

Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Tuesday, 5th November, 2019.

Present: Cllr Paul Kirton (Chairman), Cllr Chris Clough, Cllr Bill Woodhead MBE

Officers: Jonathan Nertney(HR,L&C), Nigel Hart, Leanne Maloney-Kelly (MD)

Also in attendance: Lebaneat Yarm represented by Lukasz Szulczynski, Area Manager for Sayed Trading Limited, Cleveland Police (represented by Ms Joan Smith, Barrister), Sergeant Higgins & PC Thorpe (Cleveland Police)
Joanne Waller (Home Office), Sergeant Dickenson & Sergeant Haythornthwaite (Durham Police)

Apologies: None

SLS **Evacuation Procedure**
9/19

The Evacuation Procedure was noted.

SLS **Declarations of Interest**
10/19

There were no declarations of interest.

SLS **LICENSING ACT 2003**
11/19 **APPLICATION FOR REVIEW OF A PREMISE LICENCE**
 LEBANEAT
 48 HIGH STREET, YARM TS15 9AH

Members were asked to consider an application for a review of a premise licence from Cleveland Police for Lebaneat, 48 High Street, Yarm, Stockton on Tees, TS15 9AH on the grounds of the prevention of crime and disorder.

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

It was noted that the Premises Licence Holder was a limited company, namely Lebaneat (Yarm) Limited. The company had one director, Mr Ahmed Sayed. Mr Sayed was not in attendance at the meeting but had submitted a witness statement dated 01 November 2019. Mr Sayed's wife Oksana Sayed was the Designated Premises Supervisor and she also was not in attendance. No witness statement had been submitted by Oksana Sayed. Mr Lukasz Szulczynski, Area Manager for Sayed Trading Limited was in attendance at the meeting and informed the Committee that he was attending on behalf of Mr Sayed and Lebaneat (Yarm) Limited. Miss Smith on behalf of Cleveland Police informed the Committee that she had a number of matters which she wished to cross examine Mr Sayed on but that it was a matter for the Committee whether they were minded to proceed in the absence of Mr Sayed.

The Committee expressed their concern that Mr Sayed had chosen not to attend the hearing but decided that they would proceed with the review hearing given there were a number of witnesses in attendance and Mr Szulczynski, had

confirmed he was in a position to explain Mr Sayed's response to the review.

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee considered the application, full details of which appeared before the Members in their agenda and background papers.

Members noted that the review of the premises licence was made at the request of Cleveland Police. Representations had not been received from any of the other responsible authorities.

A copy of the report and supporting documents and statements had been provided to all persons present and to members of the Committee. Mr Szulczynski had also submitted a bundle of documents in response to the Committee report and evidence which had been served on him by Cleveland Police.

Ms Smith made submissions on behalf of Cleveland Police and also called evidence from Sergeant Higgins, Sergeant Dickenson, Sergeant Haythornthwaite and Mrs Waller.

The Polices evidence consisted of:

- Statement of Sergeant Higgins dated 23rd October 2019 plus exhibits PH/1 – PH/8;

The exhibits included the history of Mr Sayed's premises in Durham which had also been found to be employing illegal workers and which Durham Police had sought a review of the premises licences. The Durham Premises had Mr Ahmed Sayed as Premise Licence Holder and his wife Mrs Oksana Sayed as Designated Premises Supervisor. The evidence which had been considered by the Statutory Licensing Sub Committee of Durham County Council was appended to Sergeant Higgins witness statement.

After a hearing the Statutory Licensing Sub Committee of Durham County Council had revoked the premises licences. Mr Sayed had appealed against that decision to the Magistrates Court and his appeal had been dismissed.

Live evidence was given to the Committee by Sergeant Higgins, Sergeant Dickenson, Sergeant Haythornthwaite and Mrs Waller.

Ms Smith invited the Committee to consider the previous history of Mr Sayed's premises in Durham. Ms Smith argued that this was clearly relevant to the situation found in the Yarm premise on 4th September 2019 when an Egyptian national was found to be working illegally in the restaurant. Ms Smith invited the Committee to note the evidence of Mrs Waller who recorded the conversation which took place with the male in the Yarm restaurant. She confirmed that the boss (Mr Sayed) had brought him to the restaurant. The Police were of the opinion that Ms Sayed was the person responsible for the employment of the illegal worker and it was clear that they knew each other given that Mr Sayed had brought him to the restaurant. Mrs Waller stated that in her opinion Mr Sayed had a complete disregard for the law and the employment of illegal

workers. At no point had the Egyptian national given the name Mr MA. If the man was Mr MA and held a legitimate Italian passport with a right to work as an EU citizen then surely he would have informed Mrs Waller of that.

Mr Szulczynski was given the opportunity to ask questions of the witnesses.

Premise Licence Holders Submission

Lebaneat (Yarm) Limited was the Premise Licence Holder and Oksana Sayed was the Designated Premises Supervisor.

Mr Szulczynski explained that he was employed by Sayed Training Limited and that he joined the company on 27 June 2019. He was mindful of the past issues but his role was to ensure that he made improvements at the company and that systems were introduced which would ensure similar issues would not arise in the future.

Mr Szulczynski introduced his colleague Karen Gray who was also employed by Sayed Training Limited and she dealt with all the administration at the head office.

Mr Szulczynski stated that he believed the person working at the Yarm restaurant was called Mr MA, and the checks they had carried out showed that he held an Italian passport and had also been issued with a National Insurance number. The pre-employment checks had been carried out by Oana Cotoi and she had completed the electronic checklist and uploaded copies of the documents including the passport. Mr MA commenced his employment on 04 August 2019 until he was suspended following the visit at the Yarm premise on 04 September 2019.

Following the suspension of Mr MA a disciplinary investigation was commenced by Mr Szulczynski and copies of the paperwork had been provided to the Committee. The paperwork included copies of the suspension letter, notes of the disciplinary meeting and the letter of dismissal. Mr MA was dismissed after he failed to provide further copies of documents requested by Mr Szulczynski. Mr MA had informed Mr Szulczynski that he would need to obtain the requested documentation from his previous address in London. Mr Szulczynski set a time limit for the provision of this documentation but he had had no further contact with Mr MA.

Mr Szulczynski stated that in his view further enquiries should be made to ascertain the correct identity of the member of staff who they believed was Mr MA.

Members of the Committee asked a number of questions of Mr Szulczynski.

Ms Smith asked a number of questions of Mr Szulczynski.

All parties present were given an opportunity to sum up their case with Mr Szulczynski having the final submission.

The Committee had regard to the extensive bundle of written evidence, which had been circulated prior to the hearing and presented to them, in addition to

the oral evidence given on behalf of the Police and by Mr Szulczynski.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under Section 182 of the Licensing Act 2003 (as amended) and the Council's Licensing Policy.

The Committee agreed that it was clearly relevant to consider the previous history of Mr Sayed at his Durham premises where he had employed a number of illegal workers.

The Committee did not accept the suggestion made by Mr Szulczynski that the problems were historic and that he had ensured that systems and practices were in place to stop the employment of illegal workers in Mr Sayed's businesses.

The Committee were extremely concerned that Mr Sayed as sole Director of Lebeat (Yarm) Limited was not in attendance at the review hearing. Oksana Sayed, the Designated Premises Supervisor and Ms Oana Cotoi the employee who had allegedly undertaken the pre-employment checks were also not in attendance. These were all of the key individuals who could answer questions in relation to the employment of the illegal worker. It was Ms Cotoi who would be asked to explain the numerous discrepancies in the documentation allegedly completed by her. The concerns over the photocopy of the Italian passport allegedly provided by Mr MA. The pre-employment check form relating to Mr MA did not include his bank account details whereas the other examples produced by Mr Szulczynski for other employees of the company did have the bank account details. The pre-employment check form was also not signed whereas the examples provided by other employees were signed. The decision not to attend the review hearing rested solely on Mr Sayed. In the opinion of the Committee it was not acceptable for him to seek to send Mr Szulczynski on his behalf. Mr Szulczynski could not answer any of the key questions concerning the employment of Mr MA other than to say he believed that the company had done the necessary checks and that the male was an Italian who held an Italian passport.

The Committee considered all of the evidence and were satisfied that the illegal worker was an Egyptian national and was not Mr MA. The Committee were extremely concerned that the documentation allegedly taken from the Egyptian male was possibly a counterfeit passport or more likely had been falsified on behalf of Mr Sayed. The Committee were satisfied that Mr Sayed knew full well that the individual was an Egyptian national and had no right to work in the UK.

The Committee considered what action to take given their findings. The Committee were mindful that the statutory guidance identified the employment of illegal workers as criminal activity that may lead to the revocation of a premises licence even in the first instance.

The Committee were mindful that Mr Sayed's companies had a history of employing illegal workers. The Committee were satisfied that Mr Sayed

appeared to have a complete disregard for his legal responsibilities. The Committee were not persuaded by the assurance given to them by Mr Szulczynski. In any event the employment of the illegal worker at the Yarm restaurant had occurred at a time when Mr Szulczynski was employed by Sayed Trading Limited with the intention of ensuring issues such as this did not arise. In any event Mr Sayed and Mr Szulczynski had not prevented illegal workers from being employed at Lebaneat (Yarm) Limited.

The Committee found this to be an extremely serious matter aggravated by the previous history of Mr Sayed and felt that it was both reasonable and necessary for the premises licence to be revoked.

RESOLVED that the premise licence for Lebaneat. 48 High Street Yarm, Stockton on Tees, TS15 9AH be revoked for the reasons as detailed above.