


# Appendix 4b

<b>Blackpool Council Licensing Service</b> <b>Representation made by a Responsible Authority</b> <b>to an application for the grant / variation of a Premises</b> <b>Licence / Club Premises Certificate</b>				
<b>Responsible Authority</b>				
Name of Responsible Authority	LANCASHIRE CONSTABULARY			
Name of Officer <i>(please print)</i>	PS1747 Helen Parkinson			
Signature of Officer				
Contact telephone number	01253 604074			
Date representation made	26	05	17	
Do you consider mediation to be appropriate			YES	<input type="checkbox"/>
<b>Premises Details</b>				
Premises Name	Al Amir			
Address	37-39 Talbot Road			
	Blackpool			
Post Code	FY1 1LL			
<b>Reasons for making representations</b>				
<p>I am in receipt of an application for a New Premises Licence for the above address.</p> <p>On behalf of the Chief Officer of Police, having reviewed the application the Police make formal objections on the following grounds:</p> <p>The Police base this objection on the fact that on 25<sup>th</sup> November 2016 following a joint visit with Police, Council Licensing and Immigration a suspected illegal worker fled the premises shortly after our arrival. Alongside this multiple licence breaches were found.</p> <p>Council Licensing and Police submitted an application to review the licence and at the subsequent hearing the Licensing Committee saw fit to revoke the licence. A copy of the decision notice can be found below:</p>				

Mr M Woosnam  
Roland Robinsons & Fentons  
85-89 Adelaide Street  
Blackpool  
FY1 4LX

The Blackpool Council being the licensing authority on the 8<sup>th</sup> December 2016 received an application from health and safety to review the premises licence issued in respect of Al Amir, 37-39 Talbot Road Blackpool. The panel at a hearing on 1<sup>st</sup> February 2017 determined to revoke the licence.

### **Reasons**

The panel have considered an application by health & safety to review the premises licence issued in respect of Al Amir. This review was submitted following a joint visit between licensing enforcement, the Police and Immigration Enforcement. The facts of the visit are documented in the review application, police representation and supporting evidence.

At the hearing Mr Marshall, on behalf of health & safety, explained to the panel that this review had been brought in the unusual situation where the cause for concern was so wide-ranging that the licence should be considered by the panel without first engaging with the licence holder. The panel's attention was directed to a number of concerns namely the employment of someone who did not have the right to work in the UK, failing to ensure health & safety certification was up to date and failure to comply with licence conditions, namely the CCTV.

This joint operation with Immigration Enforcement had resulted in visits to a number of premises. On entering Al Amir, and after introducing themselves the man who appeared to be in charge of the restaurant suddenly ran out of the front door nearly getting knocked over in his rush to get away. This left only one member of staff, the chef, at the restaurant meaning that the officers had to remain in situ to look after front of house whilst they waited for the DPS to arrive. When Mr Rashid the DPS arrived he could only tell them that the man was called Umer, he had no employment records for him, did not know his surname and could only provide officers with two mobile telephone numbers.

Mr Marshall did accept that this premises had not come to his attention before either directly or indirectly. He also accepted that Mr & Mrs Rashid had held licences in Blackpool for ten years.

Sgt Parkinson spoke in support of the review application. She expressed concern that when the man left he had left the till and a fully stocked bar essentially unsupervised and if they hadn't been there the customers would have been able to help themselves. She confirmed a conversation with Mr Rashid where he acknowledged that there was only one CCTV camera which did not record.

Mr Woosnam representing the licence holder confirmed that when Mr & Mrs Rashid took over the restaurant in 2011 there was already installed a modest CCTV system which did not record, this was mainly used for monitoring people entering and exiting the premises. Mr Woosnam indicated that as they had never had any contact with the Police or licensing enforcement the situation with the CCTV had drifted, but they now understand that they need to abide by conditions. The panel were also told that the certification for the fire extinguishers was now up to date.

Dealing with the member of staff who had run off, Mr Woosnam indicated that Mr Rashid had known Umer for about seven years as he was a friend of the previous chef. This previous chef had told Mr Rashid that Umer suffered from mental health issues and had previously been sectioned under the Mental Health Act. Mr Rashid was satisfied that Umer had the right to work in the UK because he had been shown a card with his national insurance number on. Umer helped out when the restaurant was short staffed and he was paid cash in hand.

Mr Woosnam invited the panel to consider adding two conditions to the licence:

1. Documentary proof of an employee's identity and right to work should be kept on the premises and be available for inspection at all times; and
2. No less than two members of staff should be working when the premises are open.

Mr Rashid confirmed that he had never had any concerns about Umer's mental health, and although he thought that he lived locally, he did not actually know where he lived. When asked how much Umer was paid an hour, Mr Rashid replied after some thought £5.00, although he was aware that the minimum wage was £7.25 an hour.

The panel when reaching their decision were concerned about the catalogue of failures, not making proper right to work checks, paying cash in hand below the minimum wage, failure to make health & safety checks and failure to comply with licence conditions. Of particular concern is the employment on cash in hand basis of a person with mental health difficulties at a rate substantially below the minimum rate. Even if he was provided with food this could be viewed as a form of exploitation.

The view of the panel was that this business has been trading irresponsibly the result of which was officers been left effectively in charge of premises for a period of 30minutes. The panel were further concerned by Mr Rashid's answers to questions which they believed were somewhat vague.

Furthermore the panel did not believe that adding a condition requiring two members of staff would be appropriate as this reflected the current state of affairs.

In reaching their decision the panel had regard to the Secretary of States Guidance, in particular Paragraph 11.20 which states;

*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 instigate the review.*

Paragraph 11.23 which states;

*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. 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. 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.*

Paragraph 11.27 which lists certain activity that should be treated particularly seriously including knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.

It was the panel's view that the causes for concern were very serious and wide-ranging. Whilst the defects concerning the CCTV and fire extinguishers had been dealt with, this had only happened because the review had been submitted. The Rashid's had knowingly employed someone on a "cash in hand" basis paying below the minimum wage which should not happen and without doing the required right to work checks – it is impossible for them to be confident that he had the right to work when they did not even know his surname.

The panel as detailed above were of the opinion that the premises had been trading irresponsibly in the past and were not satisfied, by the answers provided at the hearing that they would trade in a responsible manner in the future. For these reasons the panel were of the opinion that the appropriate action for them to take was to revoke the licence.

The decision will come into effect in 21 days unless notice of appeal is served within that time.

Date: 1<sup>st</sup> February 2017

Signed.....

Head of Licensing Services

Please address any communications to:

Licensing Service, Municipal Buildings, PO Box 4, Blackpool FY1 1NA

**Note: An appeal against this decision may be made by the applicant/the Chief Officer of Police as applicable (See Schedule 5 of the Act) to the magistrates' court for the petty sessions area (or any such area) in which the licensing authority's area or part of it is situated within 21 days from the date of receipt of the notification of the decision.**

The decision is currently being appealed by current license holder Mrs Shanaz Rashid and her husband, who is listed as the DPS, Mr Muhammad Rashid and is due to be heard on the 26<sup>th</sup> June. Therefore this clearly indicates that Mr and Mrs Rashid still have a propriety interest in the property. In fact, Mrs Rashid is the current lease holder for the property having signed a 15 year lease in 2011. The lease is due to expire on 31<sup>st</sup> December 2025.

Although the licence and the lease are in the name of Mrs Shanaz Rashid, it was clear to Police from dealing at the premises and in the review hearing that Mr Rashid is heavily involved in the running of the premises and they stated that this is family business.

The police have had no indication from Mrs Rashid or indeed the new applicant that they have any intention of giving up the property, transferring the licence or the lease. There is no information on this new application regarding how the new applicant will distance himself from the current licence and lease holder. On this new application the applicant indicates that he wishes the new licence to start on 12<sup>th</sup> June, this is two weeks prior to the appeal hearing and therefore there is currently operational licence in place at the premises. Consequently, the police have concerns that Mr and Mrs Rashid will still have some involvement in the day to day running of the premises under the new licence.

Due to the issues highlighted in the recent review Police believe that should this new licence be granted in its current form it would undermine the crime prevention objective.

Police however would be willing to mediate on this application if the applicant was to consider the conditions outlines below with the addition of the following condition:

**Mr Muhammad Rashid and Mrs Shanaz Rashid shall not be permitted to have any involvement with the running of the business and shall not attend the premises during licensable hours.**

**It is recommended that the licence should only be granted if the application is amended, or if conditions are applied, as detailed below.**

Should the Committee deem appropriate to issue a licence then the Police request that the following conditions be added to the Operating schedule, along with the conditions already offered by the applicant:

1. CCTV, which complies with the following criteria, will be installed at the premises.
  - a. The system shall display on any recording the correct time and date of the recording;
  - b. The system shall be recording during all hours the premises are open to the public;
  - c. VCR tapes or digital recording shall be held for a minimum of 28 days after the recording is made and will be made available to the Police for inspection upon request, so long as said request is in accordance with the principles of the Data Protection Act, or any subsequent or alternative legislation.
  - d. The system shall, as a minimum, record images of the head and shoulders of all persons entering the premises.
  - e. A staff member who is conversant with the operation of the CCTV system will be on the premises at all times that the premises are open to the public. This staff member will be able to show police, or any officer acting for a Responsible Authority, recent data or footage with the absolute minimum of delay when requested.
  
2. The licence holder shall notify the Police Licensing Unit on any occasion when the CCTV is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.

3. Appropriate signage alerting customers to CCTV recording shall be displayed in conspicuous positions on the premises.
4. Risk assessments carried out by or on behalf of the Licence Holder which relate to a licensing objective will be available for inspection by an officer or a responsible authority.
5. Table seating shall be provided for a minimum of 75% of the maximum capacity on each floor of the premises, save for pre-arranged private functions
6. All staff to have received suitable training in relation to the proof of age scheme and levels of drunkenness to be applied upon the premises. Records to evidence this will be made available to an authorised officer upon request. Refresher training shall be conducted every 6 months as a minimum.
7. No persons under the age of 16 will be allowed on the premises after 22.00 unless in company with an adult and partaking in a meal.
8. Appropriate measures will be taken to ensure staff prevent the removal of bottles or glasses from the curtilage and grounds of the licensed premises.
9. Any unfinished bottles of wine must be re-corked/sealed before being taken away from the premises
  
10. Mr Muhammad Rashid and Mrs Shanaz Rashid shall not be permitted to have any involvement with the running of the business and shall not attend the premises during licensable hours.