

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 3rd 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.”