware of this document.

Please contact me if you wish to discuss this further. If I do not hear from you I will assume that you are happy for Ms Feng to sign the caution and it will be processed.

Yours sincerely

Jane Aird  
Trading Standards Officer



Amesc 2

**LICENSING ACT 2003****PREMISES LICENCE****Schedule 12****Part A****Part 1 Premises details**

Premises licence number CYC - 009221
---

Postal address of premises:

**16 Barbican Road**

Post town: York

Post code: **YO10 5AA**

Telephone number: 01904 623134

**Expiry date:** This licence has no expiry date.**Licensable activities authorised by the licence:**

Live Music  
Recorded Music  
Performances of Dance  
Activities like music/dance  
Late Night Refreshment  
Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

LIVE MUSIC  
Indoors

Monday  
10:00 - 03:30

Tuesday  
10:00 - 03:30

Wednesday  
10:00 - 03:30

Thursday  
10:00 - 03:30

Friday  
10:00 - 03:30

Saturday  
10:00 - 03:30

Sunday  
10:00 - 03:30

#### RECORDED MUSIC

Indoors

Monday 10:00 - 03:30	Tuesday 10:00 - 03:30	Wednesday 10:00 - 03:30	Thursday 10:00 - 03:30
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 03:30	

#### PERFORMANCES OF DANCE

Indoors

Monday 10:00 - 03:30	Tuesday 10:00 - 03:30	Wednesday 10:00 - 03:30	Thursday 10:00 - 03:30
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 03:30	

#### ACTIVITIES LIKE MUSIC/DANCE

Indoors

Monday 10:00 - 03:30	Tuesday 10:00 - 03:30	Wednesday 10:00 - 03:30	Thursday 10:00 - 03:30
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 03:30	

#### LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 03:30	Tuesday 23:00 - 03:30	Wednesday 23:00 - 03:30	Thursday 23:00 - 03:30
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 23:00 - 03:30	

#### SUPPLY OF ALCOHOL

Monday 10:00 - 03:30	Tuesday 10:00 - 03:30	Wednesday 10:00 - 03:30	Thursday 10:00 - 03:30
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 03:30	

Non Standard Timings for Live Music, Recorded Music, Performances of Dance, Activities like Music/Dance, Late Night Refreshment and Supply of Alcohol:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**The Opening Hours of the Premises**

Monday 10:00 - 04:00	Tuesday 10:00 - 04:00	Wednesday 10:00 - 04:00	Thursday 10:00 - 04:00
Friday 10:00 - 04:00	Saturday 10:00 - 04:00	Sunday 10:00 - 04:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

Email address: None

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Selby District Council  
LN/000006043

## **Annex 1 – Mandatory conditions**

### **MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –  $P = D + (D \times V)$  where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### Prevention of Crime & Disorder

1. CCTV recordings will include, as a minimum, a head and shoulders image of each individual who enters the premises through the main entrance.

#### Protection of Children from Harm

2. There shall be a "Challenge 21" policy in operation at the premises requiring any individual who appears to be under the age of 21 to produce identification to prove that they are over the age of 18, the sale of alcohol being refused where they are unable to do so.
3. The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representatives of North Yorkshire Police licensing Unit.

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

1. Prior to using the karaoke rooms customers must have consumed a meal in the restaurant, excluding snacks.
2. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms and stairways to which the public have access for licensable activities and where the public can consume alcohol.
3. It will be maintained, working and recording at all times when the premises are open.
4. The recordings should be of sufficient quality to be produced in Court or other such hearing.
5. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
6. Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.
7. Copies of the recordings will display the correct time and date of the recording.
8. All off sales shall be made in sealed containers save for those that are intended for consumption within the building.
9. After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.
10. Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).
11. After 24:00hrs customers who have left the venue to smoke shall be monitored by a Door Supervisor in a clearly demarked area at the front of the venue which will not block the footpath.

12. Two SIA Door Supervisors shall be provided at the venue from 24:00hrs until the close of business, with at least one staffing the main door on to Barbican Road.
13. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
14. Standard one pint capacity, half pint capacity and "high ball tumbler" drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.
15. Drinking glasses of any type should not be allowed to enter or leave the premises whilst under the customers care.
16. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and the opening times of the venue.
17. Such training (referred to in Condition 16) will be refreshed and documented every 6 months.
18. Such training records (referred to in Condition 16) should be kept for at least 3 years.
19. Such training records (referred to Condition 16) will be made available for inspection upon request by any Responsible Authority.
20. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people, as well as incidents of any anti-social behaviour and ejections from the premises.
21. Both the above documents (referred to in Condition 20) will be kept for at least 3 years.
22. Both the above documents (referred to in Condition 20) will be available for inspection upon request by any Responsible Authority.
23. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
24. So as to ensure the Licensing Objective the prevention of crime and disorder is not undermined there shall be a maximum capacity of 100 persons of which there shall be no more that 30 persons on the first floor and no more that 20 persons on the second floor.
25. When the karaoke rooms are being used there shall be at least one member of staff permanently situated on each floor of the venue on which the room is being used.
26. The member of staff shall monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.
27. The members of staff situated on the first and second floor shall be in direct radio link with the Door Staff.
28. All alcohol consumed in the karaoke rooms shall be served by way of waiter/waitress service.
29. No dancing is to take place on the ground floor of the building at anytime.
30. All users of the karaoke rooms must have evidence of their room hire on their food bill as suitable evidence of food purchase.

31. All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress).

32. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.

33. The use of external areas shall be restricted to 10:00hrs – 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

35. A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

**Annex 4 – Approved Plan – Plan Number BR.(16)/01**

For and on behalf of  
The Director of Communities  
& Neighbourhoods

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Date: 28/09/2005  
25/06/2015 (Transfer and DPS Variation)

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)

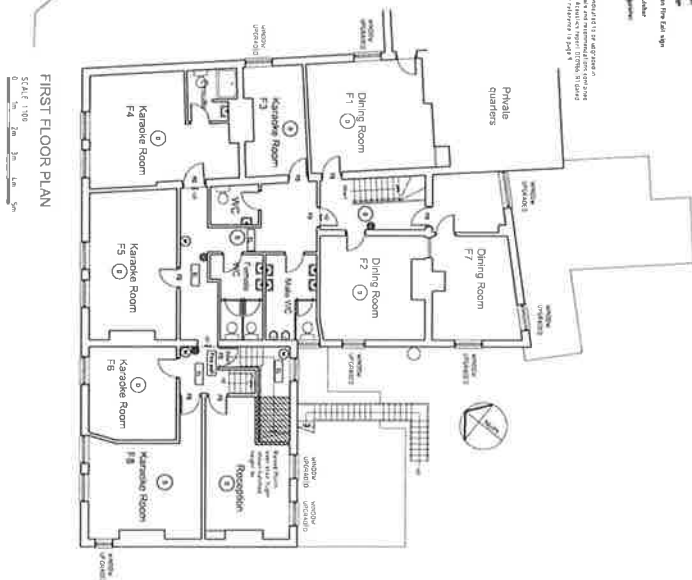
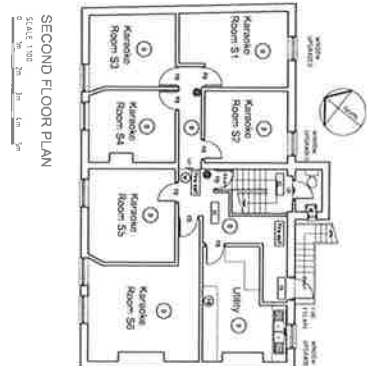
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)





Key To Symbols

- 1. Reception area
- 2. Bar
- 3. Kitchen
- 4. Dining Room
- 5. Karaoke Room
- 6. Private Quarters
- 7. Stairs
- 8. WC
- 9. Utility
- 10. Storage
- 11. Heating and Hot Water
- 12. Air Conditioning
- 13. Fire Alarm
- 14. Fire Exit
- 15. Fire Door
- 16. Fire Stair
- 17. Fire Stair Landing
- 18. Fire Stair Landing
- 19. Fire Stair Landing
- 20. Fire Stair Landing



All drawings and plans to be checked on site prior to building work.  
If any building work is to be carried out within the site, the contractor must ensure that the building work is carried out in accordance with the relevant building regulations and that the building work is carried out in accordance with the relevant building regulations.  
The contractor must ensure that the building work is carried out in accordance with the relevant building regulations and that the building work is carried out in accordance with the relevant building regulations.  
The contractor must ensure that the building work is carried out in accordance with the relevant building regulations and that the building work is carried out in accordance with the relevant building regulations.

Project		Royal Dragon 16 Barbican Road YORK YO10 5AA	
Client		Royal Dragon	
Drawing Title		Licensing Drawing: GROUND, FIRST AND SECOND FLOOR PLANS	
Scale		1:100 B.A.	
Date		July 2017	
Drawn By		B.R. (16) / 01	
Checked By		E	



Amesc 3

Police RepresentationThe Regency16 Barbican RoadYorkYO10 5AA

City of York Council  
Licensing Services  
Hazel Court EcoDept  
James Street  
York  
YO10 3DS

5<sup>th</sup> March 2020

Dear Sir/Madam,

As the Force Licensing Manager for North Yorkshire Police, I am delegated on behalf of the Chief Constable to respond to all applications under the Licensing Act 2003. This representation relates to the Licensed Premises, The Regency, 16 Barbican Road York YO10 5AA, and for which the Police deem that the Premise Licence holder and Designated Premises Supervisor Mr Zhong Le Chen has undermined the licensing objective Prevention of Crime and Disorder, which will be evidenced below.

Mr Zhongle (Zhong Le) CHEN has been the Premises Licence Holder and Designated Premises Supervisor since 25<sup>th</sup> June 2015. The premises have licensable activities as follows:-

Recorded Music Mon- Sun 1000-0330hrs  
Performance of Music/Dance Mon- Sun 1000-0330hrs  
Late Night Refreshment Mon-Sun 2300-0330hrs  
Supply of Alcohol Mon - Sun- 1000-0330hrs

On two separate occasions in September 2017 and September 2019 North Yorkshire Police have attended the premises as part of a multi-agency operation with officers from the Home office (Immigration) due to intelligence that persons have been employed to work at the Premises who do not have a right to work in the UK. As a result of attending the premises on these occasions persons were removed by Immigration officers on the grounds, they did not have leave to remain in the country.

North Yorkshire Police are concerned that the Premises have undermined the licensing objective Prevention of Crime and Disorder and are concerned that the Premises has failed to ensure compliance with the authorisation issued by the Licensing Authority.

On 8<sup>th</sup> September 2017, PC Bolland an officer from North Yorkshire Police licensing department and staff from the home office and licensing enforcement officers from City of York Council attended the premises, which was open to the public. Upon entering the premise a male who provided his details as [REDACTED], (preferred to be called [REDACTED]) stated he was the manager. PC Bolland and Helen Sefton from the City of York Enforcement Team went through the Premises licence with Mr [REDACTED]. Upon requesting to see the CCTV, he advised that only the business owner could access it. Whilst officers were still in attendance, the Premises Licence holder and Designated Premises Supervisor Mr Zhong Le Chen arrived at the premises. He was asked about the Premise Licence conditions and the CCTV however, he stated he did not fully understand and asked [REDACTED] to interpret for him. It was established that Mr Zhong Li Chen could not access the CCTV, his [REDACTED] was the only one who could do this but was abroad in China. Officers were therefore unable to check if the CCTV equipment was operating in accordance with the following conditions:

- Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol.
- It will be maintained, working and recording at all times when the premises are open.
- The recordings should be of sufficient quality to be produced in court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days.
- Copies of the recordings will be made available to any responsible authority within 48hrs of request.
- Copies of the recordings will display the correct time and date of the recording.

On 6<sup>th</sup> September 2019, as part of a multi-agency partnership operation, officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, staff from the Gang masters and Labour abuse Authority and licensing enforcement officers from City of York Council, attended the Premises. Three persons working at the premises were removed by Immigration officers due to concerns around their right to work in the UK. The premises were open to the public, and operating licensable activities. Helen Sefton identified a number of breaches in respect of the Premises Licence authorisation. As a result of the breaches identified, a follow up visit was arranged with a police licensing officer.

On 24<sup>th</sup> October 2019, PC Kim Hollis, police licensing officer and Nigel Woodhead, re-attended the premises. [REDACTED] was again present and stated the DPS Mr Zhong Le Chen was not at the premises. PC Hollis went through the Premise Licence Conditions with [REDACTED] and identified the following:-

The CCTV equipment was not working having been removed by the Police on 6<sup>th</sup> September 2019 and none of the CCTV conditions referred to above were being adhered to

No notices displayed at the exit/entrance, which is a breach of the following condition:-

- Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

No incident book, could be produced upon request, which is a breach of the following condition:-

- A refusals register and incident report register will be kept. Such documents will record incidents of staff refusals to underage or drunk people, as well as incidents of any anti-social behaviour and ejections from the premises.
- Both the above documents will be kept for at least 3 years.
- Both the above documents will be available for inspection upon request by any Responsible Authority.

No staff training records were available. The Premise Licence states the following:-

- Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and the opening times of the venue.
- Such training will be refreshed and documented every 6 months
- Such training records should be kept for at least 3 years.
- Such training records will be made available for inspection upon request by any Responsible Authority.

Prior to leaving PC Hollis issued a Section 19 Closure Notice (Section 19 of the criminal justice and police act 2001) and informed [REDACTED] that every alcoholic drink sold would be a prosecutable offence and that she would return in seven days to check compliance.

On 31<sup>st</sup> October 2019, PC Hollis attended the Premises to check compliance with the Section 19 notice. Present again was [REDACTED] and PC Hollis went through the Premise Licence Conditions again, to check compliance and advised that the Section 19 had been complied with and the Premises now operating in accordance with an authorisation.

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Appendix 1 – Statement from PC Bolland

Appendix 2 – Statement from PC Hollis

Appendix 3 – Section 19 Notice 1 – dated 24/10/19

Appendix 4 – Statement of Inspector Freer

Yours Sincerely,

J Booth

PS133 Booth  
Force Licensing Manager  
Alcohol Licensing Department  
Fulford Road Police Station  
York  
YO10 4BY

Email: - [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

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**Police representation in response to a review of a premises licence or club premises certificate**

**under the Licensing Act 2003**

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**The Regency, Barbican Road, York**

**Appendix 1**

**Statement from PC Bolland**

RESTRICTED (when complete)

MG11

## WITNESS STATEMENT

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

URN

Statement of: Samantha Bolland

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

Occupation: Police Officer

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: ..... 1520 ..... (witness) Date: 0303/2020

I am PC 1520 Samantha Bolland from North Yorkshire Police. I am stationed at Fulford Road Police Station, York, in the role as a Police Alcohol Licensing Officer, and I have been in this role for the last 4 years.

On 8th September 2017 at 1800 hrs I was on duty when I attended a briefing at Fulford Road Police Station, York targeting The Regency Chinese Restaurant Barbican Road, York and The Regency, George Hudson Street, York, as part of a multi-agency partnership operation, in company with officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, and Licensing enforcement officers from City of York Council.

My role was to assist City of York Senior Licensing Officer Helen Sefton to inspect both premises under section 179 of the Licensing Act 2003.

At 18:45 on the same date above, in company with Senior Licensing Officer, Helen Sefton, I entered The Regency Chinese Restaurant, Barbican Road. Upon entering the premise it was open to the Public, there were customers and staff present. Myself and Senior Licensing Officer Helen Sefton proceeded to speak to a male who identified himself as the manager, he stated his name was [REDACTED]. We then went through the Licence conditions outlined within the Premise Licence. We asked to see the CCTV system, however [REDACTED] stated he could not access it and it was only the owner who had access. The owner and Designated Premise Supervisor, ZHONG LE CHEN, arrived at approximately 19:25 hours. Helen Sefton approached the owner and tried to communicate with him, he stated he could not understand English. Helen Sefton asked [REDACTED] to interpret. Helen Sefton asked CHEN, who owned the business and he stated it was his [REDACTED], but he was in China, and he was the only person able to access the CCTV system.

After further discussions myself and Helen Sefton conducted a full inspection of the premise and found the following breaches as per the licence conditions attached to the Premise Licence:

- staff training records were not present/ documented
- No notices asking patrons to leave quietly
- no noise management plan
- no access to CCTV /recordings or retention

Signature: ..... 520 ..... Signature witnessed by: .....

2010/11

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

## Continuation statement of: Samantha Bolland

After the inspection we then attended the second premises at George Hudson Street, York. A female called Tina FENG stated she was the manager of the premise and spoke with Helen Sefton regarding the Premise Licence conditions. FENG stated she was only in charge of the supermarket part of the premises and there was a separate manager for the restaurant as the premise was divided into two parts.

FENG stated she did not know or have access to the CCTV system, that staff training had been given in relation to licensing matters, but this was not documented. She also stated that the Designated Premise Supervisor was ZHONG LE CHEN.

Shortly after we left the premise and this was the last time I dealt with both premises.

1520

Signature: .....

Signature witnessed by: .....

2010/11

RESTRICTED (when complete)



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**Police representation in response to a review of a premises licence or club premises certificate**

**under the Licensing Act 2003**

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**The Regency, Barbican Road, York**

**Appendix 2**

**Statement from PC Hollis**

RESTRICTED (when complete)

MQ11

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

URN

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: PC1671 (witness)

Date: 4<sup>th</sup> March 2020

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 [REDACTED], who asked to be called [REDACTED], 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. [REDACTED] 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. [REDACTED] 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)

RESTRICTED (when complete)

MG11

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

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

Myself and Nigel WOODHEAD then left the premises,

At approximately 12.10hrs that same day Nigel and I attended the Regency restaurant 16A BARBICAN ROAD, YORK.

On our arrival we spoke with a male that identified himself to be [REDACTED], asked to be known as [REDACTED]. We explained that we were there to conduct a licensing check and asked if the designated premises licence holder was present but [REDACTED] said that he was not and I then began to go through the premises licence with [REDACTED]

[REDACTED] explained to me that currently the CCTV was not working after a previous visit from Police and Immigration and it has not been able to connect since. I also identified some further breaches of the licence and as such I documented these on a Section 19 closure notice as before. This notice was given number CYC-009221 and they were as follows:

- No staff training records conditions 16,17,18 and 19
- No incident book conditions 20,21 and 22
- No notices asking patrons to be quiet and respect neighbours condition 23
- CCTV not working conditions 2-7

The steps I documented to be taken were as follows:

- Staff retrained and records made (7 days given)
- Incident book (7 days given)
- Notices displayed on exit (7 days given)
- CCTV working (7 days)

Whilst being shown around the premises on the top floor we were shown rooms which had beds inside and one room had a male inside that gave his details to [REDACTED] as [REDACTED] born [REDACTED] passed these details on to me as the male did not speak English. He confirmed that he did not work at the premises.

Before leaving the premises I explained the Section 19 notice to [REDACTED] and asked him to sign this which he did. I left a copy of the notice with [REDACTED] and we then left.

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 [REDACTED] ([REDACTED])

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 [REDACTED] 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)

RESTRICTED (when complete)

MG11

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

At around 1200hrs we attended Regency BARBICAN ROAD, YORK and again spoke with [REDACTED] who showed me the work they had done to rectify any breaches listed on the section 19 notice issued. All points were now rectified and they were complying with licence conditions so I explained to [REDACTED] that the notice was now closed.

On 4<sup>th</sup> November 2019 I was made aware that an application to change DPS had been accepted by City of York Council Licensing and as such checks were made by our department in relation to the applicant [REDACTED] born [REDACTED]. As a result of these checks I made contact with Immigration Officer 6633 Glyn JONES that same day via email and requested a person check be conducted on [REDACTED].

Officer JONES advised me by reply that [REDACTED] did not have permission to work in the UK. I passed this information on to the Force Licensing Manager PS 133 Jackie BOOTH.

On 13<sup>th</sup> November 2019 Immigration Officer Glyn JONES provided me with a statement in relation to [REDACTED].

I produce the section 19 notices as exhibits:

KH/1 - 24/10/19 Regency George Hudson Street CYC-053937-1  
KH/2 - 24/10/19 Regency George Hudson Street CYC-053937-2  
KH/3 - 24/10/19 Regency Barbican Road CYC-009221  
KH/4 - 31/10/19 Regency George Hudson Street CYC-053937-3

Signature:

Pc1671

Signature witnessed by:

[REDACTED]

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**Police representation in response to a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

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**The Regency, Barbican Road, York**

**Appendix 3**

**Section 19 Notice 1 – dated 24/10/19**



Form 221 - 01/2010



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

NO. **C42**  
**009 241**

Date and time of the Closure Notice:

**2010 09 10 10:00**

Person making the Notice:

**P. J. O. 1 2 3 4 5**

Signature: .....

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

**123 456 789 1011 1213 1415 1617 1819 2021 2223 2425 2627 2829 3031 3233 3435 3637 3839 4041 4243 4445 4647 4849 5051 5253 5455 5657 5859 6061 6263 6465 6667 6869 7071 7273 7475 7677 7879 8081 8283 8485 8687 8889 9091 9293 9495 9697 9899 100101 102103 104105 106107 108109 110111 112113 114115 116117 118119 120121 122123 124125 126127 128129 130131 132133 134135 136137 138139 140141 142143 144145 146147 148149 150151 152153 154155 156157 158159 160161 162163 164165 166167 168169 170171 172173 174175 176177 178179 180181 182183 184185 186187 188189 190191 192193 194195 196197 198199 200201 202203 204205 206207 208209 210211 212213 214215 216217 218219 220221 222223 224225 226227 228229 230231 232233 234235 236237 238239 240241 242243 244245 246247 248249 250251 252253 254255 256257 258259 260261 262263 264265 266267 268269 270271 272273 274275 276277 278279 280281 282283 284285 286287 288289 290291 292293 294295 296297 298299 300301 302303 304305 306307 308309 310311 312313 314315 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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**NORTH YORKSHIRE  
FIRE & RESCUE SERVICE**

NYFRS Reference:

Premises:  
Job:

York Fire Station  
Kent Street  
York  
North Yorkshire  
YO10 4AH

When telephoning please ask for: K Caulfield

Tel: 01904 625272  
Fax: 01904 620732  
Email: kevin.caulfield@northyorksfire.gov.uk

11 February 2020

Dear Sir or Madam

**Cover Letter from Watch Manager Kevin Caulfield**

**Regency Restaurant, 16 Barbican Road, York, YO10 5AA**

I have provided a witness statement on the request of City of York council with reference to Regency Restaurant, 16 Barbican Road, York, and Regency Restaurant, George Hudson Street York.

The witness statement is to assist the review of the premises licences for these premises.

The majority of information we collect regarding business fire safety is non-personalised information, however any personal data we collect will be managed in accordance with our Privacy Notice which can be viewed on our website, [www.northyorksfire.gov.uk/about-us/yourdata](http://www.northyorksfire.gov.uk/about-us/yourdata).

Under the Regulatory Reform Order 2005 we are obliged to publish a public register of enforcement action which can be viewed via our website, [www.northyorksfire.gov.uk/about-us/key-documents/links-registers](http://www.northyorksfire.gov.uk/about-us/key-documents/links-registers).

Yours faithfully

**K Caulfield**

West Offices,  
Station Rise,  
York,  
YO1 6GA

Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives  
**[www.northyorksfire.gov.uk](http://www.northyorksfire.gov.uk)**





**NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY**

**STATEMENT OF WITNESS**

POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9

STATEMENT OF Kevin Caulfield  
AGE OF WITNESS: over 18  
OCCUPATION OF WITNESS Fire Safety Officer  
ADDRESS OF WITNESS: York Fire Station, Kent Street, York, YO10 4JF

This statement (consisting of ...3 pages 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.

DATED THE 30th day of January 2020

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

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1.0 My name is Kevin John CAULFIELD. I am employed as a Watch Manager by North Yorkshire Fire and Rescue Service (NYFRS) and have worked in various Fire Service roles for over 26 years. I am currently working within the Fire Safety department as a Fire Safety Officer. My current duties include planning and implementing audit inspections on commercial/business premises, building consultations, within the York area, and assisting the Service to meet its statutory obligations as an enforcing authority. I have a national qualification Level 3 Certificate in Fire Safety (Fire Auditors) (QCF). I have completed courses including Fire Safety & Building Design, Building Regulations and Technical Guidance, Fire Safety & Building Design Complex Buildings: BS9999. I hold IOSH

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SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY

STATEMENT OF WITNESS

POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9

CONTINUATION SHEET

Managing Safely qualification. I hold Level 3 NVQ in Watch Management.

- 2.0 I am warranted under the Regulatory Reform (Fire Safety) Order 2005 (**RRFSO**) to carry out the duties imposed by it on the Fire and Rescue Authority.

This witness statement is in relation to two premises;

- Regency Restaurant 16 Barbican Road YO10 5AA
- Regency Restaurant 2-4 George Hudson Street York YO1 6LP

Regency Restaurant 16 Barbican Road YO10 5AA

Fire calls received

None

Complaints Received

- 16/04/2016  
Complaint received from customer. Overcrowding, staff living on top floor and smoking on site. Fire Safety Audit carried out – fire safety advice given no further action.
- 11/09/2017  
Complaint received from Police. 20 People living in cramped conditions. Fire Safety Audit carried out- fire safety advice given no further action.

Recent Audits

09/09/19

Fire Safety Audit carried out as part of Operation Alligator - Regency Restaurants. Multi-agency operation Joint visit.

During this visit a number of fire safety issues were found;

- Padlocks fitted to sleeping accommodation, fire doors held open with catches, fire exits blocked due to refurbishment work.
- Fire alarm not working

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

RRO.WIT.01

NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY

STATEMENT OF WITNESS

POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9

CONTINUATION SHEET

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- **Prohibition and Enforcement notices served.** A Prohibition notice was served due to the premises being not safe for sleeping as the means of escape had been blocked and the fire alarm was not working.

09/10/19 Compliance fire safety audit carried out following previous audit

- Two Emergency lights not working – otherwise satisfactory

Regency Restaurant 2-4 George Hudson Street York YO1 6LP

Fire calls received

None

Complaints received

- 29/7/2009 Complaint received from City of York Environmental Health Officer. Fire doors held open by boxes of food. Language line used to advise senior staff member to remove obstruction.
- 13/9/17 Complaint received from licensing enforcement officer. Fire exit between restaurant and front exit in state of disrepair and one side bolted shut. Fire safety audit carried out and notification of deficiencies sent.

Recent audits

14/9/17 Fire Safety Audit (due to complaint received 13/09/2017)

- No fire detection in basement and fire door to basement held open
  - No weekly testing of fire alarm
  - Staff training not recorded
  - **Notification of deficiencies served.**
- 

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

RRO.WIT.01



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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	03032020	1
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Statement of: Glyn Ronald 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: 03/03/2020

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 10<sup>th</sup> DECEMBER 2019, I was requested to provide a summary of YHICE visits conducted to both the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP in terms of breaches of the IMMIGRATION ACT 1971 (AS AMENDED), as part of on-going enquiries into the two businesses.

HOME OFFICE records show YHICE have conducted FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA which are recorded below.

- 1). 7<sup>th</sup> JUNE 2014 - 2 Chinese nationals arrested; 1 for OVERSTAYING, and 1 for ILLEGAL ENTRY (CLANDESTINE) (initially provided false details and later found to have been previously served as an ILLEGAL ENTRANT (CLANDESTINE)).
- 2). 21<sup>st</sup> MAY 2017 - 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work).
- 3). 8<sup>th</sup> SEPTEMBER 2017 - 6 Chinese nationals arrested; 4 for OVERSTAYING their leave, and 2 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 4). 16<sup>th</sup> MARCH 2018 - No arrests were made, all staff present had permission to live and work in the United Kingdom.
- 5). 6<sup>th</sup> SEPTEMBER 2019 - 3 Chinese nationals arrested; 1 for OVERSTAYING their leave, 1 for WORKING IN BREACH (held extant leave with no permission to work) and 1 as a PERSON LIABLE TO DETENTION (previously REFUSED LEAVE TO ENTER but granted temporary admission/bail at port following an application for leave to remain, and subsequently failed to appear for an interview to progress their application).

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

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use – April 2014

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

- 1). 7<sup>th</sup> APRIL 2017 – 1 Chinese national arrested for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 2). 8<sup>th</sup> SEPTEMBER 2017 – 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work)
- 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, 1 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE), and 1 for being a PERSON LIABLE TO DETENTION (previously served as an ILLEGAL ENTRANT (ENTRY WITHOUT LEAVE) and failed to adhere to their bail conditions by failing to report to the Home Office, and working without permission).

This witness statement was completed at WATERSIDE COURT, LEEDS on 3<sup>rd</sup> MARCH 2020 at 09:45hrs.

Signature: .....

Signature witnessed by: .....

2014

Government Security Classification OFFICIAL SENSITIVE



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**WITNESS STATEMENT**

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

Statement of: Glyn Ronald JONES

URN GRJ 6633 04032020 1

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

Occupation: Immigration Officer

This statement (consisting of 1 (one) 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: 04/03/2020

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, and the outcomes of any investigations conducted.

This witness statement should be read in conjunction with witness statement GRJ 6633 03032020 1.

On 21<sup>st</sup> JANUARY 2020 I was requested to provide a summary of the investigations conducted on the individuals arrested from the FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA from 2014 to 2019 and THREE enforcement visits to the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP from 2017 to 2019.

Research conducted on Home Office systems shows a total of EIGHTEEN individuals had been arrested during the visits to the two premises, TWELVE from REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and SIX from REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP. All EIGHTEEN of the individuals arrested were CHINESE nationals. THREE of the eighteen Chinese nationals were arrested on suspicion working in breach of their conditions, namely they held EXTANT LEAVE; however, had NO PERMISSION TO WORK. TWO of those three admitted to working without permission at the premises they were arrested from and served as workers in breach. ONE maintained they were not working at the time they were encountered cooking food in the restaurant kitchen; however, was served as a worker in breach on the balance of probabilities.

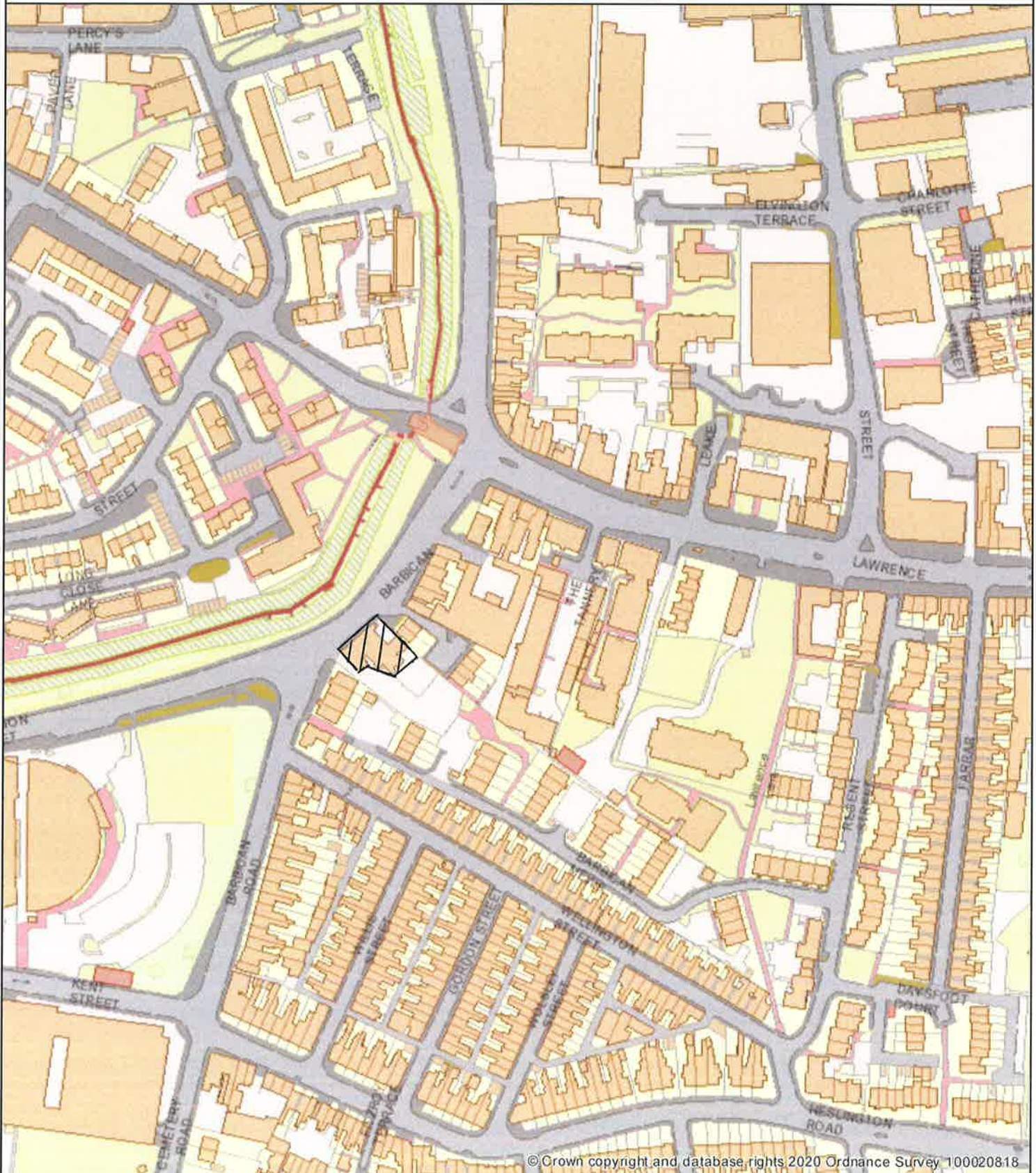
The remaining FIFTEEN Chinese nationals were arrested on suspicion of either holding no leave, as ILLEGAL ENTRANTS or, REMAINING BEYOND THE TIME LIMITED BY THEIR LEAVE and served as such.

This witness statement was made and completed at WATERSIDE COURT, LEEDS on 4<sup>th</sup> MARCH 2020 at 12:46hrs.

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



## Annex 7 - Regency, 16 Barbican Road



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Date: 11 Mar 2020

Author: n/a

Scale: 1:2,500


 0 0.035 0.07 0.105 0.14 0.175  
 km

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**Legislation and Policy Considerations****Review of Premises Licence**

1. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s51 Application for review of premises licence; s52 Determination of application for review; s53 Supplementary provision about review.
2. The following provisions of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertising of reviews.
3. The following provisions of the Secretary of State's guidance apply to this application: Chapter 10 Conditions attached to premises licences and club premises certificates and Chapter 11 Reviews.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 8.0 Licensing Hours; 11.0 Review of licences.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

(amended 27/02/19)

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## Meeting of Licensing Act 2003 Sub-Committee

8 June 2020

Report from the Assistant Director – Planning and Public Protection

### Section 52(2) Review of Premises Licence CYC/053937 for Regency, 2 – 4 George Hudson Street, York, YO1 6LP

#### Summary

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 (the Act) in respect of Regency, 2 – 4 George Hudson Street, York YO1 6LP, premises licence number CYC/53937.
2. Name of applicant: Anthony Dean, Public Protection Manager, on behalf of the Licensing Authority, City of York Council, Eco Depot, Hazel Court, York, YO10 3DS.
3. Summary of Review: The application to review the premises licence relates to the following licensing objective;
  - The prevention of crime and disorder.
  - Public safety.
4. A copy of the 'application for review' is attached at Annex 1 and is briefly summarised as follows:
  - a) On two occasions, 8 September 2017 and 6 September 2019, City of York Council (CYC) Licensing Officers have accompanied North Yorkshire Police (NYP), the Home Office Immigration Service and Gang Master and Labour Abuse Authority to the premises following the receipt of intelligence that staff working at the premises did not have the right to remain in this country and therefore did not have the right to work in this country. Officers from the HMRC were also present on 6 September 2019.

- b) On both occasions Immigration Officers removed people working at the premises who did not have the right to remain in this country.
  - c) On both occasions CYC Licensing Officers recorded that the Designated Premises Supervisor (DPS) was not present at the premises and that some of the premises licence conditions were not being complied with.
  - d) North Yorkshire Fire and Rescue Service (NYFRS), following a fire safety audit in September 2017, served a notification of deficiencies on the premises, under the provisions of the Regulatory Reform (Fire Safety) Order 2005.
5. A copy of the current premises licence is attached at Annex 2. Please note the premises licence exhibited as part of Nigel Woodhead's statement within the 'application for review' at NPW/1 contained a typographical error, the opening hours on Friday and Saturday were incorrectly shown. The correct hours are detailed below. The premises licence currently authorises the following:

<b>Licensable Activity</b>	<b>Current Days &amp; Hours</b>
Recorded music	10:00 to Midnight Sunday to Thursday 10:00 to 03:30 Friday & Saturday
Late night refreshment	23:00 to Midnight Sunday to Thursday
Supply of alcohol	10:00 to Midnight Sunday to Thursday 10:00 to 03:30 Friday & Saturday
Opening Hours	10:00 to Midnight Sunday to Thursday 10:00 to 03:30 Friday & Saturday

6. The premises licence issued under the Act was granted on 10 September 2015. This premises was previously licensed on conversion under the Act on 9 August 2005, this licence lapsed in June 2015 as the company that held the licence was dissolved.



## **Consultation**

7. Consultation was carried out by the Applicants and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder. Notice of the application was displayed in the vicinity of the premises, on the exterior noticeboard at the West Offices and on the Councils website. In addition relevant Ward Councillors were informed by way of register.
8. Representations were made by North Yorkshire Police on the 'application for review', and a copy of it is attached at Annex 3.
9. Witness statements were received from North Yorkshire Fire and Rescue Service, the statement is attached at Annex 4.
10. Please note that within the 'application for review' there is a witness statement from Immigration Officer Glynn Jones (appendix 3), within this statement Mr Jones first name is incorrectly (because of an auto correct in place). Mr Jones submitted an amended statement attached at Annex 5 with the correct spelling of his name, Glyn Jones.
11. To provide further clarification, a second witness statement was received from Immigration Officer Glyn Jones, the statement is attached at Annex 6.
12. A map showing the location of the premises is attached at Annex 7.

## **Other Relevant Information**

13. The applicant has applied to vary the designated premises supervisor (DPS), in accordance with S37 of the Act on recent two occasions. The first application was refused following a police objection, the second was successful. From the 12 February 2020 the DPS for this premises has been Yan Tong Feng.
14. On 25 February 2020 an application was made under S42 of the Act for the transfer of the premises licence by Yan Tong Feng.

15. On 10 March 2020 a notice was received from PS Booth from North Yorkshire Police objecting to the transfer of the premises licence in accordance with S42(6) of the Act. This is the subject of a separate report.
16. There are no planning implications in relation to this application.

## Options

17. By virtue of S52(4) of the Act, the Sub-Committee may in making their decision take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
18. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
19. Option 2: To exclude a licensable activity from the scope of the licence.
20. Option 3: To remove the Designated Premises Supervisor.
21. Option 4: To suspend the licence for a period not exceeding three months.
22. Option 5: To revoke the licence.
23. Where the Sub-Committee determines to takes a step mentioned in Option 1 or Option 2, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Otherwise the modification of conditions or the exclusion of a licensable activity will be permanent.
24. Where the Sub-Committee determines to takes a decision as mentioned in Option 4 or Option 5, Members should be mindful that this will not close the premises, they will still be able to continue trading as a restaurant and supermarket. It will however prevent licensable activities taking place, in this case the supply of alcohol, the provision of late night refreshment and the playing of recorded music (as regulated entertainment) after 23:00 hours.
25. In deciding which, if any, of these steps to take, the Sub-Committee should direct its mind to the cause or causes of the concerns which

the application and representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

26. The Sub-Committee may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

## **Analysis**

27. The following could be the result of any decision made by this Sub-Committee:
28. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
29. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
30. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
31. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
32. Option 5: This decision could be appealed by the premises licence holder.
33. The decision of the Sub-Committee will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.
34. Members are reminded that they may only use their discretion to take remedial action in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

## **Council Priorities**

35. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
36. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing review applications the Council are supporting the licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

## **Implications**

- 37.
- **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – The legislation and policy considerations are contained in Annex 8. The decision made by this Sub Committee is subject to appeal rights to the Magistrates Court.
  - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
  - **Information Technology (IT)** – N/A
  - **Property** – N/A
  - **Other** – none

## **Risk Management**

38. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or

unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.

39. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

## **Recommendations**

40. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

## **Contact Details**

### **Author:**

Matt Boxall  
Head of Public Protection  
Ext 1528

### **Chief Officer Responsible for the report:**

Michael Slater  
Assistant Director  
Planning and Public Protection  
Ext 1300

**Report  
Approved**



**Date** 29/05/20

**Wards Affected: Micklegate Ward**

## **Annexes**

**Annex 1** - Copy of application for review of premises licence, plus appendices

**Annex 2** - Copy of premises licence, including layout plan

**Annex 3** - Representation from North Yorkshire Police

**Annex 4** - Witness statement North Yorkshire Fire and Rescue

**Annex 5** - Amended witness statement from Home Office Immigration Service

**Annex 6** - Second witness statement from Home Office Immigration Service

**Annex 7** - Map showing location of premises

**Annex 8** - Legislation and Policy Considerations

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Annex 1



## CITY OF YORK COUNCIL

Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

### Application for a review of a premises licence or club premises certificate under the Licensing Act 2003

#### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We Anthony Dean of PUBLIC PROTECTION (Insert name(s) of applicant) apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

#### Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordinance survey map reference or description	
Regency 2-4 George Hudson Street	
Post town York	Post code: YO1 6LP

Name of premises licence holder or club holding club premises certificate (if known)
Mr Zhongle (Zhong Le) Chen

Number of premises licence or club premises certificate (if known)
CYC – 053937

#### Part 2 – Applicant details

I am

Please tick ✓ yes

- 1 An interested party (please complete (A) or (B) below)
  - a) A person living in the vicinity of the premises
  - b) A body representing persons living in the vicinity of the premises
  - c) A person involved in business in the vicinity of the premises
  - d) A body representing persons involved in business in the vicinity of the premises
- 2 A responsible authority (please complete (C) below) ✓
- 3 A member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Mr	Mrs	Miss	Ms	Other title (for example, Rev)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Surname		First names		
<input style="width: 100%;" type="text"/>		<input style="width: 100%;" type="text"/>		
				Please tick <input checked="" type="checkbox"/> Yes
I am 18 years old or over				<input type="checkbox"/>
Current postal address if different from premises address		<input style="width: 100%;" type="text"/>		
Post Town	<input style="width: 100%;" type="text"/>	Postcode	<input style="width: 100%;" type="text"/>	
Daytime contact telephone number		<input style="width: 100%;" type="text"/>		
Email address (optional)		<input style="width: 100%;" type="text"/>		

**(B) DETAILS OF OTHER APPLICANT**

Name
Address
Telephone number (if any)
E-mail (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name* Public Protection (Anthony Dean)
Address City of York Council Public Protection Hazel Court Eco Depot York YO10 3DS
Telephone number (if any) 01904 551588
E-mail (optional) <a href="mailto:anthony.dean@york.gov.uk">anthony.dean@york.gov.uk</a> / <a href="mailto:public.protection@york.gov.uk">public.protection@york.gov.uk</a>

**This application to review relates to the following licensing objectives(s)**

Please tick one or more boxes ✓

1. the prevention of crime and disorder
2. public safety
3. the prevention of public nuisance
4. the protection of children from harm

✓  
✓**Please state the ground(s) for review (please read guidance note 1)**

I make this application on behalf of the Licensing Authority, City of York Council (CYC), who wish to seek a review of the above premises licence as the Licensing Objectives in relation to 'prevention of crime and disorder' and 'public safety' have been undermined on a number of occasions.

Mr Zhongle (Zhong Le) Chen has been the premises licence holder and designated premises supervisor (DPS) for this premises since 10 September 2015.

On two occasions CYC Licensing Officers have accompanied North Yorkshire Police (NYP) and the Home Office Immigration Service to the premises following the receipt of intelligence that staff working at the premises did not have the right to remain in this country and therefore did not have the right to work in this country.

On both occasions, on 8 September 2017 and 6 September 2019, Immigration Officers removed people working at the premises who did not have the right to remain in this country.

On both occasions CYC Licensing Officers recorded that the DPS was not present at the premises and that some of the premises licence conditions were not being complied with.

North Yorkshire Fire and Rescue Service (NYFRS) has served notice on the premises, under the provisions of the Regulatory Reform (Fire Safety) Order 2005 on two occasions.

Please provide as much information as possible to support the application (please read guidance note 2)

On 8 September 2017 CYC Licensing Enforcement Officer, Helen Sefton, took part in an operation with officers from NYP and the Home Office Immigration Enforcement Team at the premises. On arrival at the premises it was noted that the premises were open to customers. One person working at the premises was removed by Immigration Officers as they did not have the right to remain in this country and therefore did not have the right to work in this country.

Mr Zhong Le Chen was not present during this visit, Helen Sefton spoke to the duty manager, Ms Tina Feng. During the visit a number of licensing issues were found including the CCTV system which no one on site appeared to be able to operate or had permission to use, and lack of documented staff training in relation to licensing matter. In addition it was found that the glass fire exit door had broken glass and one side of the door was locked in position.

On 6 September 2019 the CYC Licensing Enforcement Officer, Nigel Woodhead, took part in an operation with officers from NYP, the Home Office Immigration Enforcement Team, NYFRS, HMRC, Gangmasters and Labour Abuse Authority and CYC Housing Enforcement Team. On arrival at the premises it was noted that the premises was open to customers. One person at the premises was removed by Immigration Officers as they did not have the right to work in this country.

Mr Chen was not present during this visit so Nigel Woodhead spoke to the duty manager Ms Yan Feng (also known as Tina). A number of breaches of the premises licence conditions were identified including the CCTV displaying the wrong time and date, lack of documented staff training, no incident book or refusals register, and no notices asking the public to leave quietly.

On 24 October 2019 Nigel Woodhead and PC Kim Hollis carried out a further unannounced visit to the premises, to check for compliance with the premises licence conditions. Mr Chen was not present during this visit. Officers spoke to a lady called [REDACTED] who stated she was in charge. The same breaches of conditions on the premises licence as seen on 6 September 2019 were identified. As a result PC Hollis served a closure notice under Section 19 of the Criminal Justice and Police Act 2001, giving the premises licence holder and DPS seven days to rectify these matters.

On the 31 October 2019 Nigel Woodhead and PC Kim Hollis undertook an unannounced revisit to the premises, to check for compliance with the Section 19 notice, previously served by PC Hollis on the 24 October 2019. PC Hollis extended the period for compliance with the notice for a further seven days as there was still an issue with the CCTV not working in accordance with the licensing conditions as it was showing the wrong date and time. All other condition breaches had been rectified.

On the 28 November 2019 CYC Senior Licensing Officer, Helen Sefton, and PS Jackie Booth carried out an unannounced revisit to the premises to check for compliance with the Section 19 notice in relation to the outstanding issue concerning the CCTV. The Section 19 notice was lifted as matters had been rectified and the notice complied with.

On the 4 November 2019 an application was received from Mr Zhongle (Zhong Le) Chen to vary the DPS on the existing premises licence to [REDACTED]. Upon receipt of the application City of York Council contacted NYP, who had in turn contacted the Immigration Service regarding the proposed new DPS. The Immigration Service confirmed that the proposed DPS Mr [REDACTED] did not have the right to work in the UK. As a result the application was refused by City of York Council on 28 November 2019.

As part of the application process Mr Zhongle Chen made a false declaration regarding the status of the of the proposed DPS to work in the UK, this being only two months after Immigration Officers had removed staff from his premises, who were not eligible to work in this country, where he had not carried out the necessary checks on a new employee in relation to their rights to work in the country.

In addition to the above licensing matters, it is also worthy on note that on the **14 August 2018** China Regency Ltd, trading as Regency Restaurant, and Xiu Lan Chen were prosecuted by Public Protection for three breaches of Food Safety and Hygiene Regulations at the Barbican Road, York site.

Ms Chen pleaded guilty to all offences on behalf of both herself and China Regency Ltd at York City Magistrates' Court on 14 August 2018. China Regency Ltd were fined £8,000, with prosecution costs of £1,906.63 and a £170 Court Surcharge. Ms Chen was fined £540 fine and £54 court surcharge.

Furthermore on the **19 November 2017** Tina Feng signed, on behalf of York Regency Associates Ltd of 4 George Hudson Street, York, a simple caution in relation to the sale of a knife to a person under the age of eighteen in July 2017, contrary to the Criminal Justice Act 1988. Tina Feng, as detailed in Nigel Woodhead's statement, was a manager of the Regency Restaurant at 2-4 George Hudson Street and took control of the premises in the absence of the DPS Mr Chen.

A statement from Helen Sefton, Senior Licensing Officer, is attached at Appendix 1

A statement from Nigel Woodhead, Licensing Enforcement Officer, is attached at Appendix 2

A statement from Glynn Jones, Immigration Officer at the Home Office, is attached at Appendix 3

A copy of the summonses relating to Food Safety and Hygiene Offences are attached as Appendix 4

A copy of the signed simple caution relating to the sale of the knife to a person under the age of eighteen is attached at Appendix 5

please tick ✓ yes

Have you made an application for review relating to this premises before?

If yes please state the date of that application

Day		Month		Year	

If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick ✓ Yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 3 – Signatures** (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date: 07/02/2020

Capacity: Public Protection Manager (Investigations and Compliance)

<b>Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 6)</b>	
Victoria Waudby Legal Services Station Rise	
<b>Post town: YORK</b>	<b>Post code: YO1 6GA</b>
<b>Telephone number (if any): 01904 554350</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	
<a href="mailto:victoria.waudby@york.gov.uk">victoria.waudby@york.gov.uk</a>	

This authority is under a duty to protect the public funds it administers and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

**Notes for guidance**

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1. ~~A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.~~
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

---

**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 1**

A statement from Helen Sefton, Senior Licensing Officer

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**FIRST WITNESS STATEMENT OF HELEN LOUISE SEFTON**

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I, Helen Louise SEFTON, Senior Licensing Officer of City of York Council, Hazel Court, EcoDepot, James Street, YORK, YO10 3DS, make this statement in support of an application by The Council Of The City Of York for a review of premises licences, namely The REGENCY Barbican Road and The REGENCY George Hudson Street, YORK.

1. I declare that the contents of this my statement are true and correct to the best of my knowledge and belief. I make this statement in the knowledge that it will be used in premises licence review proceedings.
2. I make this statement based upon the records held by the Council. The information provided in this witness statement is within my own knowledge, unless expressly stated otherwise.

I am a Senior Licensing Officer employed by the City of York Council to administer and enforce a wide range of licensable activities. 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 FREAR outlined the plan for the evening and allocated roles and responsibilities to Officers. I was to attend the address at 16 Barbican Road, York, YO10 5AA entering the premises under my powers conferred under Section 179 of the Licensing Act 2003, once I had carried out my inspection at 16 Barbican Road 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.

At 18:45 accompanied by PC BOLLAND Police Licensing Officer, North Yorkshire Police, I entered the licensed premises known as REGENCY Restaurant at 16 Barbican Road, York, YO10 5AA. The restaurant was busy with customers and staff. I identified myself as a Licensing Enforcement Officer and spoke with the person who identified himself as the manager, he told me his name was [REDACTED] and he advised his actual name was [REDACTED] but preferred to be called [REDACTED] [REDACTED] advised he had been the manager at the premises for 2 years. PC BOLLAND and I proceeded to speak to [REDACTED] about the various permissions and conditions contained within the premises licence, issued in accordance with the Licensing Act 2003. At this time other Officers from North Yorkshire Police and the Home Office Immigration Team proceeded to search the premises and speak with other members of staff. We asked to see the CCTV system and [REDACTED] stated that only the business owner could operate the system as it required a passcode which he did not have access to. At approximately 19:25 the premises licence holder and named Designated Premises Supervisor (DPS), ZHONG LE CHEN arrived at



the premises. At first he spoke with Staff members in a language I could not understand. PC BOLLAND and I proceeded to speak with CHEN about the licence permissions and conditions. CHEN stated he could not fully understand English and asked [REDACTED] to interpret for him. I asked CHEN who owned the business and he stated it was his [REDACTED] [REDACTED] he further stated [REDACTED] [REDACTED] was away in China and when asked about the CCTV system he stated only [REDACTED] could operate the CCTV system.

Both [REDACTED] and CHEN stated the restaurant did not stay open past midnight. They stated that staff were trained in licensing matters but it was not documented. I noted there were no notices displayed asking customers to leave the premises quietly and there was no documented noise management plan. After speaking with both gentlemen PC BOLLAND and I carried out a full inspection of the entire premises which included the ground floor bar area, waiting area, restaurant and kitchen. We also went upstairs to the first floor and noted several rooms set up with karaoke equipment, televisions/screens, bench seating and gambling equipment such as dice and dice shakers. The first floor had a locked room with a name plate stating 'Reception'. CHEN provided entry to this room. Once entry was gained to this room it contained alcoholic drinks, various items of stock, several packets of playing cards and the CCTV system. On the second floor of the premises there were more karaoke rooms and also bedrooms containing bunk beds and personal effects. Several more rooms on this floor were locked via external padlocks. PC BOLLAND and I were made aware by the Police Officer in charge that the Immigration Officers were in the

process of detaining four members of staff as they potentially did not have the right to work in the UK

---

PC BOLLAND and I left the premises at Barbican Road with Police and Immigration Officers still present. We then made our way to the second premises to be visited at George Hudson Street, York.

At approximately 20:00 on the 8 September 2017 PC BOLLAND and I attended a premises, called REGENCY 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 was introduced to the Manager who introduced herself as Tina 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 in licensing matters 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 staff

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

After the visits I reported my findings on the night to colleagues in the Council Housing Enforcement Team, Gambling Commission and Fire Service.

In the summer of 2019 I was contacted by Inspector FREAR of North Yorkshire Police, he told me of his intention to organise another multi agency visit to both the REGENCY premises in York, he wanted support from the Licensing Team. He also advised a premises in the Selby area would be involved in the visits and some residential addresses in York and Selby.

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.

At 18:10 on 6 September 2019, in company of Lesley COOKE Licensing Manager at City of York Council I entered the premises known as REGENCY Restaurant at 16 Barbican Road, York, YO10 5AA. We entered the premises

under powers conferred by Section 179 of the Licensing Act 2003. Police and Immigration Officers were already in the premises as they had entered using powers granted under a warrant.

I spoke with the manager of the premises [REDACTED], real name [REDACTED]. [REDACTED] showed me his personal licence with Number [REDACTED] issued by Manchester City Council and showing his address as [REDACTED]. [REDACTED] advised however this address needed to be changed to [REDACTED]. I advised [REDACTED] to contact Manchester City Council to amend his licence ASAP. I reminded [REDACTED] that we had met 2 years earlier, he advised me he had left his job at the premises shortly after September 2017 but had recently returned. I sat in the waiting area of the restaurant with [REDACTED] and went through the conditions on the premises licence whilst the Officers from the other agencies carried out the inspections and interviews with staff. [REDACTED] stated he was not the DPS at the premises that was Mr CHEN. He stated CHEN was not often at the premises but was in regular contact with [REDACTED] and did call [REDACTED] when he needed to. Whilst going through the conditions on the premises licence several breaches were identified as follows; (*the corresponding condition appears in brackets*)

The CCTV system was running 36 minutes behind (7). [REDACTED] had no idea how many days the CCTV recordings were kept (5). Staff were trained verbally how to lawfully operate the CCTV but this training was not documented (16, 18 and 19). There was no refusals register or incident report register (20, 21, and 22). There were no notices asking customers to leave quietly (23). [REDACTED] stated the premises closed before midnight and therefore they do not use door

staff at any time. There was no evidence of a noise management plan on site nor was there evidence of one being submitted to the Licensing Authority (35). I produce a copy of the Part A of the premises licence including the conditions as **Exhibit HLS/1**.

After speaking with [REDACTED] I undertook a full inspection of the premises in company of Lesley COOKE. On the first floor I noted a strong smell of cigarette smoke in both the karaoke rooms and evidence of cigarette smoking (smell and used cigarettes and ash) in the Gentleman's toilet. There were also sets of dice and dice shakers in each karaoke room. On the second floor there was evidence of persons sleeping in some of the karaoke rooms this included bedding (duvets, pillows etc.), personal effects such as clothing, shoes, toothbrushes and luggage. Some rooms on the second floor were in the process of being renovated/decorated. Whilst I was in one of the karaoke rooms a young white male with an Eastern European accent came into the room, he said he'd come to get his passport. When asked where he was sleeping he stated it was in this karaoke room. At the ground floor level I met my colleague Nigel WOODHEAD, Licensing Enforcement Officer in the rear car park I noted there was evidence of a severely blocked drain at the rear entrance to the car park which was overflowing with foul water and grease. I then met with Kevin CAULFIELD from North Yorkshire Fire and Rescue Service who informed me that due to a defect on the fire alarm system he would be issuing a Prohibition Notice which would prohibit any persons sleeping on the premises. The Police Officer in charge informed me that several members of staff had been detained and four persons had been detained for potential immigration offences.

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After the inspection I reported my findings on the night to colleagues in the Council Gambling Commission, the City of York Council Neighbourhood Enforcement Team (regarding the blocked drain), I also contacted Manchester City Council's Licensing Team regarding [REDACTED] Personal Licence details.

On 4 November 2019 an application was received by the City of York Council's Licensing Team to apply to vary the Designated Premises Supervisor (DPS) at the premises known as Regency 2-4 George Hudson Street, York. I produce a copy of the application as **Exhibit HLS/2**. The DPS is the person who holds overall control and day to day management of a licensed premises, they are also responsible for authorising the sale of alcohol. As part of the application process the Licensing Authority must consult with North Yorkshire Police. Enquiries were made with North Yorkshire Police who in turn consulted Home Office Immigration Officers as to the status of the person named to be the new DPS at the premises [REDACTED].

As a result Immigration Officer Glyn JONES provided a statement regarding [REDACTED] and his status regarding being unable to work in the UK. The application to vary the DPS was ultimately rejected by the Licensing Authority due to the application being incomplete. This was confirmed in my letter dated 28 November 2019 and hand delivered to the premises address, copied to the DPS home address and the registered office of the premises licence holder. The letters were all hand delivered on 28 November 2019. I produce a copy of the letter dated 28 November 2019 as **Exhibit HLS/3**.

I BELIEVE THAT THE FACTS STATED IN THIS WITNESS STATEMENT  
ARE TRUE.

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Signed:

.....

Dated: 4 February 2020

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**EXHIBIT**  
**Copy of Premises Licence for The REGENCY 16 Barbican Road,**  
**YORK, YO10 5AA**

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This is the **Exhibit HLS/1** referred to in the statement of Helen Louise SEFTON,  
dated 3 February 2020.



445/1

**LICENSING ACT 2003****PREMISES LICENCE****Schedule 12****Part A****Part 1 Premises details**

Premises licence number  
CYC - 009221

Postal address of premises:

**16 Barbican Road**

Post town: York

Post code: **YO10 5AA**

Telephone number: 01904 623134

**Expiry date:** This licence has no expiry date.

**Licensable activities authorised by the licence:**

Live Music  
Recorded Music  
Performances of Dance  
Activities like music/dance  
Late Night Refreshment  
Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**LIVE MUSIC**  
Indoors

**Monday**  
10:00 - 03:30

**Tuesday**  
10:00 - 03:30

**Wednesday**  
10:00 - 03:30

**Thursday**  
10:00 - 03:30

**Friday**  
10:00 - 03:30

**Saturday**  
10:00 - 03:30

**Sunday**  
10:00 - 03:30

**RECORDED MUSIC****Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**PERFORMANCES OF DANCE****Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**ACTIVITIES LIKE MUSIC/DANCE****Indoors**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

**LATE NIGHT REFRESHMENT****Indoors**

<b>Monday</b> 23:00 - 03:30	<b>Tuesday</b> 23:00 - 03:30	<b>Wednesday</b> 23:00 - 03:30	<b>Thursday</b> 23:00 - 03:30
<b>Friday</b> 23:00 - 03:30	<b>Saturday</b> 23:00 - 03:30	<b>Sunday</b> 23:00 - 03:30	

**SUPPLY OF ALCOHOL**

<b>Monday</b> 10:00 - 03:30	<b>Tuesday</b> 10:00 - 03:30	<b>Wednesday</b> 10:00 - 03:30	<b>Thursday</b> 10:00 - 03:30
<b>Friday</b> 10:00 - 03:30	<b>Saturday</b> 10:00 - 03:30	<b>Sunday</b> 10:00 - 03:30	

Non Standard Timings for Live Music, Recorded Music, Performances of Dance, Activities like Music/Dance, Late Night Refreshment and Supply of Alcohol:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**The Opening Hours of the Premises**

Monday 10:00 - 04:00	Tuesday 10:00 - 04:00	Wednesday 10:00 - 04:00	Thursday 10:00 - 04:00
Friday 10:00 - 04:00	Saturday 10:00 - 04:00	Sunday 10:00 - 04:00	

**Non Standard Timings:**

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the day that British Summertime commences.

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

Email address: None

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mr Zhongle Chen

Address: 16 Barbican Road  
York  
YO10 5AA

Telephone number: None

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Selby District Council  
LN/000006043

## **Annex 1 – Mandatory conditions**

### **MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
 (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
 (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION – ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –  $P = D + (D \times V)$  where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### **Prevention of Crime & Disorder**

1. CCTV recordings will include, as a minimum, a head and shoulders image of each individual who enters the premises through the main entrance.

#### **Protection of Children from Harm**

2. There shall be a "Challenge 21" policy in operation at the premises requiring any individual who appears to be under the age of 21 to produce identification to prove that they are over the age of 18, the sale of alcohol being refused where they are unable to do so.

3. The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representatives of North Yorkshire Police Licensing Unit.

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

1. Prior to using the karaoke rooms customers must have consumed a meal in the restaurant, excluding snacks.
2. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms and stairways to which the public have access for licensable activities and where the public can consume alcohol.
3. It will be maintained, working and recording at all times when the premises are open.
4. The recordings should be of sufficient quality to be produced in Court or other such hearing.
5. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
6. Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.
7. Copies of the recordings will display the correct time and date of the recording.
8. All off sales shall be made in sealed containers save for those that are intended for consumption within the building.
9. After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.
10. Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).
11. After 24:00hrs customers who have left the venue to smoke shall be monitored by a Door Supervisor in a clearly demarked area at the front of the venue which will not block the footpath.

12. Two SIA Door Supervisors shall be provided at the venue from 24:00hrs until the close of business, with at least one staffing the main door on to Barbican Road.

13. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

14. Standard one pint capacity, half pint capacity and "high ball tumbler" drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.

15. Drinking glasses of any type should not be allowed to enter or leave the premises whilst under the customers care.

16. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and the opening times of the venue.

17. Such training (referred to in Condition 16) will be refreshed and documented every 6 months.

18. Such training records (referred to in Condition 16) should be kept for at least 3 years.

19. Such training records (referred to Condition 16) will be made available for inspection upon request by any Responsible Authority.

20. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people, as well as incidents of any anti-social behaviour and ejections from the premises.

21. Both the above documents (referred to in Condition 20) will be kept for at least 3 years.

22. Both the above documents (referred to in Condition 20) will be available for inspection upon request by any Responsible Authority.

23. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

24. So as to ensure the Licensing Objective the prevention of crime and disorder is not undermined there shall be a maximum capacity of 100 persons of which there shall be no more than 30 persons on the first floor and no more than 20 persons on the second floor.

25. When the karaoke rooms are being used there shall be at least one member of staff permanently situated on each floor of the venue on which the room is being used.

26. The member of staff shall monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.

27. The members of staff situated on the first and second floor shall be in direct radio link with the Door Staff.

28. All alcohol consumed in the karaoke rooms shall be served by way of waiter/waitress service.

29. No dancing is to take place on the ground floor of the building at anytime.

30. All users of the karaoke rooms must have evidence of their room hire on their food bill as suitable evidence of food purchase.

31. All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress).

32. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.

33. The use of external areas shall be restricted to 10:00hrs - 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

35. A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

**Annex 4 – Approved Plan - Plan Number BR.(16)/01**

For and on behalf of  
The Director of Communities  
& Neighbourhoods

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Date: 28/09/2005  
25/06/2015 (Transfer and DPS Variation)

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)

Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)



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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

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**EXHIBIT**

**Copy of Application to Vary the Designated Premises Supervisor at The  
REGENCY, 2-4 George Hudson Street, YORK, YO1 6LP**

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This is the **Exhibit HLS/2** referred to in the statement of Helen Louise SEFTON, dated  
3 February 2020.

HLS/2



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we ZHONG LE CHEN  
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

CYC-053937

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description

REGENCY  
2-4 GEORGE HUDSON STREET,

Post town

YORK

Post code (if known)

YO1 6LP

Telephone number (if any)

01904 659976

Description of premises (please read guidance note 1)

CHINESE RESTAURANT & SUPERMARKET

## Part 2

Full name of proposed designated premises supervisor

Nationality

CHINESE

Place of birth

CHINA

Date of birth

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

Full name of existing designated premises supervisor (if any)

ZHONG LE CHEN

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 (Please read guidance note 2)



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee ☒
- I will give a copy of this application to the chief officer of police (Please read Guidance note 3) ☒
- I have enclosed the consent form completed by the proposed premises supervisor ☒
- I have enclosed the premises licence, or relevant part of it or explanation ☒
- I will notify the existing premises supervisor (if any) of this application (Please read guidance note 4) ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

See details of Licensing Act 2003 statutory fees: [www.york.gov.uk/LicensingAct2003StatutoryFees](http://www.york.gov.uk/LicensingAct2003StatutoryFees)

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS.

THOSE WHO EMPLOY AN ADULT WITHOUT A VALID LEAVE TO ENTER OR REMAIN IN THE UK OR AN ADULT WHO IS SUBJECT TO CONDITIONS WHICH WOULD PREVENT THAT PERSON FROM TAKING UP EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED BY VIRTUE OF THEIR IMMIGRATION STATUS.

**Part 3 – Signatures** (please read guidance note 5)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

25/10/2019

Capacity

MANAGER

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8)	
[REDACTED]	
1 REGENCY 24 GEORGE THOMSON STREET	
Post town YORK	Post Code YO1 6LP
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

**Consent of individual to being specified as premises supervisor**

[redacted]  
[full name of prospective premises supervisor]

of

[redacted]  
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

APPLICATION TO VARY DPS  
[type of application]

by

[redacted]  
[name of applicant]

relating to a premises licence

CYC - 053937  
[number of existing licence, if any]

for

REGENCY, 2-4 GEORGE HUDSON STREET, YORK  
[name and address of premises to which the application relates] YO1 6LP

## Guidance notes

1. Describe the premises. For example the type of premises it is.
2. An application to vary the premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time the application is received by the licensing authority) if the premises licence holder requests it at the time he makes an application under Section 37. Section 38 enables the holder of a premises licence to continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work. If the application is rejected, the licence reverts to the form it took before the application was made.
3. A full copy of the application form must be sent to the chief officer(s) of police for the police area(s) in which the premises are situated. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
4. Section 37(4)(b) of the Licensing Act 2003 requires the premises licence holder to notify the existing designated premises supervisor (if any) about this application. It is sufficient for the licensee to inform the existing premises supervisor in writing, without the need to share the specific details of the application. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
5. The application form must be signed.
6. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
7. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
8. This is the address which we shall use to correspond with you about this application.

and any premises licence to be granted or varied in respect of this application made by

[REDACTED]

(name of applicant)

concerning the supply of alcohol at

REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP

(name and address of premises to which application relates)

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

[REDACTED]

(insert personal licence number, if any)

Personal licence issuing authority

LEEDS CITY COUNCIL

(insert name and address and telephone number of personal licence issuing authority, if any)

Signed

Name (please print)

[REDACTED]

Date

25/10/19



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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

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**EXHIBIT**  
**Copy of Letter dated 28 November 2019**

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This is the **Exhibit HLS/3** referred to in the statement of Helen Louise SEFTON, dated  
3 February 2020.



**Economy and Place**

Eco Depot  
Hazel Court  
York  
YO10 3DS

Tel: 01904 552422

E-mail: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Ask for: Helen Sefton  
Our ref: oyc 53937

Mr Zhong Le Chen  
21a Blake Street  
York  
YO1 8QJ

**Delivered by hand**

28 November 2019

Dear Sir

**Licensing Act 2003**

**The Regency, 2-4 George Hudson Street, York**

I am writing to you as the premises licence holder at the above address and further to receipt of an application to vary the Designated Premises Supervisor (DPS) made in accordance with Section 37 of the above Act.

My colleague Mr Woodhead wrote to you on 13 November 2019 to advise that we were not in a position to proceed with this application. Furthermore the Licensing Authority has not received the original premises licence as required by Section 37 (3), (b) of the Act.

I would like to speak to both you and your proposed new DPS Mr [REDACTED] about this application. We have made attempts to call and email you in addition to the hand delivered letters but so far no contact has been made. You are therefore invited to attend an informal interview at the City of York Council Hazel Court, Eco Depot, James Street, York, YO10 3DS.

I would be grateful if you could contact me on 01904 552422 or via the email address above to arrange a mutually beneficial date for that interview. If I do not hear from you within 14 days we will be following this up by making visits to the premises to resolve this matter.

Yours sincerely

Helen Sefton  
Senior Licensing Officer

Director: Neil Ferris

[www.york.gov.uk](http://www.york.gov.uk)

Public Protection

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Copy to:

- North Yorkshire Police Licensing Team, via email
- Mr Zhong Le Chen, 2-4 George Hudson Street, York YO1 6LP
- [REDACTED]

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 2**

A statement from Nigel Woodhead, Licensing Enforcement Officer

**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

**WITNESS STATEMENT OF Nigel Philip Woodhead**

I, Nigel Philip Woodhead the Licence Enforcement Officer of City of York Council, Eco Depot, Hazel Court, York, make this statement in support of an application by The Council Of The City Of York for a review of a premises licence, namely Regency Restaurant, George Hudson Street, York and Regency Restaurant, Barbican Road, York

1. I declare that the contents of this my statement are true and correct to the best of my knowledge and belief. I make this statement in the knowledge that it will be used in premises licence review proceedings.
2. I make this statement based upon the records held by the Council. The information provided in this witness statement is within my own knowledge, unless expressly stated otherwise.

3.

I am the Licence Enforcement Officer for the City of York Council and part of my duties are to enforce all legislation with premises licensed by this authority under the Licensing Act 2003.

In the summer of 2019 I was asked by the Senior Licensing Officer Helen Sefton to assist in a multi agency visit to two premises in York by the name of Regency. About 16.30hrs on Friday 6<sup>th</sup> 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.~~

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About 18.00hrs the same day I attended at the Regency Restaurant and Supermarket at 2-4 George Hudson Street, York. Also in attendance were officers from HMRC, Immigration and North Yorkshire Police. Two interpreters were also in attendance. Once inside the premise I spoke to the female manager named as YAN FENG. Ms FENG also goes by the name of 'Tina'. The Premise Licence Holder (PLH) and Designated Premise Supervisor (DPS) ZHONG LE CHEN was not present.

I took 'Tina' to a table to go through the conditions on the Premise Licence. Whilst speaking to her she was constantly looking around and trying to use her mobile phone and told not to by the police as well as looking at a CCTV monitor which showed various areas of the premises. Several breaches of the conditions were identified as follows with the number of the condition appearing in brackets

- (2)The CCTV was displaying wrong time and date
- (6) Yan Feng is the only person who can download footage
- (7) There is no documented staff training
- (9) There is no incident book/refusals register
- (16) No notices asking the public to leave quietly

Throughout my dealings with her she was very un co-operative and wouldn't say much to me. She was then spoken to by Immigration and HMRC.

I can produce a copy of Part A of the premise licence as an exhibit marked NPW/1.

I then walked round the premises including going into the basement under the supermarket part of the premises where I saw that two police officers had found several suitcases containing female clothing along with paperwork that appeared to be in Chinese and also unsigned letters from the University of York. About 19.30hrs I was then called to the Regency Restaurant on Barbican Road, York where I met up with my colleagues, Lesley COOKE (Licensing Manager) and Helen SEFTON. I noted near the entrance to the premises from the car park there was a blocked drain which was overflowing with foul water and grease. I went up onto the first floor where the karaoke rooms were and found a strong smell of cigarette smoking as well as used cigarettes and ash in a basin on the floor of the gent's toilet. There were also sets of dice and dice shakers in each karaoke room.

I went into the kitchen where the fire alarm was being tested and noted that there was a large amount of water on the floor which was flowing out of the bottom of a kitchen unit.

Kevin CAULFIELD from North Yorkshire Fire and Rescue service was testing the alarm with a Chinese male I now know to be the Manager [REDACTED] whose real name is [REDACTED]. The Fire Officer informed us that due to a defect on the fire alarm system he would be issuing a prohibition notice which would prohibit any persons from sleeping on the premises.

About 11.15hrs on Thursday 24<sup>th</sup> October 2019 in company with the North Yorkshire Police Licensing Officer Pc Kim HOLLIS we attended at The Regency Restaurant on George Hudson Street, York for the purpose of carrying out a routine inspection. The manager YAN FENG was not present and neither was the PLH and DPS ZHONG LE CHEN. WE spoke to another female who gave

her name as [REDACTED]. She said that she was in charge and on going through the conditions of licence it was noted that the same conditions were being breached as of my 6<sup>th</sup> September visit. Ms [REDACTED] said that did not know how to work the CCTV system. As a result of the inspection Pc HOLLIS issued the premises with a Section 19, Criminal Justice and Police Act 2001 closure notice giving the premises seven days to rectify the breaches. This was clearly explained to Ms [REDACTED] and she signed the notice.

About 12.10hrs the same day again with Pc HOLLIS we attended at the Regency Restaurant on Barbican Road, York, again to carry out a routine inspection. We spoke with the manager [REDACTED]. The PLH and DPS ZHONG LE CHEN was not present. It was seen when the top floor of the premises were checked that several males were resident in bedrooms who appeared to be of Eastern European descent. Details of the males were obtained by Pc HOLLIS. They stated that they were not employed by the restaurant. On checking the karaoke rooms the dice and dice shakers were still in situ. Several breaches of the licence conditions were noted including the fact that the CCTV was not connected, no staff paper records, no incident/refusals book and no notices asking for customers to leave the premises quietly. Pc HOLLIS then issued [REDACTED] with a Section 19, Criminal Justice and Police Act 2001 closure notice giving the premises seven days to rectify the breaches which he duly signed.

At 10.30hrs on Thursday 31<sup>st</sup> October again with Pc HOLLIS we attended at The Regency Restaurant on George Hudson Street where we again spoke with [REDACTED]. Neither YAN FENG or PLH and DPS ZHONG LE CHEN were present. All the condition breaches had been rectified apart from the fact that



the CCTV system was still showing the wrong date and time and the premises were again issued with a Section 19, Criminal Justice and Police Act 2001 notice by Pc HOLLIS giving them another seven days to rectify the CCTV fault. About 12.15hrs the same day again with Pc HOLLIS we attended at the Regency Restaurant on Barbican Road where we spoke with [REDACTED]

[REDACTED]. It was noted that all the licence conditions were now being applied with and the Section 19, Criminal Justice and Police Act 2001 notice was lifted.

On Monday 4<sup>th</sup> November 2019 the Licensing office received an Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003. The application was in the name of Zhong Le Chen and was for the Regency premises at 2-4 George Hudson Street, York, YO1 6LP.

The new DPS who had signed the necessary consent form was to be a [REDACTED] of [REDACTED]. He had a personal licence issued by Leeds City Council.

The application was copied and sent to the North Yorkshire Licensing Office at Fulford Road, York.

As a result of information then received I wrote a letter to ZHONG LE CHEN stating that we couldn't accept the application over problems with [REDACTED] right to work in this country. This was hand delivered to both 2-4 George Hudson Street and the PLH address at 21a Blake Street, York, YO1 8QJ. I can produce a copy of this letter as NPW/2

**I BELIEVE THAT THE FACTS STATED IN THIS WITNESS STATEMENT ARE TRUE.**

Signed

Dated 2<sup>nd</sup> January 2020

**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

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**THE LICENSING ACT 2003**

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**EXHIBIT**

**Copy of Premise Licence for Regency Restaurant, 2-4 George Hudson  
Street, York**

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This is the **Exhibit NPW/1** referred to in the statement of Nigel Philip  
Woodhead, dated 2<sup>nd</sup> January 2020.



## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

##### Part 1 Premises details

Premises licence number  
CYC - 053937

Postal address of premises:

**2-4 George Hudson Street  
York**

Post town: **York**

Post code: **YO1 6LP**

Telephone number: 01904 623656

**Expiry date:** This licence has no expiry date.

##### Licensable activities authorised by the licence:

Recorded Music  
Late Night Refreshment  
Supply of Alcohol

##### RECORDED MUSIC Indoors

Monday 10:00 - 24:00	Tuesday 10:00 - 24:00	Wednesday 10:00 - 24:00	Thursday 10:00 - 24:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 24:00	

**LATE NIGHT REFRESHMENT**

Indoors

Monday 23:00 - 24:00	Tuesday 23:00 - 24:00	Wednesday 23:00 - 24:00	Thursday 23:00 - 24:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 23:00 - 24:00	

**SUPPLY OF ALCOHOL**

Monday 10:00 24:00	Tuesday 10:00 24:00	Wednesday 10:00 24:00	Thursday 10:00 24:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 24:00	

**The Opening Hours of the Premises****OPENING HOURS**

Monday 10:00 24:00	Tuesday 10:00 24:00	Wednesday 10:00 24:00	Thursday 10:00 24:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 10:00 - 24:00	

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premise

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Mr Zhongle Chen  
 Address: 21a Blake Street  
 York  
 YO1 8QJ  
 Telephone number: 07477030338  
 Email address: service@ukregency.com

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mr Zhongle Chen

Address: 21a Blake Street  
York  
YO1 8QJ

Telephone number: 01757 705101

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Selby District Council  
LN/000006043

**Annex 1 – Mandatory conditions**

**MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION – ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –  $P = D + (D \times V)$

where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and  
(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

2. But nothing in subsection (1) requires such a condition to be imposed -

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
- (b) in respect of premises in relation to -
  - (i) any occasion mentioned in paragraph 8 (3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
  - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## Annex 2 – Conditions consistent with the operating schedule

### Licensing Objectives

#### Prevention of Crime & Disorder

1. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.



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2. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.

3. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets).

4. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.

5. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.

6. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

7. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- a) retail sale of alcohol;
- b) age verification policy;
- c) conditions attached to the Premises Licence;
- d) permitted licensable activities;
- e) the licensing objectives; and
- f) opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

8. The premises shall operate the Challenge 25 policy for the sale of alcohol.

9. An incident book / refusals register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:-

- a) all alcohol related crimes reported to the venue
- b) any complaints received regarding alcohol related crime and disorder
- c) any faults in the CCTV system
- d) any refusal of the sale of alcohol
- e) any visit by a relevant authority or emergency service.

10. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

11. All alcohol on sales will be ancillary to a meal, sold by waitress service and for seated consumption only.

12. The restaurant section of the premises will be securely dividable from the Supermarket area when the Supermarket is not in use. The restaurant will be laid out with seating and tables to accommodate a minimum of 40 seated patrons at any one time.

13. There shall be a minimum of one door supervisor on duty at the restaurant premises from 23:00hrs to close of business at all times when open to the public & undertaking licensable activity beyond 01:00hrs.

14. Where door supervisors are on duty they shall sign in and out of the premises log book, providing full details of their name and SIA number.

15. The Designated Premises Supervisor shall be responsible for risk assessing the need for additional door staff at the venue on days of York Races, on Fridays, Saturdays or bank holidays or other locally or nationally significant events.

**Public Nuisance**

16. Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and area quietly.

17. Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

**Annex 3 – Conditions attached after a hearing by the licensing authority**

No hearing held

**Annex 4 – Approved Plan**

Plan Number                      Endorsed on the 12/08/2015

For and on behalf of  
The Director of Communities  
& Neighbourhoods

Date: 10/09/2015

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)

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**IN THE MATTER OF AN APPLICATION FOR A REVIEW OF A PREMISES  
LICENCE**

**THE LICENSING ACT 2003**

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**EXHIBIT**

**Copy of letter sent to DPS ZHONG LE CHEN at 21a Blake Street, York**

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This is the **Exhibit NPW/2** referred to in the statement of Nigel Philip  
Woodhead, dated 2<sup>nd</sup> January 2020.



Economy & Place

Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Mr Zhong Le CHEN  
21a Blake Street  
York  
YO1 8QJ

Tel: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)

13<sup>th</sup> November 2019

Dear Mr Chen

Licensing Act 2003

Application for Variation of Designated Premise Supervisor  
Regency, 2-4 George Hudson Street, York, YO1 6LP

I am writing to you today to inform you that we cannot proceed with the proposed variation to your Designated Premise Supervisor at the above premises to [REDACTED]. It has been brought to our attention by the relevant Authorities that Mr [REDACTED] does not have the right to work in this country and therefore his Personal Licence to supply alcohol is not valid, this having lapsed at the time that his right to work ended or at the time that Schedule 4 of the Immigration Act 2016 came into force.

In order to proceed we will have to receive another application and until we do you will be remaining as the Designated Premise Supervisor unless we hear to the contrary.

Further investigations will need to be made into this matter and it may well be that we will have to formally interview you with regard to the checks that you make on your employees

Yours sincerely

Nigel Woodhead  
Licence Enforcement Officer  
City of York Council

Director: Neil Ferris

[www.york.gov.uk](http://www.york.gov.uk)

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 3**

A statement from Glynn Jones, Immigration Officer at the Home Office

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use - April 2014

MG11

## WITNESS STATEMENT

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

URN GRJ 6633 07012020 1

Statement of: Glynn Ronald 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: 07/01/2020

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 10<sup>th</sup> DECEMBER 2019, I was requested to provide a summary of YHICE visits conducted to both the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP in terms of breaches of the IMMIGRATION ACT 1971 (AS AMENDED), as part of on-going enquiries into the two businesses.

HOME OFFICE records show YHICE have conducted FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA which are recorded below.

- 1). 7<sup>th</sup> JUNE 2014 - 2 Chinese nationals arrested; 1 for OVERSTAYING, and 1 for ILLEGAL ENTRY (CLANDESTINE) (initially provided false details and later found to have been previously served as an ILLEGAL ENTRANT (CLANDESTINE)).
- 2). 21<sup>st</sup> MAY 2017 - 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work).
- 3). 8<sup>th</sup> SEPTEMBER 2017 - 6 Chinese nationals arrested; 4 for OVERSTAYING their leave, and 2 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 4). 16<sup>th</sup> MARCH 2018 - No arrests were made, all staff present had permission to live and work in the United Kingdom.
- 5). 6<sup>th</sup> SEPTEMBER 2019 - 3 Chinese nationals arrested; 1 for OVERSTAYING their leave, 1 for WORKING IN BREACH (held extant leave with no permission to work) and 1 as a PERSON LIABLE TO DETENTION (previously REFUSED LEAVE TO ENTER but granted temporary admission/bail at port following an application for leave to remain, and subsequently failed to appear for an interview to progress their application).

Signature: .....

Signature witnessed by: .....

2014

Government Security Classification OFFICIAL SENSITIVE

**Government Security Classification OFFICIAL SENSITIVE**  
Approved for Immigration Enforcement use – April 2014

MG11

Similarly, HOME OFFICE records show YHICE have conducted THREE enforcement visits to the REGENCY, 2-4

GEORGE HUDSON STREET, YORK YO1 6LP which are recorded below.

- 1). 7<sup>th</sup> APRIL 2017 – 1 Chinese national arrested for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 2). 8<sup>th</sup> SEPTEMBER 2017 – 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work)
- 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, 1 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE), and 1 for being a PERSON LIABLE TO DETENTION (previously served as an ILLEGAL ENTRANT (ENTRY WITHOUT LEAVE) and failed to adhere to their bail conditions by failing to report to the Home Office, and working without permission).

This witness statement was made and completed at WATERSIDE COURT, LEEDS on 7<sup>th</sup> JANUARY 2020 at 14:15 hrs.

Signature: .....

Signature witnessed by: .....

2014

**Government Security Classification OFFICIAL SENSITIVE**

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 4**

**A copy of the summonses relating to Food Safety and Hygiene Offences**



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SUMMONS

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IN THE COUNTY OF NORTH YORKSHIREYORK MAGISTRATES COURT

The Law Courts, Clifford Street, York, YO1 9RE  
01904 818300

CODE: 2541

ACCUSED: China Regency Ltd

Co. NUMBER: 10961793

ADDRESS: 16 Barbican Road  
York  
YO10 5AA

You are hereby summonsed to appear on 14 August 2018 at 10am before the Magistrates' Court at The Law Courts, Clifford Street, York, to answer the following information:

ALLEGED OFFENCE:

Count 1

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community provision, namely to keep food premises clean and maintained in good repair and condition, contrary to Annex II Chapter I Paragraph 1 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972

Count 2

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community Provision, namely to provide washbasins with materials for cleaning hands and hygienic drying, contrary to Annex II Chapter 1 Paragraph 4 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972

Count 3

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator you failed to comply with a Community provision, namely to effectively clean and disinfect all articles, fittings and equipment with which food comes into contact, contrary to Annex II Chapter V Paragraph 1(a) and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the

Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972

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**PROSECUTOR:** Andrew Docherty, Assistant Director Legal & Governance  
on behalf City of York Council

**ADDRESS:** Legal Services, West Offices, Station Rise, York, YO1 6GA

**DATE OF INFORMATION:** 22 June 2018

.....  
Clerk to the Justices, Justice of the Peace

**DATE:** 28 JUN 2018

SUMMONS

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IN THE COUNTY OF NORTH YORKSHIRE

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YORK MAGISTRATES COURT

The Law Courts, Clifford Street, York, YO1 9RE  
01904 818300

CODE: 2541ACCUSED: Xiu Lan ChenDATE OF BIRTH: 18 August 1976ADDRESS: 16 Barbican Road  
York  
YO10 5AA

You are hereby summonsed to appear on **14 August 2018** at **10am** before the Magistrates' Court at The Law Courts, Clifford Street, York, to answer the following information:

ALLEGED OFFENCE:Count 1

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community provision, namely to keep food premises clean and maintained in good repair and condition, contrary to Annex II Chapter I Paragraph 1 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

Count 2

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator did fail to comply with a Community Provision, namely to provide washbasins with materials for cleaning hands and hygienic drying, contrary to Annex II Chapter 1 Paragraph 4 and Article 4(2) of Regulation (EC) No 852/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 (as amended) made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

**Count 3**

That you between 2 January 2018 and 2 March 2018 at the Regency Restaurant, 16 Barbican Road, in the City of York being a food business operator you failed to comply with a Community provision, namely to effectively clean and disinfect all articles, fittings and equipment with which food comes into contact, contrary to Annex II Chapter V Paragraph 1(a) and Article 4(2) of Regulation (EC) No 853/2004 and Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972 and at that time you were a Director of China Regency Limited, and the said offence was committed with your consent or connivance or is attributable to your neglect, contrary to Regulation 20 of the Food Safety and Hygiene (England) Regulations 2013

**PROSECUTOR:**

Andrew Docherty, Assistant Director Legal & Governance  
on behalf City of York Council

**ADDRESS:**

Legal Services, West Offices, Station Rise, York, YO1 6GA

**DATE OF INFORMATION:** 22 June 2018

.....  
Clerk to the Justices/Justice of the Peace  
.....

**DATE:**

28 JUN 2018

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**Appendix 5**

**A copy of the signed simple caution relating to the sale of the knife to a person under  
the age of eighteen**



Public Protection  
Eco Depot, Hazel Court  
York YO10 3DS  
Telephone: 01904 551546

CASE REFERENCE: 2628 /9

## SIMPLE CAUTION (COMPANY)

COMPANY NAME:	York Regency Associates Ltd.
COMPANY REGISTERED ADDRESS:	4 George Hudson Street, York, YO1 6LP
COMPANY REGISTERED NO:	09197841
DATE of OFFENCE(S):	18 July 2017
PLACE of OFFENCE(S):	In the City of York
BRIEF CIRCUMSTANCES of OFFENCE(S)	
That you on 18 July 2017 in the City of York sold to a person under the age of eighteen an article, namely a knife, contrary to section 141A of the Criminal Justice Act 1988.	

PLEASE READ THE <sup>1</sup>NOTES AND DECLARATION AND MAKE SURE YOU UNDERSTAND IT BEFORE YOU SIGN.

### DECLARATION

I have read and understand all this information.

I hereby declare that I x Tina Fens am authorised by the Company<sup>2</sup> to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the Company may be under a duty to disclose the existence of this Caution.

NAME (Block capitals) <u>x Tina Fens</u>	SIGNED:
POSITION WITH THE COMPANY <u>x Manager</u>	

DATED THIS x 19 DAY of x 11 2017

AFTER A SIGNATURE HAS BEEN ADDED ABOVE, AN OFFICER OF CITY OF YORK COUNCIL WILL COUNTERSIGN AND RETURN A COPY.

NAME (Block capitals) <u>MATTHEW BOXALL</u>	SIGNED:
DESIGNATION <u>Acting Head of Public Protection</u>	

DATED THIS 23 DAY of November 2017

<sup>1</sup> SEE NOTES OVERLEAF

<sup>2</sup> ONLY DIRECTORS/AUTHORISED OFFICERS OF THE COMPANY MAY SIGN

**NOTES:**

1. The Company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
2. If new evidence comes to light suggesting that the offence(s) the Company has committed are more serious, you might still take legal action against the Company.
3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the Company's registered office to the victims so they can do this.
4. If the Company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution.
5. If the Company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
6. I also understand that in some circumstances the Company may be under a duty to disclose the existence of this Caution.



Economy and Place Directorate

Eco Depot  
Hazel Court  
York YO10 3DS

For the addressee only  
Yantong Feng  
3 Lincombe Bank  
Leeds  
LS8 1QG

Tel: 01904 551598  
Email: [jane.aird@york.gov.uk](mailto:jane.aird@york.gov.uk)  
Our ref: 2629  
Date: 21 November 2017

Dear Yantong Feng

**Simple Caution – Sale of a Knife to a Minor**

Public Protection has received a signed caution in relation to the sale of a knife to a minor. I have noted that the caution has been signed by Tina Feng (please see the copy enclosed), whom I note is not a Director or Company Secretary of York Regency Associates Ltd. We are happy to accept the signed caution however we would like to make sure you are aware of this document.

Please contact me if you wish to discuss this further. If I do not hear from you I will assume that you are happy for Ms Feng to sign the caution and it will be processed.

Yours sincerely

Jane Aird  
Trading Standards Officer



Amasc 2



## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

#### Part 1 Premises details

Premises licence number  
CYC - 053937

Postal address of premises:

**2-4 George Hudson Street  
York**

Post town: **York**

Post code: **YO1 6LP**

Telephone number: 01904 623656

**Expiry date:** This licence has no expiry date.

#### Licensable activities authorised by the licence:

Recorded Music  
Late Night Refreshment  
Supply of Alcohol

#### RECORDED MUSIC Indoors

Monday  
10:00 - 00:00

Tuesday  
10:00 - 00:00

Wednesday  
10:00 - 00:00

Thursday  
10:00 - 00:00

Friday  
10:00 - 03:30

Saturday  
10:00 - 03:30

Sunday  
10:00 - 00:00

**LATE NIGHT REFRESHMENT**

Indoors

Monday 23:00 - 00:00	Tuesday 23:00 - 00:00	Wednesday 23:00 - 00:00	Thursday 23:00 - 00:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 23:00 - 00:00	

**SUPPLY OF ALCOHOL**

Monday 10:00 - 00:00	Tuesday 10:00 - 00:00	Wednesday 10:00 - 00:00	Thursday 10:00 - 00:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 00:00	

**The Opening Hours of the Premises****OPENING HOURS**

Monday 10:00 - 00:00	Tuesday 10:00 - 00:00	Wednesday 10:00 - 00:00	Thursday 10:00 - 00:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 00:00	

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

Name: Mr Zhongle Chen  
 Address: 21a Blake Street  
 York  
 YO1 8QJ

Telephone number: 07477030338

Email address: service@ukregency.com

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mrs Yan Tong Feng

Address: 3 Lincombe Bank  
Gledhow  
Leeds  
LS8 1QG

Telephone number: None

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Leeds City Council  
LEEDS/PERL/10402/20

## **Annex 1 – Mandatory conditions**

### **MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

~~(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –~~

~~(a) a holographic mark, or~~

~~(b) an ultraviolet feature.~~

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25ml or 35ml; and

(iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –  $P = D + (D \times V)$  where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

~~(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;~~

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

2. But nothing in subsection (1) requires such a condition to be imposed -

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
- (b) in respect of premises in relation to -
  - (i) any occasion mentioned in paragraph 8 (3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
  - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### Prevention of Crime & Disorder

1. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.

2. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.

3. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets).

4. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.

5. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.

6. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

7. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- a) retail sale of alcohol;
- b) age verification policy;
- c) conditions attached to the Premises Licence;
- d) permitted licensable activities;
- e) the licensing objectives; and
- f) opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

8. The premises shall operate the Challenge 25 policy for the sale of alcohol.

9. An incident book / refusals register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:-

- a) all alcohol related crimes reported to the venue
- b) any complaints received regarding alcohol related crime and disorder
- c) any faults in the CCTV system
- d) any refusal of the sale of alcohol
- e) any visit by a relevant authority or emergency service.

10. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

11. All alcohol on sales will be ancillary to a meal, sold by waitress service and for seated consumption only.

12. The restaurant section of the premises will be securely dividable from the Supermarket area when the Supermarket is not in use. The restaurant will be laid out with seating and tables to accommodate a minimum of 40 seated patrons at any one time.

13. There shall be a minimum of one door supervisor on duty at the restaurant premises from 23:00hrs to close of business at all times when open to the public & undertaking licensable activity beyond 01:00hrs.

14. Where door supervisors are on duty they shall sign in and out of the premises log book, providing full details of their name and SIA number.

15. The Designated Premises Supervisor shall be responsible for risk assessing the need for additional door staff at the venue on days of York Races, on Fridays, Saturdays or bank holidays or other locally or nationally significant events.

#### Public Nuisance

16. Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and area quietly.

17. Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

No hearing held

### **Annex 4 – Approved Plan**

Plan Number                      Endorsed on the 12/08/2015

For and on behalf of  
The Director of Economy  
& Place

Date: 10/09/2015  
12/02/2020 (DPS Variation)

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)









Amex 3

Police Representation  
The Regency  
George Hudson Street  
York  
YO1 6GA



City of York Council  
 Licensing Services  
 Hazel Court EcoDept  
 James Street  
 York  
 YO10 3DS

5<sup>th</sup> March 2020

Dear Sir/Madam,

As the Force Licensing Manager for North Yorkshire Police, I am delegated on behalf of the Chief Constable to respond to all applications under the Licensing Act 2003. This representation relates to the Licensed Premises, The Regency 2-4 George Hudson Street York YO1 6LP, and for which the Police deem that the Premise Licence holder and Designated Premises Supervisor Mr Zhong Le Chen has undermined the licensing objective Prevention of Crime and Disorder, which will be evidenced below.

Mr Zhongle (Zhong Le) CHEN has been the Premises Licence Holder and Designated Premises Supervisor since 10<sup>th</sup> September 2015. The premises are situated within York City in the Cumulative Impact Area and have licensable activities as follows:-

Recorded Music Sun- Thurs 1000-2400 Fri- Sat 1000-0330hrs  
 Late Night Refreshment Sun- Thurs 1000-2400 Fri- Sat 1000-0330hrs  
 Supply of Alcohol Sun- Thurs 1000-2400 Fri- Sat 1000-0330hrs

On two separate occasions in September 2017 and September 2019 North Yorkshire Police have attended the premises as part of a multi-agency operation with officers from the Home Office (Immigration) due to intelligence that persons have been employed to work at the Premises who do not have a right to work in the UK. As a result of attending the premises on these occasions persons were removed by Immigration officers on the grounds, they did not have leave to remain in the country.

North Yorkshire Police are concerned that the Premises have undermined the licensing objective Prevention of Crime and Disorder and are concerned that the Premises has failed to ensure compliance with the authorisation issued by the Licensing Authority.

On 8<sup>th</sup> September 2017, PC Bolland an officer from North Yorkshire Police licensing department and staff from the home office and licensing enforcement officers from City of York Council attended the premises, which was open to the public. At the time of the visit, the Designated Premises Supervisor Mr Zhong Le Chen was not present and officers spoke with a female who provided her details as Tina Feng. PC Bolland and Helen Sefton an officer from City of York Enforcement team went through the Premise licence conditions. Feng stated she was unable to work CCTV at the premises and unable to produce details of any staff training. The premises licence conditions state the following:-

- It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

- \* A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- Retail sale of alcohol;
- Age verification policy;
- Conditions attached to the Premises Licence;
- Permitted licensable activities;
- The licensing objectives; and
- Opening times for the venue

With such records being kept for a minimum of one year. (For the avoidance of doubt, the one-year period relates to each respective entry in the log book and runs from the date of that particular entry).

On 6<sup>th</sup> September 2019, as part of a multi agency partnership operation, officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, staff from the Gang masters and Labour abuse Authority and Licensing enforcement officers from City of York Council, attended the Premises. Four persons working at the premises were removed by Immigration officers due to concerns around their right to work in the UK. The premises were open to the public, and operating licensable activities. Nigel Woodhead, Enforcement officer from City of York council identified a number of breaches in respect of the Premises Licence authorisation. As a result of the breaches identified, a follow up visit was arranged with a police licensing officer.

On 24<sup>th</sup> October 2019, PC Kim Hollis, police licensing officer and Nigel Woodhead, re-attended the premises. A female who provided her details as [REDACTED], (advising [REDACTED] was her English name) stated she was in charge of the Premises. PC Hollis requested to speak to the DPS Mr Zhong Le Chen, but was informed by [REDACTED] she did not know whom this person was nor did other staff present. PC Hollis went through the Premise Licence Conditions with [REDACTED] and identified the following:-

The CCTV equipment was displaying the incorrect time, which is a breach of the following condition:-

- The CCTV equipment shall have constant time/date generation, which must be checked on a daily basis for accuracy.

No notices displayed at the exit/entrance, which is a breach of the following condition:-

- Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and area quietly.

No challenge 25 notices displayed on the premises. Premise licence condition states:-

- The premises shall operate the Challenge 25 policy for the sale of alcohol

No incident book, could be produced upon request, which is a breach of the following condition:-

- An incident book/refusals book will be kept at the premises and made available on request to an authorised officer or the police which will record the following:-
  - All alcohol related crimes reported to the venue
  - Any complaints received regarding alcohol related crime and disorder
  - Any faults in the CCTV system
  - Any refusal of the sale of alcohol
  - Any visit by a relevant authority or emergency service.

No staff training records were available. The Premise Licence states the following:-

- A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-
  - Retail sale of alcohol;
  - Age verification policy;
  - Conditions attached to the Premises Licence;
  - Permitted licensable activities;
  - The licensing objectives; and
  - Opening times for the venue

**With such records being kept for a minimum of one year. (For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry).**

Due to concerns that nobody knew who the DPS Mr Zhong Le Chen was and a DPS is the person who authorises the sale of alcohol PC Hollis provided her contact details and requested that the Premise Licence holders contact her to discuss this matter or a DPS variation be submitted with immediate effect. Prior to leaving PC Hollis issued a Section 19 Closure Notice (Section 19 of the criminal justice and police act 2001).

On 31<sup>st</sup> October 2019, PC Hollis attended the Premises to check compliance with the Section 19 notice. Present again was Mr [REDACTED] who advised a DPS transfer had been submitted to the Licensing authority and PC Hollis went through the Premise Licence Conditions again. PC Hollis identified that the CCTV equipment was still displaying the time incorrectly and staff training records were not completed correctly. A further Section 19 notice was issued which Ms [REDACTED] signed. She was advised that offences were being committed under Section 136 of the Licensing Act, unauthorised licensable activities whilst premises licence conditions were not adhered to, the police reserved the right to prosecute in respect of the matters.

On 4<sup>th</sup> November 2019, North Yorkshire Police were notified that the Licensing Authority for City of York had received a DPS Variation in respect of The Regency. The proposed Designated Premises Supervisor was Mr [REDACTED]. The Police are the only responsible authority who can make representations in respect of a Designated Premises Supervisor. Upon receipt of this application PS Booth the Force Licensing Manager for North Yorkshire Police conducted, the due diligence checks in respect of the application. PS Booth was provided a statement from Immigration officer Glyn Jones who advised that Mr [REDACTED] had no right to work in the UK. Upon receipt of this information, on 21<sup>st</sup> November 2019, PS Booth submitted a representation to the Licensing Authority in respect of Mr [REDACTED], objecting to the DPS transfer.

ON 28<sup>th</sup> November 2019, PS Booth and Helen Sefton attended the premises. PS Booth spoke to a female who stated her name was Ms [REDACTED] and advised she wanted to check compliance with the Section 19 notice issued by PC Hollis on 31<sup>st</sup> October 2019. The CCTV was displaying the correct time/date. [REDACTED] produced training documents to PS Booth, and PS Booth took photos of the records. On these records the DPS was recorded as [REDACTED] (whom the police had objected to). PS Booth asked if [REDACTED] was present to speak with but was advised he was not at the Premises. Helen Sefton hand delivered a letter advising that the proposed DPS Mr [REDACTED] and the Premises Licence holder Mr Zhong Le Chen had failed to respond to communication from the Licensing Authority in respect of the DPS application and that contact was required. [REDACTED] stated that she would ensure that [REDACTED] was provided the letter. PS Booth advised [REDACTED] that whilst there had been compliance with the Premise Licence conditions at Annex 2 on the Premise Licence, North Yorkshire Police could not cancel the Section 19 notice issued until the matter regarding the DPS was resolved and again reserved the right to prosecute for any offences under Section 136 of the Licensing Act.

On 12<sup>th</sup> February 2020 North Yorkshire Police were notified by the Licensing Authority that a further DPS variation had been submitted in respect of the premises. North Yorkshire Police have not objected to this application.

Mr Zhong Le Chen has made no contact with North Yorkshire Police Licensing department or the Licensing Authority in respect of the above breaches of the Premises Licence for the matters to be investigated.

Appendix 1 – Statement from PC Bolland

Appendix 2 – Statement from PC Hollis

Appendix 3 – Section 19 Notice 1 – dated 24/10/19

Appendix 4 – Section 19 Notice 2 – dated 24/10/19

Appendix 5 – DPS Variation [REDACTED]

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Appendix 6 – Police objection to DPS [REDACTED]

Appendix 7 – Statement of Immigration officer Glynn Jones

Appendix 8 – Statement of DC Wise

Appendix 9 – Statement of Sgt Plumb

Appendix 10- Statement of PS Booth

Appendix 11- Photos of training records visit 28/11/19

Appendix 12 – Statement of Inspector Freer

Appendix 13 – Section 19 Notice – dated 31/10/19

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Yours Sincerely,

J Booth

PS133 Booth  
Force Licensing Manager  
Alcohol Licensing Department -  
Fulford Road Police Station  
York  
YO10 4BY

Email: - [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

**Police representation in response to a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 1**

**Statement of PC Bolland**

RESTRICTED (when complete)

MG11

## WITNESS STATEMENT

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

URN

Statement of: Samantha Bolland

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

Occupation: Police Officer

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: 1520 (witness) Date: 0303/2020

I am PC 1520 Samantha Bolland from North Yorkshire Police. I am stationed at Fulford Road Police Station, York, in the role as a Police Alcohol Licensing Officer, and I have been in this role for the last 4 years.

On 8th September 2017 at 1800 hrs I was on duty when I attended a briefing at Fulford Road Police Station, York targeting The Regency Chinese Restaurant Barbican Road, York and The Regency, George Hudson Street, York, as part of a multi-agency partnership operation, in company with officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, and Licensing enforcement officers from City of York Council.

My role was to assist City of York Senior Licensing Officer Helen Sefton to inspect both premises under section 179 of the Licensing Act 2003.

At 18:45 on the same date above, in company with Senior Licensing Officer, Helen Sefton, I entered The Regency Chinese Restaurant, Barbican Road. Upon entering the premise it was open to the Public, there were customers and staff present. Myself and Senior Licensing Officer Helen Sefton proceeded to speak to a male who identified himself as the manager, he stated his name was [REDACTED]. We then went through the Licence conditions outlined within the Premise Licence. We asked to see the CCTV system, however Mr [REDACTED] stated he could not access it and it was only the owner who had access. The owner and Designated Premise Supervisor, ZHONG LE CHEN, arrived at approximately 19:25 hours. Helen Sefton approached the owner and tried to communicate with him, the stated he could not understand English. Helen Sefton asked [REDACTED] to interpret. Helen Sefton asked CHEN, who owned the business and he stated it was his [REDACTED], but he was in China, and he was the only person able to access the CCTV system.

After further discussions myself and Helen Sefton conducted a full inspection of the premise and found the following breaches as per the licence conditions attached to the Premise Licence:

- staff training records were not present/ documented
- No notices asking patrons to leave quietly
- no noise management plan
- no access to CCTV /recordings or retention

Signature: 1520 Signature witnessed by:

2010/11

RESTRICTED (when complete)



RESTRICTED (when complete)

MG11

## Continuation statement of: Samantha Bolland

After the inspection we then attended the second premises at George Hudson Street, York. A female called Tina FENG stated she was the manager of the premise and spoke with Helen Sefton regarding the Premise Licence conditions. FENG stated she was only in charge of the supermarket part of the premises and there was a separate manager for the restaurant as the premise was divided into two parts.

FENG stated she did not know or have access to the CCTV system, that staff training had been given in relation to licencing matters, but this was not documented. She also stated that the Designated Premise Supervisor was ZHONG LE CHEN.

Shortly after we left the premise and this was the last time I dealt with both premises.

1520

Signature: .....

Signature witnessed by: .....

2010/11

RESTRICTED (when complete)

**Police representation in response to a review of a premises licence or club premises certificate**

**under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 2**

**Statement of PC Hollis**

RESTRICTED (when complete)

MG11

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

URN

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: PC1671 (witness)

Date: 4<sup>th</sup> March 2020

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 11.16hrs 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 [REDACTED], who asked to be called [REDACTED], 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. [REDACTED] 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. [REDACTED] 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)

RESTRICTED (when complete)

MG11

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

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

Myself and Nigel WOODHEAD then left the premises,

At approximately 12.10hrs that same day Nigel and I attended the Regency restaurant 16A BARBICAN ROAD, YORK.

On our arrival we spoke with a male that identified himself to be [REDACTED], asked to be known as [REDACTED]. We explained that we were there to conduct a licensing check and asked if the designated premises licence holder was present but [REDACTED] said that he was not and I then began to go through the premises licence with [REDACTED].

[REDACTED] explained to me that currently the CCTV was not working after a previous visit from Police and Immigration and it has not been able to connect since. I also identified some further breaches of the licence and as such I documented these on a Section 19 closure notice as before. This notice was given number CYC-009221 and they were as follows:

- No staff training records conditions 16,17,18 and 19
- No incident book conditions 20,21 and 22
- No notices asking patrons to be quiet and respect neighbours condition 23
- CCTV not working conditions 2-7

The steps I documented to be taken were as follows:

- Staff retrained and records made (7 days given)
- Incident book (7 days given)
- Notices displayed on exit (7 days given)
- CCTV working (7 days)

Whilst being shown around the premises on the top floor we were shown rooms which had beds inside and one room had a male inside that gave his details to [REDACTED] as [REDACTED] born [REDACTED]. [REDACTED] passed these details on to me as the male did not speak English. He confirmed that he did not work at the premises.

Before leaving the premises I explained the Section 19 notice to [REDACTED] and asked him to sign this which he did. I left a copy of the notice with [REDACTED] and we then left.

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 [REDACTED]. 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 2 [REDACTED] 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.

[REDACTED] 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)

RESTRICTED (when complete)

MG11

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

At around 1200hrs we attended Regency BARBICAN ROAD, YORK and again spoke with [REDACTED] who showed me the work they had done to rectify any breaches listed on the section 19 notice issued. All points were now rectified and they were complying with licence conditions so I explained to [REDACTED] that the notice was now closed.

On 4<sup>th</sup> November 2019 I was made aware that an application to change DPS had been accepted by City of York Council Licensing and as such checks were made by our department in relation to the applicant [REDACTED] born [REDACTED]. As a result of these checks I made contact with Immigration Officer 6633 Glyn JONES that same day via email and requested a person check be conducted on [REDACTED].

Officer JONES advised me by reply that [REDACTED] did not have permission to work in the UK. I passed this information on to the Force Licensing Manager PS 133 Jackie BOOTH.

On 13<sup>th</sup> November 2019 Immigration Officer Glyn JONES provided me with a statement in relation to [REDACTED].

I produce the section 19 notices as exhibits:

KH/1 - 24/10/19 Regency George Hudson Street CYC-053937-1  
KH/2 - 24/10/19 Regency George Hudson Street CYC-053937-2  
KH/3 - 24/10/19 Regency Barbican Road CYC-008221  
KH/4 - 31/10/19 Regency George Hudson Street CYC-053937-3

Signature:

Pc1671

Signature witnessed by:

**Police representation in response to a review of a premises licence or club premises certificate**

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**under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 3**

**Section 19 Notice 1 – dated 24/10/19**

Form 221 - 01/2010



**CLOSURE NOTICE MADE  
UNDER SECTION 10 OF  
THE CRIMINAL JUSTICE  
AND POLICE ACT 2001**

NO. [ ]

Date and time of the Closure Notice:

Person making the Notice:

Signature: [ ]

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

Alleged unauthorised use of the premises:

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

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

Name: [ ]

Signature: [ ]

White copy: Occupier Blue copy: Legal Services Pink copy: Officer

**Police representation in response to a review of a premises licence or club premises certificate**

**~~under the Licensing Act 2003~~**

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**The Regency, George Hudson Street, York**

**Appendix 4**

**Section 19 Notice 2 – dated 24/10/19**





NO. 6531

Date and time of the Closure Notice: 24.10.17 11:33 am

Person making the Notice: [Signature]

Signature: [Signature]

Name of applicant and address of the affected premises: [Signature]

Alleged unauthorised use of the premises: [Signature]

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

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

Name: [Signature]

Signature: [Signature]

White copy: Occupier Blue copy: Legal Services Pink copy: Officer

Signature: \_\_\_\_\_

**Police representation in response to a review of a premises licence or club premises certificate**

**under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 5**

**DPS Variation ZhengChen FENG**



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

**Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

CYC-053937

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description

REGENCY  
2-4 GEORGE HUDSON STREET,

Post town

YORK

Post code (if known)

YO1 6LP

Telephone number (if any)

01904 659976

Description of premises (please read guidance note 1)

CHINESE RESTAURANT & SUPERMARKET

**Part 2**

Full name of proposed designated premises supervisor

Nationality

CHINESE

Place of birth

CHINA

Date of birth

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

Full name of existing designated premises supervisor (if any)

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 (Please read guidance note 2)



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee ☒
- I will give a copy of this application to the chief officer of police (Please read Guidance note 3) ☒
- I have enclosed the consent form completed by the proposed premises supervisor ☒
- I have enclosed the premises licence, or relevant part of it or explanation ☒
- I will notify the existing premises supervisor (if any) of this application (Please read guidance note 4) ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

See details of Licensing Act 2003 statutory fees: [www.york.gov.uk/LicensingAct2003StatutoryFees](http://www.york.gov.uk/LicensingAct2003StatutoryFees)

IT IS AN OFFENCE, UNDER SECTION 168 OF THE LICENSING ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS.

THOSE WHO EMPLOY AN ADULT WITHOUT A VALID LEAVE TO ENTER OR REMAIN IN THE UK OR AN ADULT WHO IS SUBJECT TO CONDITIONS WHICH WOULD PREVENT THAT PERSON FROM TAKING UP EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED BY VIRTUE OF THEIR IMMIGRATION STATUS.

**Part 3 – Signatures** (please read guidance note 5)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

Date

25/10/2019

Capacity

MANAGER

For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8) MR [REDACTED] REGENCY 24 GEORGE HUDSON STREET	
Post town YORK	Post Code YO1 6LP
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

## Guidance notes

1. Describe the premises. For example the type of premises it is.
2. An application to vary the premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time the application is received by the licensing authority) if the premises licence holder requests it at the time he makes an application under Section 37. Section 38 enables the holder of a premises licence to continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work. If the application is rejected, the licence reverts to the form it took before the application was made.
3. A full copy of the application form must be sent to the chief officer(s) of police for the police area(s) in which the premises are situated. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
4. Section 37(4)(b) of the Licensing Act 2003 requires the premises licence holder to notify the existing designated premises supervisor (if any) about this application. It is sufficient for the licensee to inform the existing premises supervisor in writing, without the need to share the specific details of the application. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
5. The application form must be signed.
6. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
7. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
8. This is the address which we shall use to correspond with you about this application.



CITY OF YORK COUNCIL  
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
3DS

**Consent of Individual to being specified as premises supervisor**

I [redacted]  
[full name of prospective premises supervisor]

of

[redacted]  
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

APPLICATION TO VARY DPS  
[type of application]

by

[redacted]  
[name of applicant]

relating to a premises licence

CYC - 053937  
[number of existing licence, if any]

for

REGENCY, 2-4 GEORGE HUDSON STREET, YORK  
[name and address of premises to which the application relates]  
YO1 6LP



and any premises licence to be granted or varied in respect of this application made by

[redacted]  
[name of applicant]

concerning the supply of alcohol at

REGENCY, 2-4 GEORGE HUDSON STREET, YORK  
[name and address of premises to which application relates] VO1 6LP

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

[redacted]  
[insert personal licence number, if any]

Personal licence issuing authority

LEEDS CITY COUNCIL  
[insert name and address and telephone number of personal licence issuing authority, if any]

 Signed

Name (please print)

Date

25/10/19

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**Police representation in response to a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 6**

**Police objection to DPS Feng**

## NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003



North Yorkshire Police hereby give notice of objection to the Premises Licence as listed below:

Postal Address of premises or club premises:

Regency

2-4 George Hudson Street

Post town: York

Post code (if known): YO1 6LP

Notice of Objection relates to the following licensing objective: *(Please tick one or more boxes)*

1. The prevention of crime and disorder	<input checked="" type="checkbox"/>
2. Public safety	<input type="checkbox"/>
3. Prevention of Public Nuisance	<input type="checkbox"/>
4. The protection of children from harm	<input type="checkbox"/>

### GROUND'S FOR RELEVANT REPRESENTATION

Please provide as much information as possible to support this relevant representation:

(e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)

This application relates to vary a Premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003 for the Regency Chinese Restaurant and Supermarket.

As the Force Licensing Manager for North Yorkshire Police, I am delegated on behalf of the Chief Constable to respond to all applications under the Licensing Act 2003. In assessing this application, I have considered the Licensing objectives, particularly the Prevention of Crime and Disorder objective.

North Yorkshire Police do not support this application for a premises licence under Section 18(9) of the Licensing Act, as the applicant and proposed Designated Premises Supervisor Mr [REDACTED] it is believed would undermine the Crime Prevention Objective.

The Section 182 guidance para 4.39 states

"The Police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns."

North Yorkshire Police have to be satisfied that an individual, who performs the role of a DPS, and who will ultimately have day-to-day management of the Premises and be the point of contact for responsible authorities, is able to effectively promote the Licensing Objectives.

On 6<sup>th</sup> September 2019, North Yorkshire Police as part of multi-agency partnership working, attended the Regency Restaurant 2-4 George Hudson Street, in company with Immigration officers. At the time of the visit four persons were removed from the Premises by Immigration officers suspected to be working there illegally. I refer to the statement of DC Lucy Wise ( Appendix 1).

Due to the ongoing partnership working with immigration in respect of the premises, following the visit on 6<sup>th</sup> September 2019, North Yorkshire police have been provided a statement by Immigration Officer Glynn Jones that Mr [REDACTED] has no right to work in the UK. (Appendix 2)

As Mr [REDACTED] has no right to work in the UK, if he is to perform the role of Designated Premises Supervisor, he will be committing a criminal offence, which undermines the licensing objective of Prevention of Crime and Disorder.

North Yorkshire Police have a duty of care to consider information in line with the Prevention of Crime and Disorder objective for Licensing Applications and it is for this reason the Police object to this application and would respectfully ask members of the Licensing Committee to reject this application.

Appendix 1 - Statement of DC Lucy Wise

Appendix 2 - Statement of Immigration Officer Glynn Jones

Signature:

Date: 20/11/19

Contact name: PS 133 Jackie Booth

Address for correspondence: Alcohol Licensing Department Fulford Road Police Station

Post town: York

Post code: YO10 4BY

Tel. number (if any): 01609 643273

Email address if preferred option of contact: NYPLicensing@northyorkshire.pnn.police.uk

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**Police representation in response to a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 7**

**Statement of Immigration officer Glynn Jones**

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use – April 2014

MG11

**WITNESS STATEMENT**

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

URN [ ] [ ] [ ] [ ] [ ]

Statement of: Glyn Ronald JONES

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

Occupation: Immigration Officer

This statement (consisting of 1 (one) 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: 13/11/2019

I am the person named above and I am employed by the Home Office as an Immigration Officer. I am currently a member on the Arrest Team, Yorkshire & Humberside ICE based at Waterside Court, Kirkstall Road, Leeds LS4 2QB. I have been employed by the Home Office since October 2003.

On 4<sup>th</sup> NOVEMBER 2019 I received a request from PC1671 HOLLIS of NORTH YORKSHIRE POLICE enquiring as to whether a male known as [REDACTED], born [REDACTED] CHINA, and residing at [REDACTED] had permission to work in the United Kingdom.

I was able to confirm from Home Office records that [REDACTED], born [REDACTED] CHINA had NO PERMISSION TO WORK in the United Kingdom.

This statement was made and completed at WATERSIDE COURT, LEEDS on WEDNESDAY 13<sup>th</sup> NOVEMBER 2019 at 13:20hrs.

Signature: .....

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

2014

Government Security Classification OFFICIAL SENSITIVE

**Police representation in response to a review of a premises licence or club premises certificate**

**under the Licensing Act 2003**

---

**The Regency, George Hudson Street, York**

**Appendix 8**

**Statement of DC Wise**

RESTRICTED (when complete)

MQ11

## WITNESS STATEMENT

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

URN

Statement of: Lucy Wise

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

Occupation: Detective Constable 1358

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: 1358 (witness)

Date: 21/11/19

I am Detective Constable 1358 WISE, currently attached to the Safeguarding Unit with North Yorkshire Police.

On Friday 6<sup>th</sup> September 2019, I was on duty in plain clothes. At 1800 hours I attended THE REGENCY RESTAURANT, GEORGE HUDSON STREET, YORK, in company with PS PLUMB and a number of colleagues from North Yorkshire Police, Home Office Immigration and Gangmasters and Labour Abuse Authority, in order to execute a Section 8 PACE Warrant.

There were a number of workers encountered in these premises, and four people were found to be there working illegally. These four workers were arrested by Home Office Immigration colleagues and were removed from the premises.

I am aware that Immigration enquiries are currently ongoing

Signature:

Signature witnessed by:



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Police representation in response to a review of a premises licence or club premises certificate  
under the Licensing Act 2003

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**The Regency, George Hudson Street, York**

**Appendix 10**

**Statement of PS Booth**

RESTRICTED (when complete)

MQ11

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

Statement of: Jacqueline BOOTH

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

Occupation: POLICE OFFICER

This statement (consisting of 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: J Booth (witness)

Date: 4<sup>th</sup> March 2020

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 7,500 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.

At 1130hrs on Thursday 28th November 2019, I was on duty in company with Helen Sefton Senior Licensing officer from City of York Licensing Authority when we attended, The Regency 2-4 George Hudson Street York. Upon entering the premises, we spoke to a female I now know to be Ms [REDACTED] (she advised us her English name was [REDACTED]). I explained that I was present to conduct a compliance check in respect of the Section 19 Closure Notice that my colleague PC Kim Hollis had issued on the 31st October 2019. [REDACTED] stated she understood, as she was present when the notice had been issued. [REDACTED] showed me the CCTV that was displaying the correct date, time, and produced to me a folder that she stated contained the training records of the Premises. I took photos of the following documents:-

Age Verification Policy- dated 25/10/19 listing [REDACTED] as DPS (Designated Premises Supervisor) Exhibit JB01  
 Authorisation to Sell Alcohol - DPS listed as [REDACTED] Exhibit JB02  
 Individual Staff Training Record - Exhibit JB03  
 Individual Staff training Record - Exhibit JB04

Upon viewing the above documents, I explained to [REDACTED] that there had been compliance with the Premise Licence conditions listed at Annex 2 on the Premise Licence however that both the Licensing Authority and Police needed to speak with the Designated Premises Supervisor (DPS), who from the documentation held on site was listed as [REDACTED].

I asked [REDACTED] if Mr [REDACTED] was available for me to speak to but she stated he was not on the premises and she did not know what time he would arrive, as he did not have set hours but did turn up most days. Helen Sefton explained that she had been trying to get in touch with Mr [REDACTED] to discuss his application as the DPS but he had failed to respond to any communication. A letter addressed to the Premises from the Licensing Authority was given to [REDACTED] and she was asked to give it to Mr [REDACTED] or the premises Licence holder Mr Zhong Le CHEN. Exhibit JB05 refers.

RESTRICTED (when complete)

MG11

I can confirm that on 4th November 2019 North Yorkshire Police were notified by City of York Licensing Authority in accordance with the Licensing Act 2003 that an application to vary the DPS for the Regency George Hudson Street had been received which named [REDACTED].

Due to information held on police systems and a statement from Immigration officer 6633 Glyn Jones that Mr [REDACTED] had no right to work in the UK, on the 21st November 2019 I objected to this application.

From a Police perspective I was concerned that following my visit on 28th November 2019 to the Premises and sighting the documentation held on site showing Mr [REDACTED] as the DPS, dated 25th October 2019 which was prior to the application being submitted to vary the DPS on 4th November 2019, that the Premises were not complying with legislation and due process in respect of the Licensing Act. The premises licence holder Mr Zhong Le CHEN was also undermining the licensing objective Prevention of Crime and Disorder by not conducting due diligence checks in respect of employees.

Signature: J Booth

Signature witnessed by:

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**Police representation in response to a review of a premises licence or club premises certificate**  
**under the Licensing Act 2003**

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**The Regency, George Hudson Street, York**

**Appendix 11**

**Photos of training records visit 28/11/19**

01904 C-1 093  
4 GEORGE HOOVER STREET  
Y01 610

Name of Premises	Regency, July 2 Park Road, London W.8	Premises Licence Holder	[Redacted]
Address of Premises	2-4 George Hudson Street, York YO3 6LP		
Name of DPS	[Redacted]	DPS' Tel. No.	[Redacted]
Name of PLH	Zhong Le Chen	PLH Tel. No.	[Redacted]

The following people are authorised by the Designated Premises Supervisor (DPS) / Personal Licence Holder (PLH) to sell alcohol under the guidance of the Licensing Act 2003, within the terms and conditions of the premises licence and in accordance with the training they have been given. The authorisation is withdrawn when employment is terminated.

[illegible]

Full name of Staff member

DPS or Personal Licence Holder  
delivering training (Full name)

A new checklist will be used to record when:  
 a new staff member is appointed  
 changes to the premises licence or policies have occurred  
 when carrying out refresher training for existing staff.

This is critical to our business and to demonstrate recommended best practices to comply with the requirements of our premises licence and the licensing objectives of 2003 Licensing Act.

Staff member to Tick in the box (✓) to acknowledge confirmation their full understanding.

1. What the law says about selling alcohol & the penalty staff and the business can face if an underage sale occurs?	✓
2. That the premises has a licence to sell alcohol. That the staff member understands what the licence requires and the consequences for them and the business should any person sell alcohol in breach of any aspect of the alcohol licence.	✓
3. What the alcohol licence and conditions of the operating schedule require. EG: (i) ensuring alcohol is only sold during licensing hours, Mon start 10:00 finish 24:00 Tues start 10:00 finish 24:00 Wed start 10:00 finish 24:00 Thurs start 10:00 finish 24:00 Fri start 10am finish 3.30am Sat start 10am finish 3.30am Sun 10:00 finish 24:00	✓
4. Why selling alcohol underage and underage drinking is a problem for local communities, as well as the harm caused to underage drinkers themselves?	✓
5. What our shop policy is for challenging customers for proof of age?	✓
6. What our shop policy is, for the types of proof of age (ID) staff should accept?	✓





Department of Health

Alcohol Training Course  
A 12 HOUR COURSE  
1998-2001

8. The signs to look out for that the customer may be buying alcohol for others who are underage (Proxy purchasing)?
9. What staff should do if they suspect the person they are serving is a 'proxy purchaser'?
10. Where and how to record any refusals to sell, challenges for proof of age, use of fake ID or any other incidents such as aggressive or abusive customers etc?
11. Why it is important to record incidents/refusals to sell?
12. The law that staff under the age of 18 are not allowed to sell alcohol to anyone and the consequences for breaking this law?
13. What the shop policy is for an under 18 year old to get authorisation for sales involving alcohol?

Full name of person trained	Signature	Position in shop	Date dd/mm/yy
[Redacted]	[Redacted]	WORTH'S	31/10/2011
Full name(s) of trainer(s)			
Full name of Designated Premises Supervisor or personal licence holder, authorising person trained to sell alcohol. (NB Under 18's cannot be authorised to sell alcohol).			

YORK

The Regency  
24 George Hudson Street  
York  
Tel 668

28/1/5

11 30

relates



Police representation in response to a review of a premises licence or club premises certificate

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Under the Licensing Act 2003

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The Regency, George Hudson Street, York

Appendix 13

Section 19 Notice – dated 31/10/19

Form 621 - 01/2010

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



NO. 016

Date and time of the Closure Notice:
Person making the Notice:
Signature: .....
Name (if applicable) and address of the affected premises:
Alleged unauthorised use of the premises:
Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
The person (if applicable) on whom the closure notice has been served:
Name: ..... S
Signature: .....

White copy: Occupier Blue copy: Legal Services Pink copy: Officer

RESTRICTED (when complete)

MG11

## WITNESS STATEMENT

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

URN

Statement of: Nicholas PLUMB

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

Occupation: Police Officer

This statement (consisting of 2 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: 28/02/20

I am the above named person and currently The Safer Neighbourhood Sergeant for York City Policing Team based at Mill House Police station.

I have been in my current position since 2015 and am responsible for managing the Safer Neighbourhood Team dedicated to working within York City to reduce crime and disorder and provide a highly visible and reassuring presence in the area. A key part of my role is identifying, monitoring and responding to community issues. Community issues may involve quality of life, tensions, crime, disorder or anti-social behaviour. To assist in addressing these issues I work closely with partner agencies to decide a suitable response, and focus on engagement, education and enforcement working towards a multi-agency problem solving approach.

On Thursday 6th September 2019 at 1800 hrs I was on duty when I attended The Regency Chinese Restaurant George Hudson Street York as part of a multi-agency partnership operation, in company with officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, staff from the Gangmasters and Labour abuse Authority and Licensing enforcement officers from City of York Council. My role was to assist partners present with the execution of a Section 8 PACE warrant and secure the Premises so that no persons could leave or enter the premises without their identity being established.

Colleagues from my team and I assisted Immigration officers to search the Premises, for staff within. Immigration colleagues conducted all checks in respect of individuals present to establish their immigration status and if they had a right to work in the UK.

Immigration officers did identify a number of persons who were alleged to be illegal immigrants. Those persons were detained by Immigration officers and removed from the location. I had no involvement in detaining any persons from the location.

At the time of the Premises was open to the Public, and a number of customers tried to enter the convenience store and also the restaurant. the store was been operated by a number of staff and also it appeared some family members were present. A female at the location seemed to be [REDACTED] of the owner and despite not claiming to be working it appeared she was working. Officer were tasked to search the downstairs part of the store and in this location were a number of suitcases not belonging to anybody present on the premises and this seemed very strange. Whilst

Signature: .....

Signature witnessed by: .....

2010/11

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

**Continuation statement of:** Nicholas PLUMB

dealing with the search I was unable to review the CCTV and no member of the staff was able to assist in the playback. I played no further part in this operation other than responsible for the officers securing the location and assisting in the search.

Signature:

2010/11

Signature witnessed by: .....

RESTRICTED (when complete)

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

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Amesc 4



**NORTH YORKSHIRE  
FIRE & RESCUE SERVICE**

NYFRS Reference:

Premises:  
Job:

York Fire Station  
Kent Street  
York  
North Yorkshire  
YO10 4AH

When telephoning please ask for: K Caulfield

Tel: 01904 625272  
Fax: 01904 620732  
Email: kevin.caulfield@northyorksfire.gov.uk

11 February 2020

Dear Sir or Madam

**Cover Letter from Watch Manager Kevin Caulfield**

**Regency Restaurant, 16 Barbican Road, York, YO10 5AA**

I have provided a witness statement on the request of City of York council with reference to Regency Restaurant, 16 Barbican Road, York, and Regency Restaurant, George Hudson Street York.

The witness statement is to assist the review of the premises licences for these premises.

The majority of information we collect regarding business fire safety is non-personalised information, however any personal data we collect will be managed in accordance with our Privacy Notice which can be viewed on our website, [www.northyorksfire.gov.uk/about-us/yourdata](http://www.northyorksfire.gov.uk/about-us/yourdata).

Under the Regulatory Reform Order 2005 we are obliged to publish a public register of enforcement action which can be viewed via our website, [www.northyorksfire.gov.uk/about-us/key-documents/links-registers](http://www.northyorksfire.gov.uk/about-us/key-documents/links-registers).

Yours faithfully

**K Caulfield**

West Offices,  
Station Rise,  
York,  
YO1 6GA

Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives, Sprinklers Save Lives  
[www.northyorksfire.gov.uk](http://www.northyorksfire.gov.uk)







**NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY**

**STATEMENT OF WITNESS**

POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9

STATEMENT OF Kevin Caulfield  
AGE OF WITNESS: over 18  
OCCUPATION OF WITNESS Fire Safety Officer  
ADDRESS OF WITNESS: York Fire Station, Kent Street, York, YO10 4JF

This statement (consisting of ...3 pages 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.

DATED THE 30th day of January 2020

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

---

1.0 My name is Kevin John CAULFIELD. I am employed as a Watch Manager by North Yorkshire Fire and Rescue Service (NYFRS) and have worked in various Fire Service roles for over 26 years. I am currently working within the Fire Safety department as a Fire Safety Officer. My current duties include planning and implementing audit inspections on commercial/business premises, building consultations, within the York area, and assisting the Service to meet its statutory obligations as an enforcing authority. I have a national qualification Level 3 Certificate in Fire Safety (Fire Auditors) (QCF). I have completed courses including Fire Safety & Building Design, Building Regulations and Technical Guidance, Fire Safety & Building Design Complex Buildings: BS9999. I hold IOSH

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SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

**NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY**

**STATEMENT OF WITNESS**

**POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9**

**CONTINUATION SHEET**

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Managing Safety qualification. I hold Level 3 NVQ in Watch Management.

2.0 I am warranted under the Regulatory Reform (Fire Safety) Order 2005 (**RRFSO**) to carry out the duties imposed by it on the Fire and Rescue Authority.

This witness statement is in relation to two premises;

- Regency Restaurant 16 Barbican Road YO10 5AA
- Regency Restaurant 2-4 George Hudson Street York YO1 6LP

Regency Restaurant 16 Barbican Road YO10 5AA

Fire calls received

None

Complaints Received

- 16/04/2016  
Complaint received from customer. Overcrowding, staff living on top floor and smoking on site. Fire Safety Audit carried out – fire safety advice given no further action.
- 11/09/2017  
Complaint received from Police. 20 People living in cramped conditions. Fire Safety Audit carried out- fire safety advice given no further action.

Recent Audits

09/09/19

Fire Safety Audit carried out as part of Operation Alligator - Regency Restaurants. Multi-agency operation Joint visit.

During this visit a number of fire safety issues were found;

- Padlocks fitted to sleeping accommodation, fire doors held open with catches, fire exits blocked due to refurbishment work.
  - Fire alarm not working
- 

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

RRO.WIT.01

**NORTH YORKSHIRE POLICE, FIRE AND CRIME COMMISSIONER FIRE AND RESCUE  
AUTHORITY**

**STATEMENT OF WITNESS**

**POLICE AND CRIMINAL EVIDENCE ACT 1984  
CRIMINAL JUSTICE ACT 1967, SECTION 9**

**CONTINUATION SHEET**

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- **Prohibition and Enforcement notices severed.** A Prohibition notice was served due to the premises being not safe for sleeping as the means of escape had been blocked and the fire alarm was not working.

09/10/19 Compliance fire safety audit carried out following previous audit

- Two Emergency lights not working – otherwise satisfactory

Regency Restaurant 2-4 George Hudson Street York YO1 6LP

Fire calls received

None

Complaints received

- 29/7/2009 Complaint received from City of York Environmental Health Officer. Fire doors held open by boxes of food. Language line used to advise senior staff member to remove obstruction.
- 13/9/17 Complaint received from licensing enforcement officer. Fire exit between restaurant and front exit in state of disrepair and one side bolted shut. Fire safety audit carried out and notification of deficiencies sent.

Recent audits

14/9/17 Fire Safety Audit (due to complaint received 13/09/2017)

- No fire detection in basement and fire door to basement held open
  - No weekly testing of fire alarm
  - Staff training not recorded
  - **Notification of deficiencies served.**
- 

SIGNATURE OF WITNESS:

SIGNATURE WITNESSED BY:

RRO.WIT.01



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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	03032020	1
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Statement of: Glyn Ronald 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: 03/03/2020

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 10<sup>th</sup> DECEMBER 2019, I was requested to provide a summary of YHICE visits conducted to both the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP in terms of breaches of the IMMIGRATION ACT 1971 (AS AMENDED), as part of on-going enquiries into the two businesses.

HOME OFFICE records show YHICE have conducted FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA which are recorded below.

- 1). 7<sup>th</sup> JUNE 2014 - 2 Chinese nationals arrested; 1 for OVERSTAYING, and 1 for ILLEGAL ENTRY (CLANDESTINE) (initially provided false details and later found to have been previously served as an ILLEGAL ENTRANT (CLANDESTINE)).
- 2). 21<sup>st</sup> MAY 2017 – 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work).
- 3). 8<sup>th</sup> SEPTEMBER 2017 – 6 Chinese nationals arrested; 4 for OVERSTAYING their leave, and 2 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 4). 16<sup>th</sup> MARCH 2018 – No arrests were made, all staff present had permission to live and work in the United Kingdom.
- 5). 6<sup>th</sup> SEPTEMBER 2019 – 3 Chinese nationals arrested; 1 for OVERSTAYING their leave, 1 for WORKING IN BREACH (held extant leave with no permission to work) and 1 as a PERSON LIABLE TO DETENTION (previously REFUSED LEAVE TO ENTER but granted temporary admission/bail at port following an application for leave to remain, and subsequently failed to appear for an interview to progress their application).

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

Government Security Classification OFFICIAL SENSITIVE  
Approved for Immigration Enforcement use – April 2014

MG11

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

- 1). 7<sup>th</sup> APRIL 2017 – 1 Chinese national arrested for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE).
- 2). 8<sup>th</sup> SEPTEMBER 2017 – 1 Chinese national arrested for WORKING IN BREACH (held extant leave with no permission to work)
- 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, 1 for ILLEGAL ENTRY (ENTRY WITHOUT LEAVE), and 1 for being a PERSON LIABLE TO DETENTION (previously served as an ILLEGAL ENTRANT (ENTRY WITHOUT LEAVE) and failed to adhere to their bail conditions by failing to report to the Home Office, and working without permission).

This witness statement was completed at WATERSIDE COURT, LEEDS on 3<sup>rd</sup> MARCH 2020 at 09:45hrs.

Signature:.....

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

2014

Government Security Classification OFFICIAL SENSITIVE

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**WITNESS STATEMENT**

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

Statement of: Glyn Ronald JONES

URN GRJ 6633 04032020 1

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

Occupation: Immigration Officer

This statement (consisting of 1 (one) 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: 04/03/2020

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, and the outcomes of any investigations conducted.

This witness statement should be read in conjunction with witness statement GRJ 6633 03032020 1.

On 21<sup>st</sup> JANUARY 2020 I was requested to provide a summary of the investigations conducted on the individuals arrested from the FIVE enforcement visits to the REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA from 2014 to 2019 and THREE enforcement visits to the REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP from 2017 to 2019.

Research conducted on Home Office systems shows a total of EIGHTEEN individuals had been arrested during the visits to the two premises, TWELVE from REGENCY, 16 BARBICAN ROAD, YORK YO10 5AA and SIX from REGENCY, 2-4 GEORGE HUDSON STREET, YORK YO1 6LP. All EIGHTEEN of the individuals arrested were CHINESE nationals. THREE of the eighteen Chinese nationals were arrested on suspicion working in breach of their conditions, namely they held EXTANT LEAVE; however, had NO PERMISSION TO WORK. TWO of those three admitted to working without permission at the premises they were arrested from and served as workers in breach. ONE maintained they were not working at the time they were encountered cooking food in the restaurant kitchen; however, was served as a worker in breach on the balance of probabilities.

The remaining FIFTEEN Chinese nationals were arrested on suspicion of either holding no leave, as ILLEGAL ENTRANTS or, REMAINING BEYOND THE TIME LIMITED BY THEIR LEAVE and served as such.

This witness statement was made and completed at WATERSIDE COURT, LEEDS on 4<sup>th</sup> MARCH 2020 at 12:46hrs.

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

2014

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## Annex 7 - Regency, 2-4 George Hudson



**Date:** 27 May 2020

**Author:** City of York Council

**Scale:** 1:1,250



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**Legislation and Policy Considerations****Review of Premises Licence**

1. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s51 Application for review of premises licence; s52 Determination of application for review; s53 Supplementary provision about review.
2. The following provisions of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertising of reviews.
3. The following provisions of the Secretary of State's guidance apply to this application: Chapter 10 Conditions attached to premises licences and club premises certificates and Chapter 11 Reviews.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 8.0 Licensing Hours; 11.0 Review of licences.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

(amended 27/02/19)

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# **ADDITIONAL INFORMATION FROM COUNSEL FOR THE APPLICANT**

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### **Additional information from Applicant – guidance notes**

In accordance with Para 9 of Appendix 1 I can confirm that Counsel for the Applicant intends to rely on the following legal points:-

1) *East Lindsey v Abu Hanif* is a High Court case concerning the revocation of a premises licence where the licence holder employed illegal workers at his restaurant and paid them less than the minimum wage. Mr Justice Jay upheld the revocation stating at paragraph 18:

*“The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.”*

2) The further High Court decision in *Bassetlaw* (at para 32) also confirms that “deterrence” (i.e. to deter this licence holder and others tempted to do the same) is a relevant consideration at premises licence review hearings.

3) Chapter 11 of the s.182 Guidance (April 2018) states (at paragraphs 11.27-11.28) that in relation to licensed premises that employ people who are disqualified from working by reason of their immigration status in the UK (among other crimes)

*“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.”*

4) There is a public interest in not sanctioning attempts by licence holders to avoid the consequences of their illicit activity by simply

transferring their licence to 3<sup>rd</sup> parties. The High Court in *R v Knightsbridge Crown Court* considered the position where a holder of a casino licence, who was found not to be a fit and proper person under the old Gaming Act 1968, wished to avoid the cancellation of their licence by selling the shares of their business to other individuals who, arguably, were fit and proper (which is analogous to transferring the premises licence). Lord Justice Griffiths observed at 318(G-H) and 319(B):

*“It is also right that the licensing justices or the Crown Court on an appeal should have regard to the fact that it is in the public interest that the sanction of the cancellation of a licence should not be devalued. It is obvious that the possibility of the loss of the licence must be a powerful incentive to casino operators to observe the gaming laws and to run their G premises properly. If persons carrying on gaming through a limited company can run their establishment disgracefully, make a great deal of money and then when the licence is cancelled sell the company to someone who because he is a fit and proper person must be entitled to continue to hold the licence through the company, it will seriously devalue the sanction of cancellation.... A licensing authority is fully entitled to use the sanction of cancellation in the public interest to encourage other operators or would-be operators of gaming establishments to observe the law in the area of their jurisdiction.”*



Neutral Citation Number: [2016] EWHC 1265 (Admin)

CO/345/2016

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**THE ADMINISTRATIVE COURT**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Thursday, 14 April 2016

**B e f o r e:**

**MR JUSTICE JAY**

**Between:**

**EAST LINDSEY DISTRICT COUNCIL\_**

**Appellant**

v

**ABU HANIF**

**(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)\_**

**Respondent**

Computer-Aided Transcript of the Stenograph Notes of  
WordWave International Limited trading as DTI  
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(Official Shorthand Writers to the Court)

**Mr P Kolvin QC & Mr D Dadds** (instructed by David Dadds LLP) appeared on behalf of the  
**Appellant**

The **Respondent** did not appear and was not represented

J U D G M E N T  
(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.
2. The appellant, the East Lindsey District Council, is the licensing authority. The Magistrates' Court in the usual way is not a party to these proceedings. The respondent, Mr Abu Hanif, trading as Zara's Restaurant and Takeaway, is the licence holder. He through a licensing consultant has submitted correspondence making various limited points, but indicating that he would not be taking any part in these proceedings.
3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.
4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:
5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.
6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

7. The subcommittee considered the evidence by Mr Kheng on behalf of Mr Hanif and the Home Office section 182 Guidance to Licensing Authorities. The subcommittee were of the view that the premises licence should be revoked and that revocation was an appropriate step with a view to promoting the crime prevention licensing objective."
8. The respondent then appealed to the Magistrates' Court. There was a hearing on 27 March 2015, and on 23 June the district judge decided to allow the respondent's appeal. On 1 September 2015, the district judge determined the issue of costs and on 7 January 2016 he stated the case. The appeal to the district judge was de novo, but he accepted that he could only allow the appeal if the subcommittee's decision was "wrong", the burden being on the appellant before him to establish that.
9. Looking now at the stated case, the district judge noted that the respondent had received a civil penalty for employing an illegal worker under section 15 of the Immigration, Asylum and Nationality Act 2006. An immigration officer gave evidence to the effect that although by virtue of section 21 a criminal offence was committed, such proceedings were rarely brought. The district judge also noted that the police and the Council's licensing officer were no longer saying that the respondent was a serial offender, but a redacted report which was placed before the subcommittee still gave the impression that he "was in a much worse position than he actually was". As for the failure to pay the minimum wage, the district judge said this:
  - A. "In his evidence before me Mr Hanif accepted that he had not paid the minimum wage and this in itself can be a criminal offence. I found that this was not the main basis of the subcommittee's decision however and again there was no evidence that he had been reported for that alleged offence. It would appear from their reasons that the subcommittee used the evidence of paying cash in hand as justification for the finding that he knowingly employed Mr Miah. The prosecuting authority however appear to have taken a different view in offering the civil penalty."
10. The district judge's core reasoning was that no crime had been committed. As he put it:
  - A. "It appeared to me that no crime had been committed as a result of the visit to the premises in April of last year. A civil penalty had been imposed rather than

prosecution for the section 21 offence and no other crime had been reported in relation to not paying the minimum wage."

11. In the district judge's view, the crime prevention objective was not engaged.
12. The district judge also criticised the subcommittee for adopting an inconsistent approach because in other similar cases only warnings were issued. Finally, he considered that the subcommittee may have been influenced by comments in the police report, leading them to believe that they were dealing with a serial offender.
13. At the conclusion of the stated case, the district judge posed two questions for my determination. I will address these at the end of my judgment.
14. I was taken by Mr Philip Kolvin QC to various provisions of the Licensing Act 2003 as amended. Under section 4(1) and (2) a licensing authority must carry out its licensing functions with a view to promoting the licensing objectives, which include "the prevention of crime and disorder". The provisions dealing with the review application brought by the police are contained in sections 51 and 52. Under section 52(3), the licensing authority (and on appeal the Magistrates' Court):
  - A. "... must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives."
15. The epithet "appropriate" was introduced by amendment in 2011. Previously the test had been stricter. In my judgment, it imports by necessary implication the concepts of proportionality and relevance.
16. Mr Kolvin submitted that the district judge erred in a number of respects. First, he wrongly held that, given that criminal proceedings were never brought, the crime prevention objective (see section 4(2)) was not engaged. The statute is concerned with the prevention rather than the fact of crime. Secondly, and in any event, the interested party had committed criminal offences in relation to tax evasion, the employment of an illegal worker, and employing an individual at remuneration below the minimum wage. As for the employment of an illegal worker, Mr Kolvin accepted that this requires knowledge on the part of the employer, and he also accepted that it is not altogether clear whether the district judge found as a fact that the respondent possessed the requisite knowledge. However, the core question is the promotion of the licensing objectives, not

the fact of anterior criminal activity, and in this regard a deterrence approach is appropriate.

17. Thirdly, Mr Kolvin submitted that there was no evidence of an inconsistent approach by the subcommittee in giving warnings in some cases because all cases turn on their own facts. Finally, Mr Kolvin submitted that there was no basis for the district judge's conclusion that the subcommittee may have been influenced by a suggestion that the respondent was a serial offender.
18. I accept Mr Kolvin's submissions. In my view the district judge clearly erred. The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. The district judge's erroneous analysis of the law precluded any proper consideration of that issue. In any event, I agree with Mr Kolvin that criminal convictions are not required.
19. To the extent that the analysis must be retrospective, the issue is whether, in the opinion of the relevant court seized of the appeal, criminal offences have been committed. In the instant case they clearly had been: in relation to tax evasion (see the common law offence of cheating the Revenue and the offence of fraudulent evasion of tax contrary to section 106A of the Taxes and Management Act 1970); and the employment of Mr Miah at remuneration below the minimum wage (see section 31 of the National Minimum Wage Act 1998). Moreover, given the evidence that Mr Miah never provided the relevant paperwork, notwithstanding apparent requests, the obvious inference to be drawn is that the respondent well knew that he could not, and that no tax code and National Insurance number had been issued. The corollary inference in my judgment is that the respondent well knew that Mr Miah could not provide the relevant paperwork because he was here illegally.
20. I also accept Mr Kolvin's submission that each case must turn on its own facts. As a matter of law, unless it could be said that some sort of estoppel or related abuse of process arose in the light of warnings given in other cases, the alleged inconsistent approach led nowhere. In my judgment, it could not be so said.
21. Finally, I agree with Mr Kolvin that there is nothing in the point that the subcommittee could have been misled about the interested party being a serial offender. The point that

the subcommittee was making was the fact that the respondent had worked at premises where illegal workers were also employed meant that he should have been vigilant to the issue.

22. Thus the answer to the district judge's two questions are as follows:

A. Q. "Was I correct to conclude that the crime prevention objective was not engaged as no crimes had been proceeded with, the appellant only receiving a civil penalty?"

B. No.

C. Q. "Was I correct in concluding that the respondent had been inconsistent in similar decisions in not revoking the licence [sic]?"

D. No.

23. Having identified errors of law in the district judge's decision, the next issue which arises is whether I should remit this case for determination in the light of my ruling or whether I have sufficient material to decide the issue for myself. I should only adopt the latter course if satisfied that the issue is so obvious that no useful purpose would be served by remission. I am so satisfied. Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked. Another way of putting the matter is that the district judge had no proper basis for overturning the subcommittee's assessment of the merits.

24. It follows in my judgment that the only conclusion open to the district judge in the present case was to uphold the revocation of the respondent's licence. This appeal must be allowed and the respondent's licence must be revoked.

25. MR KOLVIN: My Lord, I'm very grateful. Can I deal with the question of costs, both here and below.

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

29. MR KOLVIN: My Lord, we would ask for the costs before this court. I just want to pray in aid four very brief points. The first is the result. The second is that the district judge's approach was expressly urged on him by the respondent's legal team. Thirdly, that the respondent was expressly urged to concede this appeal to stop costs running, he was given that opportunity at pages 42 and 43 of the bundle. Fourthly, perhaps a little bit tugging at the heart strings, but there's no reason why the Council Tax payers of East Lindsey should bear the cost of establishing what has been established in this court. So we would ask for the costs up here.

30. There is a schedule and the schedule has been served upon Mr Hanif by letter dated 16 March of 2016. I don't know whether the schedule has found its way to my Lord, if not I can hand up a copy.

31. MR JUSTICE JAY: It has.

32. MR KOLVIN: It has. My Lord, I can see that VAT has been added on. It doesn't need to be because of course the Council can retrieve the VAT, so my application is for £16,185. I know there's not a lot of explanation around my fee, but it was taken on a single fee for all work involved in relation to the case stated; advice, the skeleton argument and attendance today, so it's one single --

33. MR JUSTICE JAY: What about your junior's fees?

34. MR KOLVIN: My learned junior is also my instructing solicitor, he wears two hats.

35. MR JUSTICE JAY: I see.

36. MR KOLVIN: He has his own firm which is Dadds LLP, and he is also a member of the bar, so although he has appeared as my junior, his fee is wrapped up in the solicitors' fees set out in the schedule.

37. MR JUSTICE JAY: Okay. What about the costs below?

38. MR KOLVIN: My Lord, I'm just trying to ascertain what the position is.

39. MR JUSTICE JAY: I thought there was no order for costs below.

40. MR KOLVIN: There was no order for costs below, that was on the basis that the appeal had been allowed. The situation in relation to costs of licensing appeals are set out in section 181 of the Act, which enables the court to make such order as it thinks fit. Normally when appeals are dismissed there is no real question about it, costs follow the event. When appeals are allowed, some further considerations come into play, which are expressed by the Master of the Rolls in a case which you may have come across called City of Bradford v Booth, which is the case where the Master of the Rolls said that local authorities shouldn't be put off from trying to make honest and reasonable decisions in the public interest. And so one has to take account additionally of the means of the parties and their conduct in relation to the dispute, but in this case of course the appeal has now been dismissed, and so we would say that the ordinary rule is that the costs should follow the event, the appeal having failed. I'm just trying to ascertain whether schedules were ever served below, in the light of the way the case came out. **(Pause)**

41. My Lord, I'm really sorry that we don't actually have the schedule here, apparently it was £15,000. If you were minded to order costs below the options are either I suppose to wait and we will have the thing emailed up, or to say, "Look, it was below, it's a little bit more complex, they should be assessed if not agreed."

42. MR JUSTICE JAY: This is going to wipe him out, isn't it?

43. MR KOLVIN: Well he has already said, I have to say, I'm just telling you frankly what I've been told this morning, that when the bundles and the schedules were served on him, he had clearly read them, but he said, "If you win in the High Court and get costs against me, then I'm just going to declare myself bankrupt." So there may well be a bit of football(?) about this, but nonetheless it was his appeal, his team raised a point which in retrospect was very surprising, and caused an awful lot of costs to be incurred.

44. MR JUSTICE JAY: Yes. Well I am going to assess the costs here in the round figure of £15,000.

45. MR KOLVIN: Thank you.

46. MR JUSTICE JAY: If there was a schedule, which you tell me there was, below, it is proportionate that I assess those costs rather than put you to the trouble of a detailed assessment, so if you could have that emailed to my clerk in due course, I will assess the costs below.

47. MR KOLVIN: Thank you, my Lord.

48. MR JUSTICE JAY: On the basis of that schedule.



49. MR KOLVIN: We're not trying to be too ambitious, but we would like to see what we can --

50. MR JUSTICE JAY: I'll take a broad brush approach to that.

51. MR KOLVIN: Thank you.

52. My Lord, the only other thing to mention is that this isn't the only case which is kicking around the east of England where licensing subcommittees are being urged to take no action because there has been no prosecution in these immigration cases. Although I appreciate that this is hardly stellar law making, it's an application of pretty well established legal principles to the facts, I'm asking whether my Lord would be minded to certify this so that we can adduce the authority in other cases, because it's a clear statement of the law that there doesn't need to have been a prosecution. So with the practice direction in mind, would my Lord be minded to --

53. MR JUSTICE JAY: Just remind me of the practice direction.

54. MR KOLVIN: Yes, can I hand it up?

55. MR JUSTICE JAY: Yes. **(Handed)**

56. MR KOLVIN: If Mr Hanif had come I wouldn't need to make the application. It's paragraph 6.1. The judgment has to clearly indicate that it purports to establish a new principle or extends the present law and that has to take the form of an express statement to that effect, and then 6.2 says what categories of judgment we're dealing with, which include applications attended by one party only.

57. So that's the situation we're in. In reality these judgments get around anyway, because we're dealing with administrative tribunals and not courts, but sometimes the point is taken, "Ah yes, but the court didn't certify".

58. MR JUSTICE JAY: But where's the new principle I've established?

59. MR KOLVIN: My Lord, what you have said clearly, which hasn't been said before, by dint of the fact that not many licensing cases reach the lofty heights of this building, is that there does not need to have been a prosecution in order for the crime to have --

60. MR JUSTICE JAY: Oh, I see. Well that's so obvious it almost goes without saying, that's why it hasn't been said before.

61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellant and other licensees in the east of England.

62. MR JUSTICE JAY: Okay.

63. In terms of the logistics, if you want a copy of the judgment, don't you have to pay for it?

64. MR KOLVIN: We may have to, and we would be obviously very pleased to do so.

65. MR JUSTICE JAY: Because I'm not sure that all judgments are, in the Administrative Court, they're not all transcribed and published.

66. MR KOLVIN: That is correct, and I have no doubt that my client would be -- this isn't a matter about the costs of the judgment.

67. MR JUSTICE JAY: No, fortunately it doesn't cost that much. But I will give the certification. I have never been asked to do so before, I must confess.

68. MR KOLVIN: Yes.

69. MR JUSTICE JAY: Because these cases are referred to almost willy nilly, if they're available on Lawtel or wherever.

70. MR KOLVIN: Yes, they are.

71. MR JUSTICE JAY: Then they're just provided.

72. MR KOLVIN: They get into the textbooks and they --

73. MR JUSTICE JAY: No-one objects.

74. MR KOLVIN: Yes. It has happened once before, in relation to the meaning of the Court of Appeal judgment in Hope and Glory, and Lindblom J, as he then was, was asked repeatedly would he certify in relation to the meaning of Hope and Glory, which is an important test, and he was pretty engaged in the practice direction. But since then that judgment, there's always an argument in court about whether it can be cited or not. The difference between licensing and some other fields of law is that very few cases reach here, so when they do, the judgments of High Court judges are gold dust.

75. MR JUSTICE JAY: Yes, well I'm happy to make the certification.

76. MR KOLVIN: Thank you very much indeed.

77. MR JUSTICE JAY: We wouldn't want this point to be taken again successfully.

78. MR KOLVIN: No.

79. MR JUSTICE JAY: Now as a matter of courtesy, is the judgment, once available, sent to the district judge, or is it something that I should do informally?

80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments, but we're very happy to undertake to do so.

81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent --


82. MR KOLVIN: Indeed.

83. MR JUSTICE JAY: -- so he can ingest it. I think you should send it to the district judge, just saying that the judge directed that out of courtesy he should see it.

84. MR KOLVIN: We're very happy to do that. Thank you very much indeed.

85. MR JUSTICE JAY: Thank you very much.

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Status:  Positive or Neutral Judicial Treatment

**\*366 R (Bassetlaw District Council) v Worksop Magistrates' Court**

Queen's Bench Division

7 November 2008

**[2008] EWHC 3530 (Admin)**

**[2010] L.L.R. 366**

Slade J

7 November 2008

*Premises licence — Unauthorised sales to under age persons — Review — Appeal — Licensing objectives — [Licensing Act 2003](#)*

Following test purchases conducted by trading standards officers of Bassetlaw District Council (the council) at the off-licence premises of Mr and Mrs Jones, when alcohol was sold to two 14-year-old girls on four occasions, the council instituted a review of the premises licence. The licensing committee suspended the licence for 1 month. Mr and Mrs Jones appealed to the magistrates' court where the district judge allowed the appeal and instead imposed what were said by him to be additional conditions on the licence. He stated that it was not the function of the licensing authority to punish licensees for an infringement of licensing law and that the authority's powers were restricted to guidance or remedial action. The council sought judicial review of that decision for the purposes only of clarification as to the correctness in law of the decision.

**Held** – granting judicial review –

(1) The district judge had considered solely the provisions of the Guidance which were not specific to reviews arising in connection with crime. A proper reading and application of the Guidance, which governs the approach which the licensing authority must take in discharging its duties, requires where the circumstances render it applicable, the consideration of the paragraphs relating to reviews in connection with crime. Where criminal activity is applicable wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances deterrence is an appropriate objective and one contemplated in the Guidance issued by the Secretary of State.

(2) The Guidance contains specific provisions as to the approach to be adopted where criminal activity connected with the licensed premises is concerned. Plainly an appellate body must operate similar principles to those applicable to the licensing authority. The district judge failed to give reasons for a departure from the applicable guidance.

**Statutory provisions considered**

[Licensing Act 2003, ss 4\(2\), \(3\), 51, 52\(3\), \(4\), 146\(1\), 182](#)

**Cases referred to in judgment**

[Stepney Borough Council v Joffe](#); [Stepney Borough Council v Diamond](#); [Stepney Borough Council v White](#) [1949] 1 KB 599, [1949] 1 All ER 256, QBD

**Representation**

James Quirke Local authority solicitor for the claimant

The defendant did not appear and was not represented

*Cur adv vult*

SLADE J:

1 Bassetlaw District Council applies for judicial review of the judgment and decision of a district judge allowing an appeal from decisions made on a *\*367* licensing authority's review of a licence held by Mr and Mrs Jones. The licensing committee of the district council had reviewed the premises licence of the premises where Mr and Mrs Jones operated, in the light of offences which had taken place on 10 March 2007 namely the unlawful sale of alcohol on the premises to two 14-year-old girls. The girls were sent to the premises for test purchases in accordance with arrangements made by the trading standards office. The sales took place over a relatively short period of time. Each girl made a separate purchase or purchases, was served by one of two different young cashiers. Having regard to these matters, on review the licensing authority suspended the licence for the premises for 1 month. There was an appeal to the district judge. The district judge overturned the decision of the licensing authority and instead imposed what were said by him to be, 'additional conditions on the licence'.

2 Mr Quirke appears for the licensing authority. The district judge has served two statements in connection with this hearing, but otherwise takes no further part in it. The interested parties, Mr and Mrs Jones, were served with the notice of application but have not served an acknowledgement of service. I am also told that the licensing authority are not going to seek to overturn the determination of the district judge as to penalty. They seek, however, declarations as to the correctness in law of the decision and the judgment of the district judge.

3 The grounds for judicial review may be analysed as falling under five headings. As will become apparent later on in this judgment, two of those matters can, in my judgment, be taken together.

4 First, it is said that the district judge erred in holding that, in accordance with the Guidance issued by the Secretary of State, it is not the function of the licensing authority to punish licensees for an infringement of licensing law and provisions on its licence. Further, it is said that the district judge was in error in holding that, on a proper construction of the licensing provisions and guidance applicable, the licensing authority powers were restricted to guidance or remedial action which was the approach of the district judge. It is said that the steps which the licensing authority and the district judge on appeal may take include a range of powers which must be deployed according to the particular circumstances of the case.

5 Secondly, it is said that the orders made by the district judge which were in substitution for the suspension of the licence imposed by the licensing authority were, in effect, not additions to the conditions of the licence which applied up to that point. Save in one respect they were merely a reiteration of steps which were already being taken or were already in fact conditions of the licence.

6 Thirdly, it is said that the district judge erred in his approach to his own decision-making on appeal. It is said that he adopted a too generous approach to his powers on appeal in that he appears at 2, para 5 of his judgment to direct himself that he could take a decision standing in the shoes of the licensing authority having regard to the particular circumstances and considering whether the licensing authority's decision was justified. It is said that the district judge failed to give proper regard to the Guidance issued under [s 182 of the Licensing Act 2003](#) in that he did not state that he was *\*368* departing from such guidance in certain respects. Since, it is said, that he departed from such guidance, he erred in failing to state why he was departing from such guidance.

7 Fourthly, it is said that the district judge failed properly to apply and have regard to para 5.115 of the Guidance given under [s 182 of the Licensing Act 2003](#). This sets out and categorises as criminal certain activities which may arise in connection with licensed premises and which the Secretary of State considers should be treated particularly seriously. Included in the use of licensed premises for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and prosperity for crime of young people. It is said that the district judge failed to pay proper regard to that. Where there has been a compliant of an incident which is categorised rightly as criminal activity in connection with

licensed premises, it is said that the district judge failed to take into account para 5.113 of the guidance. This provides that the licensing authority's duty, in circumstances such as these, is:

'... to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.'

8 Finally, it is said that the district judge failed in his approach to pay proper regard to the guidance of Lord Goddard in the case of *Stepney Borough Council v Joffe* ; *Stepney Borough Council v Diamond* ; [Stepney Borough Council v White \[1949\] 1 KB 599](#) which the judge himself referred to at 2 of his judgment, para 5. In *Joffe* it was said that although on an appeal, such as this, there is a right to a re-hearing. The appellate court should pay regard to the fact that the duly constituted and elected local authority have come to an opinion on the matter. The appellate body ought not lightly to reverse their opinion.

9 >Discussion

10 I will briefly outline some of the relevant statutory provisions and guidance. Pursuant to the [Licensing Act 2003, s 4](#) , the licensing authority must carry out its function under the Act with a view to promoting the licensing objectives. [Subsection \(2\)](#) provides that:

'The licensing objectives are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.'

11 Importantly, [s 4\(3\)](#) provides:

'In carrying out its licensing functions, a licensing authority must also have regard to—

**\*369**

...

- (b) any guidance issued by the Secretary of State under section 1.282.'

12 [Section 52 of the Licensing Act 2003](#) applies where an application for a review of licence under [s 51](#) has been made. [Section 52\(3\)](#) provides:

'The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection 4, if any, as it considers necessary for the promotion of the licensing objectives.'

13 Those objects are set out in [s 4](#) .

14 [Section 52\(4\)](#) provides that the steps are:

- (a) to modify the conditions of the licence ...
- (b) to suspend the licence for the period not exceeding three months.
- (c) to revoke the licence.

For this purpose the conditions of the licence are modified. If any of them is altered or omitted or any new condition is added.'

15 It is to be noted that [s 146\(1\) of the Licensing Act 2003](#) provides:

'A person commits an offence if he sells alcohol to an individual aged under 18.'

16 Pursuant to [s 182 of the Licensing Act 2003](#) guidance is issued. I have already outlined the requirement for the licensing authority in carrying out its functions to do so in accordance with the Guidance and to have regard to it. The background and the approach which should be taken to that guidance is set out in para 2.3 of the Guidance itself which was applicable at the relevant date. The Guidance was revised with effect from June 2007. Reference is made in para 2.3 to [s 4 of the Licensing Act 2003](#) which provides that:

'In carrying out its functions, a licensing authority must have regard to guidance issued by the Secretary of State under [section 182](#). The requirement is therefore binding on all licensing authorities to that extent.'

17 It is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise. So long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it, if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their decisions. Departure from the Guidance could give rise to an appeal or judicial review and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

18 I will set out here the passages in the Guidance material to this application. Paragraph 5.99 provides:

'Proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems **\*370** associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. It is the existence of these procedures which should, in general, allow licensing authorities to apply a light touch bureaucracy to the grant and variation of premises licence by providing a review mechanism when concerns relating to the licensing objectives arise later in respect of individual premises.'

19 The provisions relating to the power of the licensing authorities in conducting a review are set out in para 5.107 and following. Paragraph 5.107 provides:

'The 2003 Act provides a range of powers for the licensing authority on determining and review that it may exercise where it considers them necessary for the promotion of the licensing objectives.'

20 At para 5.109, there are set out the steps which may be taken by the licensing authority where it considers that actions under its statutory powers are necessary. Those include modification of the condition of the premises licence, suspension of the licence and revocation of the licence; the suspension, being for a period not exceeding 3 months.

21 Paragraph 5.110 provides that:

'In deciding which of the powers to invoke the licensing authority should so far as possibly seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.'

22 Paragraph 5.111 refers to the need for any detrimental financial impact of a licensing authority's decision, in particular of suspension of a licence, to be considered.

23 A separate section in the Guidance deals with reviews arising in connection with crime. In my judgment these provisions are particularly material to this case. Paragraph 5.112 states:



'A number of reviews may arise in connection with crime that is not directly connected with licensable activities.'

24 It is agreed by Mr Quirke that the sale of alcohol on the premises to under age drinkers is connected with licensable activities. Indeed, in para 5.115 such activity is expressly referred to in the following terms:

'There is certain criminal activity that may arise in connection with licensed premises which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises [and there are enumerated a number of crimes ... which include] for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.'

**\*371**

25 Of importance to the consideration of the case before me is also para 5.113 which provides:

'Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps are necessary to be taken in connection with the premises licence for the promotion of the crime prevention objective.'

26 The paragraph continues:

'The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.'

27 At para 5.114, there is a reference to the fact that it is not the role of the licensing authority to determine guilt or innocence, but it is stated that:

'At the conclusion of the review, it will be for the licensing authority to determine, on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing act objectives in respect of the licence in question regardless of any subsequent judgment in the courts about the behaviour of individuals.'

28 I now turn to a consideration of the various heads of challenge which Mr Quirke, on behalf of the licensing authority, makes to the judgment and determination of the district judge in this case. In the course of the discussion I may refer not just to the district judge's judgment but also, albeit maybe briefly, to a statement filed by him in these proceedings. Taking grounds 1 and 4 of challenge together, the main issue raised by those grounds is that the district judge misdirected himself in considering that the function of the authority and his function as the appellate body was not punitive but in effect was remedial. It is submitted that the approach of the district judge was to confine his consideration to remedy of the cause of the breach of the licence provisions and of the law.

29 At paras 4 and 5 of the judgment in the section headed, 'Discussions', at 10 the district judge said that:

'The function of the local authority, and now this court, must be first to establish why the four sales of the alcohol to girls A and B occurred on 10 March 2007. Secondly, to take such steps, if any, under [section 52](#) of the Act as are necessary to ensure that no further sales occur thereby promoting the two licensing objectives principally engaged by this case: namely, the prevention of crime and disorder, and the protection of children from

harm. The step or steps taken must be the minimum intervention necessary to achieve those aims. What is necessary is a question of value and judgment which will involve the local authority or the court taking account of all the circumstances of the case.'

**\*372**

30 In my judgment, the language of para 5 indicates clearly that the district judge was considering solely the provisions of the Guidance which were not specific to reviews arising in connection with crime. In my judgment, a proper reading and application of the guidance which governs the approach that a licensing authority must take in discharging its duties requires, where the circumstances render it applicable, the consideration of the paragraphs relating to reviews in connection with crime. While it may be said that in reviews which do not engage a requirement to consider the paragraphs giving guidance on the approach where there is activity in connection with crime related to licensed premises, the general provisions which apply to all reviews may result in the approach outlined in para 5 being the appropriate one to follow. Indeed, para 5.110, which applies generally to the exercise by a licensing authority of its powers on review, does state a requirement, so far as possible, on the authority to establish the cause or causes of the concerns and that remedial action taken should be directed generally to these causes and should always be no more than a necessary and proportionate response. That observation, in my judgment, is directed to the overall approach to the exercise by the licensing authority of its powers on a review. When considering reviews arising in connection with crime, decisions of the licensing authority would have to be reasonable in all the circumstances and that would necessarily engage a requirement to consider necessity and proportionality.

31 However, in my judgment the district judge failed to have regard to the requirement on a licensing authority conducting a review on the grounds that the premises had been used for criminal purposes to take steps with view to the promotion of licensing objectives in the interests of the wider community. That is a requirement set out in para 5.113. For reasons given earlier, and in particular by reason of the fact that para 5.115 clearly specifies criminal activity which may arise in connection with the use of the licensed premises for the purchase and consumption of alcohol by minors, that provision is engaged in this case.

32 Accordingly, in my judgment, the district judge misdirected himself by confining his consideration of the case to the test which would be appropriate where no criminal activity was concerned. Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State.

33 The district judge held that the provisions are not to be used and cannot be used for punishment. That may strictly speaking be correct. However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable. Therefore, when the district judge confined himself, as in my judgment he did, to the considerations of remedying, and adopted only the language of para 5.110 in his considerations, he erred in law. In my judgment, that error is sufficient to undermine the basis of his decision. On those two grounds alone, grounds 1 and 4 as I have outlined, I allow this application for judicial review. **\*373**

34 However, I continue to consider under the various headings the other grounds raised. The orders made by the district judge are challenged. He added to the existing conditions of the licence six matters as to which I am told that five were already present but not properly implemented. The sixth new provision was acceptable identification to establish the age of a purchaser shall be a driving licence with photographs, passport or proof of age scheme card recognised by or acceptable by the licensing authority. I am told these provisions were already in place, but not properly implemented. No doubt those are perfectly sensible and appropriate provisions to be included on a licence. However it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14-year-old girls. In effect this is a perversity challenge to the decision of the district judge. Even if the approach of the district judge had been correct, which in my judgment it was not, it may well be that the order he made was perversely minimal to meet the circumstances and gravity of the case.

35 Under the third general head of challenge, it is said that the district judge failed to pay proper regard to the decision of the licensing authority. Whereas he directed himself in accordance with the dictum of Lord Goddard in *Joffe* which he set out at 2, para 5 of his judgment, nonetheless, it is said that he failed to pay regard to the initial decision of the licensing authority when coming to his decision. Since in my judgment the district judge erred in other respects I determine this judicial review challenge on other grounds.

36 It is finally said that the district judge erred in that he departed from the Guidance issued under [s 182 of the Licensing Act 2003](#) but failed, as he was obliged to do, to state that he was so departing and failed to give reasons for so departing. The departure, it is said, is constituted by the failure to give recognition and carry into effect the provisions of paras 5.113, 5.115 and 5.116.

37 Earlier in this judgment I set out the basis upon which licensing authorities must pay regard and be governed by guidance issued. Plainly an appellate body must operate similar principles to those applicable to the licensing authority. The guidance contains specific provisions as to the approach to be adopted where criminal activity connected with licensed premises is concerned. He failed to give reasons for a departure from applicable guidance. The district judge in reaching his decision simply referred to the circumstances of the case and the fact that what is necessary is a question of the valuation and judgment which will involve the local authority or the court taking into account all the circumstances of the case, that is at 10 of his judgment, para 5. The district judge in my judgment failed to identify why and in what respects he was departing from the guidance. I find that the district judge erred in failing to give reasons for departing from the applicable guidance.

38 Accordingly, for the reasons set out in this judgment I allow this application for judicial review and find that the district judge erred in law in his approach to determining the appeal of the licensees in this case. **\*374**

Kerry Barker, Barrister

**\*375**

*No need for a declaration that the district judge erred in law in his approach to the appeal. No order for costs.*

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Home Office

## **Revised Guidance issued under section 182 of the Licensing Act 2003**

April 2018



# 11. Reviews

## The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.



- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises



licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 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, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.



## Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 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;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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.

### **Review of a premises licence following closure order or illegal working compliance order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

### **Review of a premises licence following persistent sales of alcohol to children**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

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REGINA v. KNIGHTSBRIDGE CROWN COURT,  
*Ex parte* INTERNATIONAL SPORTING CLUB (LONDON) LTD.  
 AND ANOTHER

1981 May 12, 13, 14, 15;  
 June 5

Griffiths L.J. and May J.

*Judicial Review — Certiorari — Crown Court — Error on face of record — Oral judgment containing errors of law — Whether certiorari available*

*Gaming — Club — Gaming licence — Companies owning clubs found not to be fit and proper persons to hold licence — Appeal — Companies restructured — Whether restructuring of companies and change of club management relevant consideration — Gaming Act 1968 (c. 65), Sch. 2, para. 20*

On a joint application to the gaming licensing committee by the Commissioner of Police of the Metropolis and the Gaming Board of Great Britain, the gaming licences of three London gaming clubs were cancelled on the ground that the companies owning the clubs were not fit and proper persons to hold gaming licences. The companies entered notices of appeal to the Crown Court and were thereby able to continue operating pending the appeals. Before the hearing of the appeals, the entire shareholdings of the companies were sold, and the purchasers replaced the old with new management and put in hand the necessary reforms. The companies under the new ownership pursued the appeals and contended that despite past misconduct they were now reformed by the complete change of shareholding and management and were, therefore, fit and proper persons to hold gaming licences. The Crown Court dismissed the appeals and a circuit judge sitting with licensing justices delivered a judgment giving the reason for the decision that the fitness of the companies was to be judged by their past misconduct.

On an application by two of the companies for an order of certiorari to quash the order of the Crown Court dismissing the appeals on the grounds, *inter alia*, that the judgment showed errors of law on the face of the record, and on a submission by the Gaming Board that the record consisted only of the formal order of the court and that the judgment formed no part of the record: —

*Held*, (1) that in the growth of administrative law over the past four decades, the concept of the record had been broadened so as to include documents embodying the reasons for the decision of an inferior tribunal; that since judges and tribunals were expected to give reasons for their decisions and the practice of the Divisional Court to consider the document recording the reasons for a decision had been given parliamentary approval by the Tribunal and Inquiries Acts 1958 and 1971, it would be unreasonable and contrary to the developing practice of the court to exclude documents recording reasons of tribunals to which the Acts did not apply; and that, accordingly, the record of the Crown Court for the purposes of the prerogative order of certiorari included the transcript of the oral judgment (post, pp. 313C-D, 314D-F, H—315A, D-F, 316A).

*Reg. v. Supplementary Benefits Commission, Ex parte*

**1 Q.B. Reg. v. Crown Ct., Ex p. International Club (D.C.)**

**A** *Singer* [1973] 1 W.L.R. 713, D.C. and dictum of Lord Denning M.R. in *Reg. v. Preston Supplementary Benefits Appeal Tribunal, Ex parte Moore* [1975] 1 W.L.R. 624, 628, C.A. applied.

*Overseers of the Poor of Walsall v. London and North Western Railway Co.* (1878) 4 App.Cas. 30, H.L.(E.) considered.

**B** (2) Granting the applications, that the question for the Crown Court was whether at the time of hearing the appeal the companies were fit and proper persons to hold a licence and, therefore, the restructuring of the companies was a matter to be taken into account and that, accordingly, the transcript of the judgment of the Crown Court showed an error of law in failing to consider that matter; that although it was possible that the Crown Court would have come to the same decision if it had taken into account the restructuring of the companies,

**C** the companies should not be denied a rehearing and, therefore, the court would exercise its discretion to quash the decision of the Crown Court leaving the applicants to pursue their appeals against the orders of the licensing justices cancelling their licences (post, pp. 317A-B, 318D-E, 319A-B, C-F).

The following cases are referred to in the judgment:

**D** *Baldwin & Francis Ltd. v. Patents Appeal Tribunal* [1959] A.C. 663; [1959] 2 W.L.R. 826; [1959] 2 All E.R. 433, H.L.(E.).

*Gaming Board of Great Britain v. Victoria Sporting Club* (unreported), October 17, 1980, Judge Friend.

*Overseers of the Poor of Walsall v. London and North Western Railway Co.* (1878) 4 App.Cas. 30, H.L.(E.).

**E** *Racecourse Betting Control Board v. Secretary for Air* [1944] Ch. 114; [1944] 1 All E.R. 60, C.A.

*Reg. v. Chertsey Justices, Ex parte Franks* [1961] 2 Q.B. 152; [1961] 2 W.L.R. 442; [1961] 1 All E.R. 825, D.C.

*Reg. v. Inland Revenue Commissioners, Ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1981] 2 W.L.R. 722; [1981] 2 All E.R. 93, H.L.(E.).

**F** *Reg. v. Justices for Court of Quarter Sessions for the County of Leicester, Ex parte Gilks* [1966] Crim.L.R. 613, D.C.

*Reg. v. Knightsbridge Crown Court, Ex parte Ladup Ltd.* (unreported), March 18, 1980, D.C.

*Reg. v. Leeds Crown Court, Ex parte Bradford Chief Constable* [1975] Q.B. 314; [1974] 3 W.L.R. 715; [1975] 1 All E.R. 133, D.C.

*Reg. v. Medical Appeal Tribunal, Ex parte Gilmore* [1957] 1 Q.B. 574; [1957] 2 W.L.R. 498; [1957] 1 All E.R. 796, C.A.

**G** *Reg. v. Preston Supplementary Benefits Appeal Tribunal, Ex parte Moore* [1975] 1 W.L.R. 624; [1975] 2 All E.R. 807, C.A.

*Reg. v. Supplementary Benefits Commission, Ex parte Singer* [1973] 1 W.L.R. 713; [1973] 2 All E.R. 931, D.C.

*Rex v. Northumberland Compensation Appeal Tribunal, Ex parte Shaw* [1951] 1 K.B. 711; [1951] 1 All E.R. 268, D.C.; [1952] 1 K.B. 338; [1952] 1 All E.R. 122, C.A.

**H** *South East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union* [1981] A.C. 363; [1980] 3 W.L.R. 318; [1980] 2 All E.R. 689, P.C.

The following additional cases were cited in argument:

*Anisminic Ltd. v. Foreign Compensation Commission* [1969] 2 A.C. 147; [1969] 2 W.L.R. 163; [1969] 1 All E.R. 208, H.L.(E.). A

*Attorney-General v. British Broadcasting Corporation* [1981] A.C. 303; [1980] 3 W.L.R. 109; [1980] 3 All E.R. 161, H.L.(E.).

*Boulter v. Kent Justices* [1897] A.C. 556, H.L.(E.).

*Company, In re A* [1981] A.C. 374; [1980] 3 W.L.R. 181; [1980] 2 All E.R. 634, H.L.(E.).

*Hanks v. Minister of Housing and Local Government* [1963] 1 Q.B. 999; [1962] 3 W.L.R. 1482; [1963] 1 All E.R. 47. B

*Pearlman v. Keepers and Governors of Harrow School* [1979] Q.B. 56; [1978] 3 W.L.R. 736; [1979] 1 All E.R. 365, C.A.

*Reg. v. Midhurst Justices, Ex parte Thompson* [1974] Q.B. 137; [1973] 3 W.L.R. 715; [1973] 3 All E.R. 1164, D.C.

*Reg. v. Patents Appeal Tribunal, Ex parte Swift & Co.* [1962] 2 Q.B. 647; [1962] 2 W.L.R. 897; [1962] 1 All E.R. 610, D.C. C

*Reg. v. Southampton Justices, Ex parte Green* [1976] Q.B. 11; [1975] 3 W.L.R. 277; [1975] 2 All E.R. 1073, C.A.

*Rex v. Hyde Justices* [1912] 1 K.B. 645, C.A.

*Rex v. Manchester Justices, Ex parte Lever* [1937] 2 K.B. 96; [1937] 3 All E.R. 4, D.C.

*Rex v. Nat Bell Liquors Ltd.* [1922] 2 A.C. 128, P.C. D

*Rex v. Newington Licensing Justices* [1948] 1 K.B. 681; [1948] 1 All E.R. 346, D.C.

#### APPLICATION for judicial review.

The applicants, International Sporting Club (London) Ltd. and Palm Beach Club Ltd., applied for judicial review by way of certiorari to quash a judgment given by Knightsbridge Crown Court (Judge Friend and justices), on March 9, 1981, dismissing an appeal from a decision of the Gaming Licensing Committee for the South Westminster Division of Inner London made on September 24, 1980, cancelling the gaming licences granted under Part II of the Gaming Act 1968 in respect of the International Sporting Club, the Curzon House Club and the Palm Beach Club. The grounds on which relief was sought were (1) that the Crown Court had failed to determine the appeal according to law; (2) that the Crown Court, in the "speaking order" which was constituted by or included in its judgment, held contrary to law (a) that the question whether the applicants were fit and proper within the meaning of paragraph 20 (1) (b) of Schedule 2 to the Gaming Act 1968 ought to be determined by exclusive consideration of past misconduct of the applicants and that there should be excluded from consideration any reformation or change in ownership and management of the applicant companies, (b) that the court should take into account, in determining whether the applicants were fit and proper and whether discretionary power ought to be exercised, the extraneous and erroneous consideration that the sale of shares in a company owning a licence, and in particular if such licence was under threat of cancellation, was contrary to public policy or wrong or an unacceptable means of obviating or evading the control or operation of the Gaming Act 1968, and (c) that the jurisdiction of the Crown Court on appeal was punitive and not merely regulatory; and (3) that the failure or refusal by the Crown Court to E  
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- A determine whether the applicants were fit and proper persons at the date of the hearing of the appeal constituted a failure or refusal to exercise the jurisdiction of the court.

The facts are stated in the judgment of the court.

- B Gavin Lightman Q.C. and David Tudor Price for International Sporting Club (London) Ltd. The decision of the Crown Court ought to be quashed by reason of (a) error on the face of the record and (b) as made in excess of jurisdiction.

- C As to (a) the judgment of the Crown Court giving its reasons for its decision either constitutes the record or constitutes part of the record. Since the formal order of the court does not in terms dismiss the appeal but refers to the appeal having been dismissed when the judgment was delivered, the judgment alone and not the formal order constitutes the record. If this is not correct, the reasons given constitute part of the record: see *Reg. v. Chertsey Justices, Ex parte Franks* [1961] 2 Q.B. 152; *Reg. v. Justices for Court of Quarter Sessions for the County of Leicester, Ex parte Gilks* [1966] Crim.L.R. 613, and *Reg. v. Leeds Crown Court, Ex parte Bradford Chief Constable* [1975] Q.B. 314.

- D The modern practice is to include the reasons for a decision as part of the record: see *Reg. v. Supplementary Benefits Commission, Ex parte Singer* [1973] 1 W.L.R. 713; *Baldwin & Francis Ltd. v. Patents Appeal Tribunal* [1959] A.C. 663; *Reg. v. Medical Appeal Tribunal, Ex parte Gilmore* [1957] 1 Q.B. 574 and *Reg. v. Preston Supplementary Benefits Appeal Tribunal, Ex parte Moore* [1975] 1 W.L.R. 624.

- E *Rex v. Newington Licensing Justices* [1948] 1 K.B. 681 was to the effect that no decision had in fact been made by the licensing justices and accordingly no order for certiorari could be made. The dictum of Singleton J. at p. 690 that no order for certiorari could be made where the decision was given orally, is wrong. The conservative approach to determining what constitutes the record, manifested in the cases cited in *Reg. v. Knightsbridge Crown Court, Ex parte Ladup Ltd.* (unreported), March 18, 1980, is out of accord with modern practice and authority for relaxing the rules governing the grant of relief in the field of administrative law to be found in the decision in *Reg. v. Inland Revenue Commissioners, Ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1981] 2 W.L.R. 722.

- F If error does appear on the face of the record, the fact that the Gaming Act 1968 provides that the decision of the Crown Court is final is no ground for refusing certiorari: see *Reg. v. Medical Appeal Tribunal, Ex parte Gilmore* [1957] 1 Q.B. 574 and *South East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union* [1981] A.C. 363.

- H The judgment of the Crown Court discloses error in its insistence that in determining the fitness of a licensee, only his past record should be considered and nothing else. The question of fitness must be determined in the light of circumstances existing at the time of the appeal and in particular the character and reputation of the shareholders and directors at that time and the question whether at the time of the hearing they have the capacity and intention to run the casino properly.



As to (b), an error of law by the Crown Court involved the failure to take into account relevant considerations and thus constituted an excess of jurisdiction: see *Reg. v. Southampton Justices, Ex parte Green* [1976] Q.B. 11. Such an error of law by an inferior court such as the Crown Court (including four lay members) exercising an administrative function invalidates its decision even if not open to challenge on the ground of error of law on the face of the record.

*Mark Cran* for Palm Beach Casinos Ltd. The submissions on behalf of International Sporting Club (London) Ltd. are adopted. The question raised was whether a casino owner with a cancellation of licence pending should be able to sell at a commercial value. These were casino premises in Mayfair owned by Coral Leisure Group Ltd. Pending the appeals, Coral Leisure Group Ltd. could continue to make a profit. The Crown Court said that if the clubs were sold at a commercial value it was a way of enabling the wrongdoer to benefit.

It was an issue of fact whether an applicant was a fit and proper person. A company, unlike an individual, can change its character. The structure of the Gaming Act 1968 is such that a transferee, whether licensee or shareholder in a licence holding company, cannot escape the wrongdoings of the past. Therefore it is entirely proper for a court to disregard past wrongdoings in deciding the issue of whether an applicant is a fit and proper person at the date of the hearing. There was no circumvention of the Act. If there was circumvention of the Act, the court did not consider if in relation to this applicant there had been any circumvention.

On the exercise of the discretion, the court took the view that there was a means of benefiting the wrongdoer as a general policy rather than considering whether the wrongdoer had in fact benefited in this case. Past misconduct was only evidential. The Crown Court had also failed to consider whether it was in the interests of the public that casino licences should go into the hands of reputable operators as soon as possible.

*John Marriage Q.C.* and *Timothy Cassel* for the Commissioner of Police of the Metropolis. Before the licensing justices, the Commissioner of Police put forward evidence and argument but the matter of disqualification was left entirely to the court. The Commissioner did not comment on the bona fides of the new management. He was only interested to see that the premises were policed and that there were no criminal offences taking place on them. To achieve that end, the Commissioner worked very closely with the Gaming Board. The new management of the clubs took over and started running them immediately without even a day's pause to reorganise them.

As a matter of policy, the licensing justices and the Crown Court had to ensure that discipline was restored and enforced after past misconduct. The judgment of the Crown Court must be regarded in the light of licensing policy generally. The enforcement of discipline in a gaming club requires an effective sanction against a management company guilty of misconduct. That sanction is the cancellation of the management company's licence. The sanction is devalued if the company can be sold for a high price, as it can if the new owners and management are able to have the licence restored. The applicants are seeking to make use of a lacuna in the law

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A which would weaken the cancellation of a gaming licence as a sanction for breaches of the law.

As to the general nature of licensing law, licensing questions are not matters of inter partes applications. They are questions of importance to the public. [Reference was made to *Boulter v. Kent Justices* [1897] A.C. 556 and *Rex v. Hyde Justices* [1912] 1 K.B. 645.]

B In order to quash a decision by way of certiorari it is not sufficient to find an error on the face of the record. There must be an abuse of the court's jurisdiction by which the court wrongfully extends or limits the area in which it is entitled to reach decisions. A wrong decision in law is not of itself an abuse of the court's jurisdiction. [Reference was made to *Rex v. Nat Bell Liquors Ltd.* [1922] 2 A.C. 128.]

C *Simon Tuckey Q.C.* for the Gaming Board of Great Britain. The record must be strictly construed and cannot extend beyond the formal order dismissing the appeals. The reasons contained in the judgment of the inferior court form no part of the record unless that court chose to embody those reasons in the order. Only then would it exist as a document which the inferior court keeps as a formal record of its proceedings. The record must not be given an arbitrary significance and cannot extend to include any other document. What is quashed on certiorari is the record which the inferior court has in its physical custody.

D Certiorari will lie only where an inferior court has acted without jurisdiction or has exceeded its jurisdiction. Certiorari will not lie on the ground merely that an inferior court made an error of law: see *Racecourse Betting Control Board v. Secretary for Air* [1944] Ch. 114. A judge's mistake is not an error of law on the face of the record. An error on the face of the record must be palpable and apparent. On an application for certiorari a court should take care not to go behind the face of the record and decide a point of mixed fact and law.

*Cur. adv. vult.*

F June 5. GRIFFITHS L.J. read the following judgment of the court. Between 1974 and 1979 Coral Leisure Group Ltd. controlled and managed three London gaming clubs; they were the International Sporting Club, the Curzon House Club and the Palm Beach Club. The clubs were very badly run and with scant regard to the provisions of the Gaming Act 1968. Eventually they were all raided by the police in November 1979 and thereafter the Commissioner of Police of the Metropolis and the Gaming Board of Great Britain joined in applications to the Gaming Licensing Committee for the South Westminster Division to cancel the gaming licences of the three clubs.

G In each case the gaming licence was held by a limited company. They were International Sporting Club (London) Ltd., Curzon House Club Ltd. and Palm Beach Club Ltd. Coral Casinos (U.K.) Ltd., a wholly owned subsidiary of Coral Leisure Group Ltd., owned the whole of the share capital of the International Sporting Club Ltd. and Curzon House Club Ltd., and Coral Leisure Group Ltd. itself owned two-thirds of the share capital of Palm Beach Club Ltd., the remaining one-third being owned by Gordon

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Hotels Ltd. Coral Casinos (U.K.) Ltd. were responsible for the management of each of the clubs. A

The applications to cancel the licences were made upon three grounds; first, that the companies were not fit and proper persons to hold a gaming licence, secondly, that Coral Casinos (U.K.) Ltd. for whose benefit the clubs were operated, were not fit and proper persons to hold a licence and thirdly, that the clubs had been used for unlawful purposes.

The evidence took many days to hear and revealed a whole catalogue of wrongdoing. It is not necessary to enumerate all the various breaches of the Gaming Act 1968 that the companies had been committing; it will suffice to say that they were numerous, serious and extended over a number of years. The licensing committee on September 24, 1980, cancelled the licences on the ground that the companies were not fit and proper persons to hold gaming licences. It is conceded that that was a proper finding and a correct exercise of their discretion by the licensing committee on the material then before them. B  
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The licensing committee did not make any specific finding on whether the clubs had been used for an unlawful purpose or purport to cancel the licence on that ground. No doubt it seemed to them unnecessary to do so. But had they wished to do so it appears that there was ample material upon which they could have acted. Nevertheless, although the committee invited submissions on the point, it did not exercise its discretion to disqualify the premises under paragraph 49 of Schedule 2. D

On October 9 the companies entered notices of appeal. That meant that despite the fact that their licences had been cancelled the clubs could continue operating until their appeals were determined by the Crown Court: see Schedule 2, paragraph 44. E

Before the hearing of the appeal there was much business activity. The two Coral companies sold out their entire interests in the three clubs, and handed over their management to the new owners. They sold the shares of the International Sporting Club Ltd. to A.V.P. Ltd., a wholly-owned subsidiary of Lonrho Ltd. They sold the shares of the Curzon House Club Ltd. to the Aspinall organisation. They sold the two-thirds share holding in Palm Beach Club Ltd. to Mecca Sportsman Ltd. By the time the appeal commenced on February 17, 1981, Coral Casinos (U.K.) Ltd. had ceased to have any interest in the ownership or management of any of the clubs, and the appeals were pursued by the new owners. F

An appeal to the Crown Court is by way of rehearing. Mr. Marriage on behalf of the Commissioner of Police of the Metropolis opened the facts to the court, but he was not required to call any evidence because the transgressions of the three companies that had been proved before the licensing authority were admitted and it was also conceded that at the date of the hearing in September the companies were not fit and proper persons to hold a licence. Nevertheless, we are told it took Mr. Marriage a day to open the facts which gives some idea of the scale of the past wrongdoing. G

The new owners of the clubs called a great deal of evidence in an attempt to satisfy the Crown Court that, whatever their past sins, the casino companies were completely reformed characters and were now fit and proper persons to hold gaming licences. Their argument was that, whereas H

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- A it might be difficult for an individual with a bad record to persuade a court that he had completely reformed, a company was in a different position for it was as good or as bad as the people who controlled and managed it, and where there had been a complete change of shareholding and management there should be no impediment to holding that the company was now a fit and proper person to hold a gaming licence, if the shareholders and managements were now respectable and capable of the proper management of a gaming club. But their argument did not prevail and the appeals were dismissed.

The hearing in the Crown Court was before a circuit judge sitting with four licensing justices. At the end of the hearing the judge gave a judgment in which he gave the reasons why the appeals were dismissed. He ended his judgment by saying:

- C "For those reasons, I think it is right that I should express our reasons and the appeal is dismissed. I could have said simply, 'The appeals are dismissed,' but I thought it right and proper that you should all know precisely why they are dismissed."

- D In these proceedings the International Sporting Club (London) Ltd. and the Palm Beach Casino Club Ltd. apply for orders of certiorari to quash the orders of the Crown Court dismissing their appeals on the grounds that the reasons stated in the judgment show errors of law on the face of the record, alternatively, that the Crown Court exceeded their jurisdiction, or in the further alternative that the Crown Court failed to determine the question referred.

- E Mr. Tuckey on behalf of the Gaming Board, with the somewhat reluctant support of Mr. Marriage, has submitted that the judgment forms no part of the "record" and that this court is entitled to look only at the formal order of the court and not at the reasons that the court gave for making the order.

- F If this submission is well founded, the supervisory power of this court to review the decisions of inferior courts for errors of law will be drastically curtailed. The "order" of the court rarely, if ever, contains the reasons that led to the making of the order. The order merely recites the decision of the court, not its reasons. In the case of an appeal the order will normally say no more than "it is ordered that the appeal be dismissed" and then record any order as to costs. So, if it is only the order that constitutes the record, there will be scarcely any occasion when it will be possible to obtain an order for certiorari on the ground of error of law on the face of the record. In fact in the present case the order was drawn in a somewhat curious form; G it is dated March 9, 1981, and reads:

- H "In the appeals of Curzon House Club Ltd., International Sporting Club (London) Ltd. and Palm Beach Casino Club Ltd. On March 9, 1981, when the appeals were dismissed the above-named appellants were ordered to pay one-third of the taxed or agreed costs of the respondents: (1) the Commissioner of Police [of] the Metropolis; (2) the Gaming Board; and (3) licensing justices."

Mr. Lightman has argued on behalf of the applicants that the order does not record the dismissal of the appeals but by the use of the word "when"

refers to it only as a matter of history and that accordingly the only record of the dismissal of the appeal is to be found in the judgment, which, whatever the general rule, must in this particular case form a part of the record. We cannot accept this submission; we read the order as recording the dismissal of the appeal; if the general rule is found to be that the reasons contained in a judgment do not form part of the record they should not be admitted because of some slightly unusual wording used by a clerk in drawing the order of the court.

The historical review of the use of certiorari by the Court of Queen's Bench to exercise a supervisory jurisdiction over inferior courts and tribunals contained in the judgments of Lord Goddard C.J. and Denning L.J. in *Rex v. Northumberland Compensation Appeal Tribunal, Ex parte Shaw* [1951] 1 K.B. 711 and [1952] 1 K.B. 338 show how for over 100 years the use of certiorari to quash a decision for error of law on the face of the record fell into disuse. So far as criminal jurisdiction was concerned, it flowed from the decision of Parliament to put a stop to the over-formalistic approach of the lawyers which allowed the conviction by the lower court to be quashed for any defect in form in any of the documents that in the 17th and 18th centuries the Court of Queen's Bench required to be kept as part of the record of the inferior court. These included the charge, the evidence and the reasons for the conviction.

The result was that many convictions were quashed for want of form rather than merit. This unsatisfactory state of affairs was put an end to by the Summary Jurisdiction Act 1848 which prescribed a standard form in which convictions were to be recorded but which omitted any mention of the evidence or the reasons for the decision. Therefore, as the record no longer disclosed the reasons of the justices, there was nothing at which the court could look to see if they had made an error of law and certiorari fell into disuse save in those cases in which it was alleged that the court or tribunal had exceeded or abused its jurisdiction.

In so far as civil matters were concerned the Summary Jurisdiction Act 1857 enabled justices to state a case for the opinion of the court and this enabled the parties to have points of law decided without resort to certiorari.

So far had the jurisdiction to quash for error of law on the face of the record been forgotten that its very existence was denied by the Court of Appeal in *Racecourse Betting Control Board v. Secretary for Air* [1944] Ch. 114. But that case was decided without full citation of authority and was disapproved in *Rex v. Northumberland Compensation Appeal Tribunal, Ex parte Shaw* [1951] 1 K.B. 711; [1952] 1 K.B. 338 particularly by Lord Goddard C.J. who had been a party to the earlier decision of the Court of Appeal.

Once reborn, the jurisdiction has proved to be a most valuable development in our system of administrative law. In the ever increasing complexity of a modern society there has inevitably been a great increase in the number of tribunals required to regulate its affairs. Trained lawyers play their part in manning these bodies but it is neither possible because there are not enough lawyers, nor desirable because lawyers may lack the special expertise of people from other walks of life, that they should all be in the hands of the lawyers. Laymen play their part and will often outnumber and be

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- A able to outvote the lawyers among them when it comes to making a decision. The citizen affected by these decisions is entitled to expect that they will be given in accordance with the law and, if the rule of law is to mean anything, a court manned by trained lawyers is required to speak with authority to correct the decision where it appears that it is founded upon error of law. This function is now performed in many cases by the Divisional Court of the Queen's Bench Division by the use of an order of certiorari to quash an erroneous decision; in other cases Parliament may often give a right of appeal to the High Court.

But before the Divisional Court can exercise its supervisory jurisdiction it must be able to see what the error of law is said to be. The document to which anyone would naturally expect it to look must surely be that which records the reasons given by the court or tribunal for its decision—in this case the transcript of Judge Friend's judgment.

- C In the collective experience of the members of this court and the very experienced counsel appearing before us it has been the practice of the Divisional Court under the presidency of successive Lord Chief Justices over the last four decades to receive the reasons given by a court or tribunal for its decision and if they show error of law to allow certiorari to go to quash the decision. The court has regarded the reasons as part of the record.
- D They are sometimes referred to as a "speaking order." Many of the cases are, of course, unreported but examples of the court acting upon such reasons are to be found in *Reg. v. Chertsey Justices, Ex parte Franks* [1961] 2 Q.B. 152 (an oral judgment of justices); *Reg. v. Justices for Court of Quarter Sessions for the County of Leicester, Ex parte Gilks* [1966] Crim.L.R. 613 (an oral judgment of quarter sessions) and *Reg. v. Leeds Crown Court, Ex parte Bradford Chief Constable* [1975] Q.B. 314 (an oral judgment of the Crown Court in a liquor licensing appeal). *Reg. v. Supplementary Benefits Commission, Ex parte Singer* [1973] 1 W.L.R. 713 shows how far the modern practice has extended to include the reasons for a decision as part of the record. The applicant was aggrieved by a refusal of a grant of legal aid on the ground that the Supplementary Benefits Commission had determined his disposable income at greater than £950 per annum. Bridge J. giving the reserved judgment of the Divisional Court said, at p. 715:

"There is no document before the court embodying the commission's determination, although that is the order sought to be quashed, because it was not communicated directly to the applicant but only to The Law Society. But on hearing of it the applicant wrote to the Department of Health and Social Security, as representing the commission, on June 15, 1972, expressing himself as 'completely mystified' by the decision, setting out his financial circumstances, and asking that the matter might receive further consideration. The department replied on June 29, 1972, on behalf of the commission. 'A thorough re-examination,' the writer says, 'has been made of the basis of the determination already issued to The Law Society.' The letter proceeds to set out that basis, in other words, to disclose the reasons for the earlier determination, and concludes: 'I must confirm that the determination was correct.'

"Mr. Slynn, for the commission, has taken the point that the letter of June 29 is not part of the record relating to the determination

which is questioned; indeed, that there is no such record available for the court to consider. We cannot accept this submission. It seems to us that whenever a statutory body, having made a decision of a kind which can be questioned in proceedings for an order of certiorari, has subsequently chosen to disclose the reasons for the decision, whether it could have been compelled to do so or not, and however informal the document embodying the reasons, the decision with the added reasons becomes a 'speaking order' and if an error of law appears in the reasons certiorari will lie to quash the decision."

In order to do justice the court has, in addition to regarding the reasons for a decision as part of the record, been prepared to regard other documents as part of the "record" where if read with the decision they will show that the tribunal has erred in law. In *Baldwin & Francis Ltd. v. Patents Appeal Tribunal* [1959] A.C. 663 Lord Denning held that the decision of the superintending examiner and two patent specifications formed part of the record of the proceedings before a patents appeal tribunal. In *Reg. v. Medical Appeal Tribunal, Ex parte Gilmore* [1957] 1 Q.B. 574 the Court of Appeal held that the report of a medical specialist constituted part of the record. As Lord Denning M.R. said in *Reg. v. Preston Supplementary Benefits Appeal Tribunal, Ex parte Moore* [1975] 1 W.L.R. 624, 628: "The 'record' is generously interpreted so as to cover all the documents in the case."

Parliament has set its seal of approval on this practice of the court in the case of all those bodies to which the Tribunals and Inquiries Acts 1958 and 1971 apply. They are required to state their reasons and it is provided that the reasons constitute part of the record, and that certiorari will lie: see sections 12 and 14 of the Act of 1971.

We can see no sensible reason why the court should adopt a different approach to a decision of an inferior court or other quasi-administrative body such as licensing justices from that which it is required to adopt in the cases to which the Act applies. If we were now to hold that the practice of the Divisional Court over the past 40 years was wrong and that the court could look only at the order dismissing the appeal, we should be putting the clock back to the days when archaic formalism too often triumphed over justice.

The argument for the Gaming Board is that it is only if the inferior court chooses to embody its reasons in its order that it becomes part of the record, for only then does it exist as a document for which the Court of Queen's Bench can call and examine. So if at the end of the judgment giving the reasons the judge or chairman adds the words "and I direct that this judgment be made part of the order," the court may look at it but not otherwise. It seems to us that it would be a scandalous state of affairs that, if having given a manifestly erroneous judgment, a judge could defeat any review by this court by the simple expedient of refusing a request to make his judgment part of the order. That would indeed be formalism triumphant.

It may be said that the same end can be achieved by the court refusing to give any reasons, as Judge Friend said he was entitled to do in this case. However, it is the function of professional judges to give reasons for their decisions and the decisions to which they are a party. This court would look

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A askance at the refusal by a judge to give his reasons for a decision particularly if requested to do so by one of the parties. It does not fall for decision in this case, but it may well be that if such a case should arise this court would find that it had power to order the judge to give his reasons for his decision.

B The Commissioner of Police of the Metropolis took the same point on the scope of the record in *Reg. v. Knightsbridge Crown Court, Ex parte Ladup Ltd.* (unreported), March 18, 1980. In his judgment Lord Widgery C.J. quoted extensively from some of the earlier authorities and expressed the view that they gave some support to the commissioner's submission; he then contrasted this to the modern practice of the court over which he had presided but in the event found it unnecessary to express any concluded view as he held that the Crown Court's reasons did not, in fact, disclose an error of law.

C There are undoubtedly passages in the older authorities that support the Gaming Board's arguments. It would appear that at the time when those cases were decided in the last century the Court of Queen's Bench would not look at the reasons of quarter sessions unless they had been formally recorded in their order: see in particular the speech of Lord Cairns L.C. in *Overseers of the Poor of Walsall v. London and North Western Railway Co.* (1878) 4 App.Cas. 30.

D But the courts must adapt their procedures to modern conditions. In the last century the facilities available for recording spoken reasons were not comparable to those which exist today. Shorthand had only recently been invented and there was no electronic recording apparatus with which many courts are now equipped. This court can now rely with confidence upon a transcript of the oral judgment given by a lower court or tribunal as accurately setting out its reasons which may not have been the case 100 years ago. Furthermore, the recent decision of the House of Lords in *Reg. v. Inland Revenue Commissioners, Ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1981] 2 W.L.R. 722, concerned with the remedy of mandamus shows that administrative law is in a phase of active development and that the judges will adapt the rules applying to the issue of the prerogative orders to protect the rule of law in a changing society. As Lord Diplock said, at p. 736: "Any judicial statements on matters of public law if made before 1950 are likely to be a misleading guide to what the law is today" and Lord Roskill said, at p. 751:

G "... in the last 30 years—no doubt because of the growth of central and local government intervention in the affairs of the ordinary citizen since the Second World War, and the consequent increase in the number of administrative bodies charged by Parliament with the performance of public duties—the use of prerogative orders to check usurpation of power by such bodies to the disadvantage of the ordinary citizen, or to insist upon due performance by such bodies of their statutory duties and to maintain due adherence to the laws enacted by Parliament, has greatly increased. The former and stricter rules determining when such orders, or formerly the prerogative writs, might H or might not issue, have been greatly relaxed."



Although the old authorities do show a stricter approach to what constituted the "record," the modern authorities show that the judges have relaxed the strictness of that rule and taken a broader view of the "record" in order that certiorari may give relief to those against whom a decision has been given which is based upon a manifest error of law. We, therefore, hold that the reasons contained in the transcript of the oral judgment of the Crown Court constitute part of the record for the purposes of certiorari and we are entitled to look at it to see if they contain errors of law.

The statutory provisions governing applications to licensing justices for cancellation of a gaming licence and appeals from the decision of the licensing justices are contained in Schedule 2 to the Act. Paragraph 42 provides that the licensing justices may cancel the licence on any of the grounds specified in paragraphs 20 or 21. The grounds relevant to this application are those in paragraph 20 (1) (b) that the applicant is not a fit and proper person to be the holder of a licence under this Act and in paragraph 21 (1) (e) that, while the licence has been in force, the relevant premises have been used for an unlawful purpose or as a resort of criminals or prostitutes. In addition to cancelling the licence there is also a power to make a disqualification order prohibiting a licence being held in respect of the premises for a period not exceeding five years: see paragraph 49. Paragraphs 45 and 29 provide for an appeal to the Crown Court to be by way of a rehearing with a power to make any order that might have been made by the licensing justices, and provides that the judgment of the Crown Court shall be final. In passing we observe that the fact that the appeal is said to be final is no ground for refusing certiorari if error is found on the face of the record: see *Reg. v. Medical Appeal Tribunal, Ex parte Gilmore* [1957] 1 Q.B. 574 and *South East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union* [1981] A.C. 363.

We turn now to the judgment of the Crown Court. We would have expected the judge's judgment to have followed this basic outline: first, a consideration of and decisions upon whether it had been shown that the companies were not fit and proper persons to hold a licence (Sch. 2, para. 20 (1) (b)) or that while the licences had been in force the relevant premises had been used for an unlawful purpose (paragraph 21 (1) (e)); and secondly, assuming findings against the companies on either or both of these grounds, whether the court should exercise its discretion to cancel the licences.

At this point we should observe that, if the court concludes that the companies are not fit and proper persons to hold gaming licences, it is difficult to conceive of any grounds upon which it would be right to exercise a discretion not to cancel the licence. The judgment, after apparently holding that the companies, because of past misconduct are not fit and proper persons to hold a gaming licence, then devotes pages to the consideration of discretion; this suggests a confusion of thought in the approach of the court. The court made no finding as to whether or not the premises had been used for an unlawful purpose, though, subject to any argument that Mr. Lightman may hereafter wish to address on the subject, we should have thought that they clearly had been so used, as Mr. Cran conceded in the course of his argument.

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- A On the question of whether or not the companies are fit and proper persons to hold the licence it is conceded that this question must be determined in the light of the circumstances existing at the time of the appeal. Past conduct will, of course, be relevant as we shall discuss more fully hereafter. There are, however, other considerations which should be taken into account particularly when the licence holder is a limited company; for instance, whether the shareholding or management of the company remains the same at the date of the material hearing as they were when the past misconduct occurred; the general character and reputation of the shareholders and directors of the company at the date of the hearing should be taken into account. So should any evidence that the "re-structured" licence holder has the capacity and intention to run the casino on different lines, or indeed that it may have already started to do so. It is conceded by the respondents that a failure to take these very material matters relating to the restructuring of the companies into account when considering an application to cancel a licence would amount to an error of law.
- B
- C

- This had already been decided in *Reg. v. Knightsbridge Crown Court, Ex parte Ladup Ltd.* (unreported), March 18, 1980 which we are told was cited to the Crown Court. Furthermore, it was apparently upon the basis of the "restructuring" of the licence holder company that Judge Friend and the justices in *Gaming Board of Great Britain v. Victoria Sporting Club* (unreported), October 17, 1980, allowed the earlier appeal of the Victoria Sporting Club against the cancellation of their gaming licence. This makes it all the more difficult to understand why in the present case the Crown Court refused to consider the restructuring to be a relevant consideration. That they did not do so is, we think, clearly demonstrated by the repeated assertion in the judgment that because of their past misconduct the companies were not fit and proper persons coupled with the refusal to make any finding on the Gaming Board's submission that even in their restructured form the companies were not fit and proper persons to hold a gaming licence. We cite two passages which clearly demonstrate the approach of the Crown Court:
- D
- E
- F

"The respondents, and indeed the Gaming Board, have submitted to us that what is a fit and proper person can only be judged by past conduct because every person is a fit and proper person at one moment, and you have to look and see what they have done in the past to judge whether they are fit and proper persons, and it is on the evidence given before the justices the Gaming Board and the respondents both submit to us that by reason of their past conduct they must be judged not to be fit and proper persons to hold a licence.

G

"Well, there it is. We have come to the conclusion and we are quite satisfied that that is the only proper way to approach this matter. There has been considerable confusion in the hearing of this appeal between International Sporting Club, which is now Lonrho, but that is not so, it is still International Sporting Club Ltd., and Curzon House is still Curzon House Club Ltd., and likewise, the Palm Beach is still Palm Beach Club Ltd., and each of these three companies is tainted,

H

each of them has misconducted its affairs in the past and it is only by past conduct that we can judge it, and accordingly we have come to the conclusion that they are not fit and proper persons to hold a licence because of the past misconduct.” **A**

Later the following passage appears :

“ The Gaming Board also put forward various reasons why the three purchasers should not be allowed to hold the shares, Lonrho because they are, as I put it, thin on the ground in directive personnel, Aspinall because of the warning in the past and the manner in which the Aspinall club has been run, and Mecca because they had two directors on the board who ought to have moved off and done what they could to stop, or make inquiry into what was happening, and they were met with a blunt refusal to be of any assistance from the other directors appointed by Corals, got a firm no answer and were obstructed in every way. It may be that one or other or all of those matters have good foundation but we are not going to make any finding upon them. Our finding simply is this, that each of those casino limited liability companies has transgressed in the past, the present situation must be judged by the manner in which they have conducted themselves, and as I say, we find that they are not fit and proper persons.” **B**

Mr. Lightman conceded that past misconduct was a relevant consideration but submitted it was of marginal weight in a case such as this. Mr. Cran went further and submitted that it was irrelevant. We have no hesitation in saying that past misconduct by the licence holder will in every case be a relevant consideration to take into account when considering whether to cancel a licence. The weight to be accorded to it will vary according to the circumstances of the case. There may well be cases in which the wrongdoing of the company licence holder has been so flagrant and so well publicised that no amount of restructuring can restore confidence in it as a fit and proper person to hold a licence; it will stand condemned in the public mind as a person unfit to hold a licence and public confidence in the licensing justices would be gravely shaken by allowing it to continue to run the casino. Other less serious breaches may be capable of being cured by restructuring. **C**

It is also right that the licensing justices or the Crown Court on an appeal should have regard to the fact that it is in the public interest that the sanction of the cancellation of a licence should not be devalued. It is obvious that the possibility of the loss of the licence must be a powerful incentive to casino operators to observe the gaming laws and to run their premises properly. If persons carrying on gaming through a limited company can run their establishment disgracefully, make a great deal of money and then when the licence is cancelled sell the company to someone who because he is a fit and proper person must be entitled to continue to hold the licence through the company, it will seriously devalue the sanction of cancellation. But logically this is a consideration that falls to be taken into account when deciding whether or not to exercise the discretion to cancel and not at the point at which the court is considering whether or not one of the grounds for cancellation has been established. As we have already said, **D**

1 Q.B.

Reg. v. Crown Ct., Ex p. International Club (D.C.).

- A** if the court concludes that even at the date of the rehearing and taking into account the restructuring the company is not a fit and proper person to hold a gaming licence, it is difficult to see how they could exercise their discretion otherwise than by cancelling the licence. On the other hand if because of the restructuring the court considered that the company was now a fit and proper person, but it also found that in the past the company had used the premises for an unlawful purpose, it would certainly be open to the court
- B** in the exercise of its discretion to cancel the licence. A licensing authority is fully entitled to use the sanction of cancellation in the public interest to encourage other operators or would-be operators of gaming establishments to observe the law in the area of their jurisdiction.

- C** It is clear from the judgment that these considerations weighed heavily with the court. It may be that, even if the court had been prepared to take the restructuring into account, they would either have found that the company was not a fit and proper person or, alternatively, even if it was, that by reason of the past use of the premises for unlawful purposes the licence should be cancelled. Certiorari is a discretionary remedy and we have thought long about the question whether, even if the court had taken the restructuring into account, it would inevitably have ordered the cancellation of the licence. We think that it might have done so. But taking into
- D** account that in *Gaming Board of Great Britain v. Victoria Sporting Club* (unreported) the same court allowed an appeal against cancellation after taking into account the restructuring of the company and the fact that neither the licensing justices nor the court saw fit to make an order pursuant to paragraph 49 of Schedule 2 disqualifying the premises, we have decided that it would not be right to deny these companies
- E** a rehearing. If we did so we should be substituting our discretion for that of the Crown Court and that we are not permitted to do on an application for an order for certiorari. Therefore, somewhat reluctantly, because we do not look upon these companies as good Samaritans coming to the rescue of the gaming public as at one stage in the argument we were invited to do, but because as Mr. Lightman said everyone, including gaming companies, is
- F** entitled to fair treatment under the law, we grant the applications and orders will go to quash the decisions of the Knightsbridge Crown Court. This means that the orders of the licensing justices cancelling the licences still stand. If the applicant companies wish to pursue their appeals, they should be expedited and heard by another judge sitting with a different panel of licensing justices.

- G** As we are of the view that the judgment forms part of the record and discloses error of law, it is not necessary for us to express our opinion on the alternative ground that the court exceeded its jurisdiction. To some extent the two points are inter-related because if the judgment is part of the record it is not necessary for this court to seek by subtle reasoning to find excess or abuse of jurisdiction in order to enable it to do justice by quashing a decision founded on error of law. Upon this difficult question of
- H** jurisdiction we are at the moment divided. But as the point is not necessary to our decision we shall not set out on the necessary lengthy analysis to defend our respective positions. It is sufficient to say that if our decision on

the scope of the record is challenged it will be open to the applicant companies to seek to uphold the decision of this court on the ground that the Crown Court exceeded their jurisdiction. A

*Applications granted.*

Solicitors: *Cameron Markby; M. J. Kusel & Co.; Solicitor, Metropolitan Police; Gregory, Rowcliffe & Co.* B

[Reported by SHIRANIKHA HERBERT, Barrister-at-Law]

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[COURT OF APPEAL] C

REGINA v. OLUGBOJA

1981 May 19, 21;  
June 17

Dunn L.J., Milmo and May JJ.

*Crime—Rape—Consent—Submission to sexual intercourse without force or threat of violence—Whether “consent”—Actus reus of offence—Sexual Offences Act 1956 (4 & 5 Eliz. 2, c. 69), s. 1—Sexual Offences (Amendment) Act 1976 (c. 82), s. 1<sup>1</sup>*

The defendant and the co-accused L met the complainant and K, at a discotheque and offered to take them home but, instead of taking them home, the defendant drove them to L's bungalow. They refused to go in and began walking away. The defendant went into the bungalow but L followed the girls and raped the complainant in the car. The three returned to the bungalow where L dragged K into a bedroom. The defendant then told the complainant that he was going to have intercourse with her. She told him what had happened in the car and asked him to leave her alone. He told her to take off her trousers. She did and he had intercourse with her. The defendant, who admitted having sexual intercourse with the complainant, was charged with rape. The judge directed the jury that, although the complainant had neither screamed nor struggled and she had submitted to sexual intercourse without the defendant using force or making any threats of violence, they had to consider whether the complainant had consented to sexual intercourse. The defendant was convicted. E

On appeal against conviction:—

*Held*, dismissing the appeal, that, since the amendment of section 1 of the Sexual Offences Act 1956 by section 1 of the Sexual Offences (Amendment) Act 1976, the offence of rape was having sexual intercourse against the woman's consent; that the offence was not limited to cases where sexual intercourse had taken place as a result of force, fear or fraud and, therefore, the judge had properly directed the jury and left to them the question whether the complainant had consented to F

<sup>1</sup> Sexual Offences (Amendment) Act 1976, s. 1: see post, p. 326A-B. G

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**Meeting of Licensing Act 2003 Sub-Committee****8 June 2020**

Report of the Assistant Director of Planning and Public Protection

**Section 44(5)(a) Determination of application for transfer of premises licence for The Regency, 2-4 George Hudson Street, York, YO1 6LP.****Summary**

1. This report seeks Members determination of an application for the transfer of a premises licence, which has been made under the Licensing Act 2003 (the Act).
2. Premises Licence reference number: CYC-53937
3. Name of applicant: Yan Tong FENG

**Background**

4. An application was received to transfer the existing premises licence from Zhong Le CHEN to Yan Tong FENG on 25 February 2020. The transfer took effect immediately on 25 February 2020 in accordance with S44(2) of the Act.
5. A copy of the existing premises licence is attached at Annex 1.
6. A copy of the application to transfer the premises licence is attached at Annex 2.
7. The premises is currently the subject of a review application made by the Licensing Authority under S51 of the Act.

**Consultation**

7. A copy of the application was given to North Yorkshire Police by the applicant in accordance with S42(5) of the Act.
8. All procedural aspects of this application have been complied with.

9. Members are reminded that under S42(6), where the police are satisfied that the exceptional circumstances of the case are such that the granting of the transfer would undermine the crime prevention objective, they must give the licensing authority a notice stating why they are so satisfied.

### **Notice by North Yorkshire Police**

10. A copy of the North Yorkshire Police notice of objection (on the grounds that it would undermine the crime prevention objective) is attached at Annex 3.

### **Options**

11. By virtue of S44(5)(b) of the Act, the Committee have the following options available to them in making their decision:-
12. Option 1: Grant the application.
13. Option 4: Reject the application if considered necessary for the promotion of the crime prevention objective to do so.

### **Analysis**

14. The following could be the result of any decision made this Sub Committee:-
15. Option 1: This decision could be appealed at Magistrates Court by the police.
16. Option 2: This decision could be appealed at Magistrates Court by the applicant.

### **Corporate Priorities**

17. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
18. By taking the statutory requirements of the Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions



support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

### **Implications**

19.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The legislation and policy considerations associated with this report are contained in Annex 4. This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

### **Risk Management**

20. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
21. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

22. Members determine the application.

Reason: To address the notice received as required by the Licensing Act 2003.

### Contact Details

**Author:**

Matt Boxall  
Head of Public Protection  
Ext 1528

**Chief Officer Responsible for the report:**

Michael Slater  
Assistant Director  
Planning and Public Protection  
Ext 1300

**Report  
Approved**



**Date** 29/05/20

**Wards Affected: Micklegate Ward**

**For further information please contact the author of the report**

**Background Papers:**  
**None**

### Annexes

**Annex 1** - Copy of premises licence

**Annex 2** - Copy of application form to transfer premises licence

**Annex 3** - Copy of objection notice from North Yorkshire Police

**Annex 4** - Legislation and Policy Considerations

Amesc 1.



## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

#### Part 1 Premises details

Premises licence number  
CYC - 053937

Postal address of premises:

**2-4 George Hudson Street  
York**

Post town: **York**

Post code: **YO1 6LP**

Telephone number: 01904 623656

**Expiry date:** This licence has no expiry date.

#### Licensable activities authorised by the licence:

Recorded Music  
Late Night Refreshment  
Supply of Alcohol

#### RECORDED MUSIC Indoors

Monday  
10:00 - 00:00

Tuesday  
10:00 - 00:00

Wednesday  
10:00 - 00:00

Thursday  
10:00 - 00:00

Friday  
10:00 - 03:30

Saturday  
10:00 - 03:30

Sunday  
10:00 - 00:00

**LATE NIGHT REFRESHMENT**

Indoors

Monday 23:00 - 00:00	Tuesday 23:00 - 00:00	Wednesday 23:00 - 00:00	Thursday 23:00 - 00:00
Friday 23:00 - 03:30	Saturday 23:00 - 03:30	Sunday 23:00 - 00:00	

**SUPPLY OF ALCOHOL**

Monday 10:00 - 00:00	Tuesday 10:00 - 00:00	Wednesday 10:00 - 00:00	Thursday 10:00 - 00:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 00:00	

**The Opening Hours of the Premises****OPENING HOURS**

Monday 10:00 - 00:00	Tuesday 10:00 - 00:00	Wednesday 10:00 - 00:00	Thursday 10:00 - 00:00
Friday 10:00 - 03:30	Saturday 10:00 - 03:30	Sunday 10:00 - 00:00	

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies:**

On and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

Name: Mr Zhongle Chen  
Address: 21a Blake Street  
York  
YO1 8QJ

Telephone number: 07477030338

Email address: service@ukregency.com

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Name: Mrs Yan Tong Feng

Address: 3 Lincombe Bank  
Gledhow  
Leeds  
LS8 1QG

Telephone number: None

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Leeds City Council  
LEEDS/PERL/10402/20

## **Annex 1 – Mandatory conditions**

### **MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

(a) a holographic mark, or

(b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25ml or 35ml; and

(iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –  $P = D + (D \times V)$  where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

2. But nothing in subsection (1) requires such a condition to be imposed -

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
- (b) in respect of premises in relation to -
  - (i) any occasion mentioned in paragraph 8 (3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
  - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### Prevention of Crime & Disorder

1. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.

2. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.

3. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets).

4. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.

5. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.

6. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

7. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- a) retail sale of alcohol;
- b) age verification policy;
- c) conditions attached to the Premises Licence;
- d) permitted licensable activities;
- e) the licensing objectives; and
- f) opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

8. The premises shall operate the Challenge 25 policy for the sale of alcohol.

9. An incident book / refusals register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:-

- a) all alcohol related crimes reported to the venue
- b) any complaints received regarding alcohol related crime and disorder
- c) any faults in the CCTV system
- d) any refusal of the sale of alcohol
- e) any visit by a relevant authority or emergency service.

10. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

11. All alcohol on sales will be ancillary to a meal, sold by waitress service and for seated consumption only.

12. The restaurant section of the premises will be securely dividable from the Supermarket area when the Supermarket is not in use. The restaurant will be laid out with seating and tables to accommodate a minimum of 40 seated patrons at any one time.

13. There shall be a minimum of one door supervisor on duty at the restaurant premises from 23:00hrs to close of business at all times when open to the public & undertaking licensable activity beyond 01:00hrs.



14. Where door supervisors are on duty they shall sign in and out of the premises log book, providing full details of their name and SIA number.

15. The Designated Premises Supervisor shall be responsible for risk assessing the need for additional door staff at the venue on days of York Races, on Fridays, Saturdays or bank holidays or other locally or nationally significant events.

#### Public Nuisance

16. Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and area quietly.

17. Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

No hearing held

### **Annex 4 – Approved Plan**

Plan Number                      Endorsed on the 12/08/2015

For and on behalf of  
The Director of Economy  
& Place

Date: 10/09/2015  
12/02/2020 (DPS Variation)

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)



Amex 2.



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

**Application to transfer premises licence to be granted under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/~~We~~ YAN TONG FENG

*(Insert name of applicant)*

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

CYC-053937

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description

REGENCY, 2 - 4 GEORGE HUDSON STREET

Post town York

Post code YO1 6LP

Telephone number at premises (if any) 01904 659976

Please give a brief description of the premises (see note 1)

CHINESE RESTAURANT AND SUPERMARKET

Name of current premises licence holder

MR ZHONG LE CHEN

**Part 2 - Applicant details**

In what capacity are you applying for the premises licence to be transferred to you?

Please tick ☒ yes

a) an individual or individuals\*

☒ please complete section (A)

b) a person other than an individual \*

i. as a limited company/limited liability partnership

☐ please complete section (B)

- ii. as a partnership (other than limited liability) ☐ please complete section (B)
- iii. as an unincorporated association or ☐ please complete section (B)
- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- ☒ I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- ☒ I am making the application pursuant to a
- ☐ statutory function or ☐
- ☐ a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr ☐ Mrs ☒ Miss ☐ Ms ☐ Other title  (for example, Rev)

**Surname**

FENG

**First names**

YAN TONG

**Date of birth**

**I am 18 years old or over**



Please tick ☒ yes

**Nationality** CHINESE

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

**Current residential address if different from premises address**

3 LINCOMBE BANK  
GLEDHOW

**Post town**

Leeds

LS8 1QG

**Post code**

**Daytime contact telephone number**

**E-mail address (optional)**

**SECOND INDIVIDUAL APPLICANT** (fill in as applicable)

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title   
(for example, Rev)

**Surname**

**First names**

**Date of birth**  
**Nationality**

**I am 18 years old or over**

Please tick ☒ yes

☐

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

**Current residential address if different from premises address**

Post town

Post code

Daytime contact telephone number

E-mail address  
(optional)
**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3**Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice?

☐

Do you wish the transfer to have immediate effect?

☒

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder

☒

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

☒

Please tick ☒ yes

I have enclosed the premises licence

☒

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee ☒
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ☒
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I have sent a copy of this application to the chief officer of police today ☒
- I have sent a copy of this form to Home Office Immigration Enforcement today ☒
- Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents, or my Home Office online right to work checking service share code, to demonstrate my entitlement to work in the United Kingdom (please read note 2) ☒

See details of Licensing Act 2003 statutory fees: [www.york.gov.uk/LicensingAct2003StatutoryFees](http://www.york.gov.uk/LicensingAct2003StatutoryFees).

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE**

**WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

**Part 4 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

..... 17/02/20 .....

Capacity

..... Director .....

**For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**Post town**

**Post Code**

**Telephone number (if any)**



**If you would prefer us to correspond with you by e-mail your e-mail address (optional)**  
 TINA@UKREGENCY.OM

### Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.

### **2. Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued on or after 6 April 2017 will lapse if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

### **Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport apply].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a

Government agency or a previous employer.

- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- A **current** Residence Card issued by the Home Office to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the EEA family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the EEA national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, **wage slips, letter from the employer,**
    - (ii) self-employed e.g. contracts, invoices, or **audited accounts with a bank,**
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of EEA nationals who are studying or financially independent must also provide evidence that the EEA national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

#### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
6. This is the address which we shall use to correspond with you about this application.





**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street York, YO10 3DS

**Part B**  
**Consent of premises licence holder to transfer**

I ZHONG LE CHEN (full name of premises licence holder(s))  
the premises licence holder of premises licence number CYC-053937  
relating to 2-4 George Hudson  
Street York YO1 6LP  
(name and address of premises to which the application relates)

hereby give my consent for the transfer of premises licence number  
CYC-053937 Insert premises licence number} to  
YAN TONG FENG (full name of transferee).

Signature .....

Name (please print) ZHONG LE CHEN

Date 23/02/20



**Consent of premises licence holder to transfer**

I Mr Zhong Le Chen the premises licence holder of premises licence number CYC-053937 relating to Regency, 2-4 George Hudson Street, York YO1 6LP hereby give my consent for the transfer of premises licence number CYC-053937 to Mrs Yan Tong Feng.

signed

name (please print) *Zhong Le Chen.*

dated *17/02/20*





Amesc 3

Ref: JB/10032020/1

City of York Council  
Licensing Services  
Hazel Court EcoDept  
James Street  
York  
YO10 3DS



10 March 2020

Dear Licensing Services,

**Police Notice of Objection - Transfer of Premises licence at Regency 2-4 George Hudson Street York  
YO1 6LP, under Section 42 Licensing Act 2003**

As the Force Licensing Manager for North Yorkshire Police, I am delegated on behalf of the Chief Constable to respond to all applications under the Licensing Act 2003.

On Tuesday 25<sup>th</sup> February 2020, North Yorkshire Police received notification from City of York Licensing Authority in respect of an application from Mrs Yan Tong Feng to transfer the Premises Licence for The Regency 2-4 George Hudson Street York into her name with immediate effect.

Under Section 42(6) of the Licensing Act 2003 I give notice on behalf of the Chief Officer of Police that North Yorkshire Police is satisfied that the exceptional circumstances of this case are such that granting the application would undermine the crime prevention objective for the following reasons:-

On 8<sup>th</sup> September 2017, PC Bolland an officer from North Yorkshire Police licensing department and staff from the home office and licensing enforcement officers from City of York Council attended the premises, which was open to the public. At the time of the visit, the Designated Premises Supervisor Mr Zhong Le Chen was not present and officers spoke with a female who provided her details as Tina Feng. Subsequent enquiries via police systems and checks with Immigration have shown that Tina FENG is an alias for Yan Tong FENG, the applicant for this transfer request.

The transfer application Part 2 applicant details lists the following email address for YanTong Feng:-  
[Tina@ukregency.com](mailto:Tina@ukregency.com)

At the time of the above visit, PC Bolland and Helen Sefton an officer from City of York Enforcement team went through the Premise licence conditions. Feng stated she was unable to work CCTV at the premises and unable to produce details of any staff training. The premises licence conditions state the following:-

- It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.
- A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-
  - a) Retail sale of alcohol;
  - b) Age verification policy;

- c) Conditions attached to the Premises Licence;
- d) Permitted licensable activities;
- e) The licensing objectives; and
- f) Opening times for the venue

With such records being kept for a minimum of one year. (For the avoidance of doubt, the one-year period relates to each respective entry in the log book and runs from the date of that particular entry).

On 6<sup>th</sup> September 2019, as part of a multi-agency partnership operation, officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, staff from the Gang masters and Labour abuse Authority and Licensing enforcement officers from City of York Council, attended the Premises. Four persons working at the premises were removed by Immigration officers due to concerns around their right to work in the UK. The premises were open to the public, and operating licensable activities. Nigel Woodhead Enforcement officer from City of York council identified a number of breaches in respect of the Premises Licence authorisation. At the time of his visit, he spoke to a female manager who provided her name as Yan FENG, who also went by the name Tina.

On 4<sup>th</sup> November 2019, North Yorkshire Police were notified that the Licensing Authority for City of York had received a DPS Variation in respect of The Regency. The proposed Designated Premises Supervisor was Mr [REDACTED]. The Police are the only responsible authority who can make representations in respect of a Designated Premises Supervisor. Upon receipt of this application PS Booth the Force Licensing Manager for North Yorkshire Police conducted, the due diligence checks in respect of the application. PS Booth was provided a statement from Immigration officer Glyn Jones who advised that Mr [REDACTED] of [REDACTED] had no right to work in the UK. (The address of [REDACTED] is the same address provided on the transfer application by the applicant, Yan Tong Feng.)

Upon receipt of this information, on 21<sup>st</sup> November 2019, PS Booth submitted a representation to the Licensing Authority in respect of Mr [REDACTED], objecting to the DPS transfer.

On 7<sup>th</sup> February 2020, North Yorkshire Police were notified by City of York Licensing Authority of a Section 51 review, which had been instigated for the Regency 2-4 George Hudson Street York. At the time of the review, being instigated the Premise Licence holder and DPS was Mr Zhong Le Chen.

Police enquiries have established that Mr Zhong Le Chen and Yan Tong Feng are partners and the transfer of the Premise Licence application has only been made as a result of Section 51 Formal Review Proceedings.

Yan Tong Feng has been present at the premises, when:-

- Premise licence conditions have been breached
- Persons have been removed by Immigration officers due to concerns regarding right to work in the UK and
- She has provided a residential address where a person who is known to have no right to work in the UK has stated they are living.

It is the view of North Yorkshire Police that Yan Tong Feng would seriously undermine the Licensing objective of Crime and Disorder as premise Licence holder and do not support this application.

Appendix 1 – Statement from PC Bolland

Appendix 2 – Transfer Application – 25/02/20

Appendix 3 – DPS Variation [REDACTED]

Appendix 4 – Police objection to DPS [REDACTED]

Appendix 5– Statement of Immigration officer Glynn Jones

Yours Sincerely,

J Booth

PS133 Booth  
Force Licensing Manager  
Alcohol Licensing Department  
Fulford Road Police Station  
York  
YO10 4BY

Email: - [Jacqueline.booth@northyorkshire.pnn.police.uk](mailto:Jacqueline.booth@northyorkshire.pnn.police.uk)

*ADDENDUM 1*

RESTRICTED (when complete)

MG11

**WITNESS STATEMENT**

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

URN : 1 : 1 : 1

Statement of: Samantha Bolland

Age If under 18: Over (If over 18 insert over 18)

Occupation: Police Officer

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: ..... *1520* ..... (witness) Date: 0303/2020

I am PC 1520 Samantha Bolland from North Yorkshire Police. I am stationed at Fulford Road Police Station, York, in the role as a Police Alcohol Licensing Officer, and I have been in this role for the last 4 years.

On 8th September 2017 at 1800 hrs I was on duty when I attended a briefing at Fulford Road Police Station, York targeting The Regency Chinese Restaurant Barbican Road, York and The Regency, George Hudson Street, York, as part of a multi-agency partnership operation, in company with officers from North Yorkshire Police's Safeguarding team, Home Office Immigration officers, and Licensing enforcement officers from City of York Council.

My role was to assist City of York Senior Licensing Officer Helen Sefton to inspect both premises under section 179 of the Licensing Act 2003.

At 18:45 on the same date above, in company with Senior Licensing Officer, Helen Sefton, I entered The Regency Chinese Restaurant, Barbican Road. Upon entering the premise it was open to the Public, there were customers and staff present. Myself and Senior Licensing Officer Helen Sefton proceeded to speak to a male who identified himself as the manager, he stated his name was [REDACTED]. We then went through the Licence conditions outlined within the Premise Licence. We asked to see the CCTV system, however Mr [REDACTED] stated he could not access it and it was only the owner who had access. The owner and Designated Premise Supervisor, ZHONG LE CHEN, arrived at approximately 19:25 hours. Helen Sefton approached the owner and tried to communicate with him, the stated he could not understand English. Helen Sefton asked [REDACTED] to interpret. Helen Sefton asked CHEN, who owned the business and he stated it was his [REDACTED] but he was in China, and he was the only person able to access the CCTV system.

After further discussions myself and Helen Sefton conducted a full inspection of the premise and found the following breaches as per the licence conditions attached to the Premise Licence:

- staff training records were not present/ documented
- No notices asking patrons to leave quietly
- no noise management plan
- no access to CCTV /recordings or retention

Signature: ..... *1520* ..... Signature witnessed by: .....

2010/11

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

## Continuation statement of: Samantha Bolland

After the inspection we then attended the second premises at George Hudson Street, York.  
A female called Tina FENG stated she was the manager of the premise and spoke with Helen Sefton regarding the Premise Licence conditions. FENG stated she was only in charge of the supermarket part of the premises and there was a separate manager for the restaurant as the premise was divided into two parts.

FENG stated she did not know or have access to the CCTV system, that staff training had been given in relation to licencing matters, but this was not documented. She also stated that the Designated Premise Supervisor was ZHONG LE CHEN.

Shortly after we left the premise and this was the last time I dealt with both premises.

1520

Signature: .....

Signature witnessed by: .....

2010/11

RESTRICTED (when complete)

APPENDIX 2



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

Application to transfer premises licence to be granted under the Licensing Act 2003

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of this completed form for your records.

I/We YAN TONG FENG  
(insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

CYC-053937

**Part 1 - Premises details**

Postal address of premises or, if none, ordnance survey map reference or description

REGENCY, 2 - 4 GEORGE HUDSON STREET

Post town York

Post code YO1 6LP

Telephone number at premises (if any) 01904 659976

Please give a brief description of the premises (see note 1)

CHINESE RESTAURANT AND SUPERMARKET

Name of current premises licence holder  
MR ZHONG LE CHEN

**Part 2 - Applicant details**

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals\*

Please tick ☒ yes

☒ please complete section (A)

b) a person other than an individual \*

i. as a limited company/limited liability partnership

☐ please complete section (B)

- ii. as a partnership (other than limited liability) ☐ please complete section (B)
- iii. as an unincorporated association or ☐ please complete section (B)
- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
  - o statutory function or ☐
  - o a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS (fill in as applicable)**

Mr ☐ Mrs ☒ Miss ☐ Ms ☐ Other title   
(for example, Rev)

Surname

FENG

First names

YAN TONG

Date of birth

I am 18 years old or over ☒

Please tick ☒ yes

Nationality CHINESE

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

Current residential address if different from premises address

3 LINCOMBE BANK  
GLEDHOW

Post town

Leeds

LS8 1QG

Post code

Daytime contact telephone number

E-mail address (optional)

T1

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr ☐ Mrs ☐ Miss ☐ Ms ☐

Other title   
(for example, Rev)

Surname

First names

Date of birth

I am 18 years old or over

Please tick ☒ yes

Nationality

☐

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

Current residential address if different from premises address



Post town

Post code

Daytime contact telephone number

E-mail address  
(optional)
**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3**Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice?

☐

Do you wish the transfer to have immediate effect?

☒

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder

☒

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

☒

Please tick ☒ yes

I have enclosed the premises licence

☒

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today
- Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents, or my Home Office online right to work checking service share code, to demonstrate my entitlement to work in the United Kingdom (please read note 2)

☒

☒

☒

See details of Licensing Act 2003 statutory fees: [www.york.gov.uk/Licensing/Act2003StatutoryFees](http://www.york.gov.uk/Licensing/Act2003StatutoryFees)

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE**

WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date

17/10/20

Capacity

Director

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)  
 INNA@URREGENCY.COM

#### Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.

#### 2. Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued on or after 6 April 2017 will lapse if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

#### Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport apply].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.**
- A birth or adoption certificate issued in the UK, **together with an official document giving the person's permanent National Insurance number and their name issued by a**

(Government agency or a previous employer.

- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- A current Residence Card issued by the Home Office to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- A current Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, less than 6 months old, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the EEA family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the EEA national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of EEA nationals who are studying or financially independent must also provide evidence that the EEA national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

#### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
6. This is the address which we shall use to correspond with you about this application.

Consent of premises licence holder to transfer

I Mr Zhong Le Chen the premises licence holder of premises licence number CYC-053937 relating to Regency, 2-4 George Hudson Street, York YO1 6LP hereby give my consent for the transfer of premises licence number CYC-053937 to Mrs Yan Tong Fang.

signed

name (please print) Zhong le chen.

dated 17/02/20

APPENDIX 3



**CITY OF YORK COUNCIL**  
 Licensing Services, Hazel Court EcoDepot, James Street, York, YO10  
 3DS

**Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I / we ZHONG LE CHEN

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

CYC-053937

**Part 1 – Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description

REGENCY  
2-4 GEORGE HUDSON STREET,

Post town

YORK

Post code (if known)

YO1 6LP

Telephone number (if any)

01904 659976

Description of premises (please read guidance note 1)

CHINESE RESTAURANT & SUPERMARKET



**Legislation and Policy Considerations**  
**Transfer of Premises Licence****Annex 4**

1. The following provisions of the Licensing Act 2003 apply to this application: Part 3 Premises Licences, ss42, 44 and 45 Transfer of premises licence.
2. The following provisions of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 Premises Licences, paragraph 14 Transfer of premises licences; Part 4 General, paragraph 24(2) Consents.
3. The following provisions of the Secretary of State's statutory Guidance ( revised April 2018) apply to this application: Paragraphs 8.99 to 8.102 Transfers of premises licence.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 3.2 Crime and Disorder,
5. The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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