

# NORTHAMPTON BOROUGH COUNCIL

## ALCOHOL & GAMBLING LICENSING SUB-COMMITTEE

Wednesday, 31 October 2018

**PRESENT:** Councillor Sargeant (Chair); Councillors Beardsworth and Walker

**OFFICERS:** Louise Faulkner (Licensing Team Leader), Clive Tobin (Litigation & Licensing Solicitor), Ed Bostock (Democratic Services Officer)

### 1. WELCOMES

The Chair welcomed everyone to the meeting.

### 2. DECLARATIONS OF INTEREST

There were none.

### 3. LICENSING ACT 2003 (HEARINGS REGULATIONS) 2005

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that it was in the public interest to conduct that part of the hearing in private as there was likely to be disclosure to them of such categories of exempt information as defined by Section 100I of the Local Government Act 1972 as listed against such items of business by reference to paragraphs 1 and 2 of Schedule 12A to that Act, namely information relating to an individual or which is likely to identify an individual.

The Motion was Carried.

### 4. PERSONAL LICENCE

The Licensing Team Leader outlined the circumstances as set out in the report and advised that Andy Morefill and Taniqua Webb from the Home Office were in attendance to provide more information regarding a fixed penalty notice issued to the Licence Holder. She further explained, for the benefit of the Licence Holder, that his Personal Licence was under review, not his Premises Licence.

Mr Morefill addressed the Sub-Committee and reported that a visit on 14<sup>th</sup> October 2015 revealed 3 of the 9 staff working on the Licence Holder's premises to be working without a legal right to do so. He described the process Immigration Services followed while dealing with the case, which included identification of the illegal workers, a referral notice sent to the Licence Holder, assessment of witness statements, and a letter to the Licence Holder with an invitation to make representations. Mr Morefill commented that the Home Office offered an employee check service and that the website stated what was expected of employers so there was no excuse not to have done so.

Mr Morefill stated that in a further visit on 6<sup>th</sup> January 2017 one illegal worker was found and he was arrested at the time. In a further visit on 8<sup>th</sup> November 2017 there were again 3 illegal workers present. He explained that the Licence Holder was issued with a fixed penalty notice of £45,000 which was upheld on appeal and to date remained unpaid. Mr Morefill commented that the Licence Holder seemed to have no regard for employment law.

The Licence Holder was asked for his comments at this juncture; he had none to make.

Mr Morefill stated that the Licence Holder, when visited at his business, always denied being the manager, however his staff confirmed that he was.

The Licensing Team Leader understood that he had been removed as DPS but continued to work at the premises which were located in a different local authority area.

In response to a question, the Sub-Committee heard that a review for the premises took place in 2016 and the licence was suspended for 8 weeks.

The Solicitor explained to Members their powers as set out in the report and stated that the personal licence holder had not received an immigration penalty at all, let alone since 6<sup>th</sup> April 2017 before they retired at 12:25 to make a decision.

The meeting reconvened at 12:39 so that Members could ask additional questions of the Licence Holder.

The Licence Holder explained that since his removal as DPS in 2016, his brother had held the position. He stated that he owned one other business located outside of the borough.

In response to a question to the Immigration Officers, the Sub-Committee heard that the FPN was issued to the company which held the licence, rather than the personal licence holder and that no payments had been made to date.

Members retired at 12:44 to make a decision.

The meeting reconvened at 13:09.

The Solicitor explained that for powers to apply, evidence would need to be supplied to prove that the FPN was given to the Licence Holder. Since this could not be proved, Members were restricted in terms of the actions they could take; further, since the process had not been triggered the Police could not be given the opportunity to make representations.

**RESOLVED:**

That no action be taken in respect of the Personal Licence.

The meeting concluded at 1:13 pm