

**NOTICE OF HEARING
BY THE LICENSING SUB-COMMITTEE
under the
LICENSING ACT 2003**

**APPLICATION FOR THE REVIEW OF A PREMISES LICENCE –
INDIA COTTAGE, 35 CHRISTCHURCH ROAD, RINGWOOD**

Date and Time: THURSDAY, 9 JULY 2020, AT 10.00 AM

Place: SKYPE MEETING - ONLINE

Enquiries to: E-mail: andy.rogers@nfdc.gov.uk
023 8028 5588 - ask for Andy Rogers

These papers are also available on audio tape, in Braille, large print and digital format

1. Application for the Review of a Premises Licence - India Cottage, 35 Christchurch Road, Ringwood (Pages 3 - 52)

THE RELEVANT PAPERS ARE ATTACHED

To: Members of the Sub-Committee:
Cllr Steve Clarke
Cllr Steve Davies
Cllr Neil Tungate
Cllr Geoffrey Blunden (Substitute)

Parties to the Hearing:

PC Brian Swallow - Applicant for the Review
Mr S Mannan - Premises Licence Holder and Designated Premises Supervisor
Mr P Day, Lacey's Solicitors - Legal adviser to Mr Mannan

Copies for Information:

Cllrs J Heron and S Rippon-Swaine – Local Members
Ringwood Town Council
Licensing – C Ferguson
Environmental Health – J McClay

NEW FOREST DISTRICT COUNCIL – VIRTUAL MEETINGS

Background

This meeting is being held virtually with all participants accessing via Skype for Business.

A live stream will be available on YouTube to allow the press and public to view meetings in real time and can also be found at the relevant meeting page on the Council's website.

Principles for all meetings

The Chairman will read out Ground Rules at the start of the meeting for the benefit of all participants. All normal procedures for meetings apply as far as practicable, as the new Government Regulations do not amend any of the Council's existing Standing Orders.

The Ground Rules for all virtual meetings will include, but are not limited to, the following:-

- All participants are reminded that virtual public meetings are being broadcast live on YouTube and will be available for repeated viewing. Please be mindful of your camera and microphone setup and the images and sounds that will be broadcast on public record.
- All participants are asked to mute their microphones when not speaking to reduce feedback and background noise. Please only unmute your microphone and speak when invited to do so by the Chairman.
- Participants in attendance can make a request to speak during the meeting by typing "RTS" (Request to Speak) in the Skype chat facility. Requests will be managed by the Chairman with support from Democratic Services. The Skype chat facility should not be used for any other purpose.
- All participants should note that the chat facility can be viewed by all those in attendance.
- All participants are asked to refer to the report number and page number within the agenda and reports pack so that there is a clear understanding of what is being discussed at all times.

Technology

The Chairman will adjourn the meeting if technical issues cause the meeting to be inquorate, the live stream technology fails, or continuing is not practical.

Participation

In order to speak at a virtual meeting, you must have the facility to join a Skype for Business Meeting. Joining instructions will be sent to all parties to the hearing in advance of the meeting.

LICENSING SUB-COMMITTEE – 9 JULY 2020

APPLICATION TO REVIEW A PREMISES LICENCE

INDIA COTTAGE, 35 CHRISTCHURCH ROAD, RINGWOOD

1. INTRODUCTION

- 1.1 An application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 ('the Act') was received from Hampshire Constabulary ('the Police') on 18 May 2020. The application is for the review of the licence for India Cottage, 35 Christchurch Road, Ringwood, BH24 1DG and is provided in **Appendix 1**.
- 1.2 At any stage, following the grant of a premises licence a Responsible Authority, or any other person, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

Those objectives being:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

2. BACKGROUND INFORMATION

- 2.1 India Cottage is an Indian Restaurant located on Christchurch Road, Ringwood. The premise has held a licence, issued under the Act, since November 2005, and had operated under previous legislation prior to the introduction of the Act.
- 2.2 In January 2020, the Licensing Authority received an application from Mr S Mannan, Premises Licence Holder and Designated Premises Supervisor for India Cottage to vary the licence, to include the outside area. Relevant representations were received in response to this application and, therefore, a Licensing Sub-Committee determined the application on 13 February 2020. The current licence is presented in **Appendix 2**.
- 2.3 The restaurant has seating for 54 customers internally and has a rear outdoor area for an additional 16 patrons. There are also two dining beach huts to the rear of the property which each can seat four persons. The roof of the external seating area is of a corrugated Perspex construction and heaters are provided for customer comfort.

3. CONTRAVENTIONS

- 3.1 On Saturday 25 April 2020 at 19:15, PC Swallow and PC Hawley visited India Cottage whilst on patrol in Ringwood. At the time of the visit, there were seven people on the premises, Mr Mannan and another member of staff and five customers (which included a child) who were in the outside garden area.
- 3.2 As the officers entered the premise, they witnessed two male customers with glasses of beer in front of them. When questioned, Mr Mannan confirmed the customers were waiting in the outside seating area for a takeaway meal and had asked for a drink whilst waiting, which he had provided. CCTV footage viewed at the time of the visit confirmed that this sale of alcohol, which was consumed on the premise was not an isolated incident.

- 3.3 Statements from both Police Constables are provided in **Appendix 3** and in addition, footage from body worn cameras worn by the officers is provided.
- 3.4 The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ('the Regulations'), came into force on 26 March 2020 (replacing the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 which had previously come into force on 21 March 2020), and required all restaurants and bars to cease selling food and drink for consumption on the premises (see **Appendix 4**, Regulation 4). The outdoor seating area is considered as part of the premises. In accordance with the Regulations, a person who without reasonable excuse contravenes a requirement of Regulation 4 commits a criminal offence which would result in a fine on conviction in a Magistrates Court. A restaurant can continue to provide food or drink (with the correct licence) for consumption off the premises i.e.. as a takeaway. However, condition 18 on the premises licence states that "Alcohol shall not be sold or supplied on the premises otherwise to persons taking table meals and for consumption by such a person as ancillary to their meal" and the licence does not permit off sales (see **Appendix 2** premise licence).
- 3.5 During this pandemic and emergency situation, the legislation and current licence prevents India Cottage from selling alcohol for consumption on or off the premises and food can only be sold for consumption **off** the premises.
- 3.6 Sgt Rob Cohen reported the offences witnessed by PC Swallow and PC Hawley to the Licensing Manager on 28 April 2020 and suggested that the Council may wish to consider serving a Prohibition Notice in accordance with the Regulations, supported by the Police.
This was subsequently discussed with the Food and Safety Team Manager (Ben Stockley) and Service Manager (Joanne McClay).
- 3.7 On 1 May 2020 a Prohibition Notice was served on Mr Mannan, under the Regulations 2020 which required, with immediate effect, that he cease the selling of food or drink for consumption on the premises. Failure to comply with the Prohibition Notice without reasonable cause is a criminal offence which would result in a fine on conviction in a Magistrates Court. The Notice is provided as **Appendix 5**.
- 3.8 Following receipt of the Notice, Mr Mannan contacted the Licensing Service on 7 May 2020 for further information. He was advised by the Licensing Manager that the restrictions were to protect against the risks to public health arising from coronavirus and that he must comply with the conditions imposed to prevent further action being taken by the Council. The email is provided in **Appendix 6**.

4. APPLICATION TO REVIEW THE LICENCE

- 4.1 The Police Licensing Officer (PC Swallow) submitted an application for the review of the premises licence on 18 May 2020.
- 4.2 The Police, in their review application, seek to remove the licensable activity (the sale and supply of alcohol) from the Premises Licence.
- 4.3 In accordance with S51(3)(a) of the Act, copies of the application and accompanying documents were also served on the Premises Licence Holder and all other Responsible Authorities.
- 4.4 The Licensing Authority advertised the application as required, thereby inviting representations from any Responsible Authorities or other persons.

5. REQUIREMENTS FOR A HEARING

- 5.1 Before determining the application for review, the Licensing Authority must hold a hearing to consider it.
- 5.2 Members are referred to statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated April 2018, in particular section 11 which provides guidance on Review applications.

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- 5.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to:
- 1) The steps that are appropriate to promote the licensing objectives;
 - 2) The presentations and written material presented by all parties;
 - 3) Home Office guidance;
 - 4) The Council's own Statement of Licensing Policy.

6. REPRESENTATIONS RECEIVED

- 6.1 No other representations in support of the application, or the premises, have been received during the 28 day representation period.

7. THE HEARING

- 7.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005. These Regulations provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.
- 7.2 The applicant (The Police) and the Premises Licence Holder have been invited to this meeting and have been provided with this report, accompanying documents, Police body-worn camera images and hearing procedures.
- 7.3 The applicant and the Premises Licence Holder and /or his representative are entitled to address the Sub-Committee and to ask questions of the other party.

8. RIGHT OF APPEAL

- 8.1 It should be noted that the applicant and the Premises Licence Holder may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.
- 8.2 The determination does 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.

9. CONCLUSION

- 9.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations, take such steps (as set out in section 52 (4) of the Act, as it considers appropriate for the promotion of the licensing objectives. Therefore, Members may:
- Modify the conditions of the licence (either permanently or for a temporary period not exceeding three months);
 - Exclude the sale of alcohol (either permanently or for a temporary period not exceeding three months);
 - Remove Mr Mannan as the Designated Premises Supervisor;
 - Suspend the licence for a period not exceeding three months;
 - Revoke the licence; or
 - Take no further action

10. RECOMMENDATION

- 10.1 That, having heard the representations from all parties, both written and oral, the Licensing Sub-Committee determines the review application submitted by Hampshire Constabulary.

11. APPENDICES

- Appendix 1- Review application
- Appendix 2- Current Premises Licence
- Appendix 3- Statements provided by PCs Swallow and Hawley
- Appendix 4- The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
- Appendix 5- Prohibition Notice
- Appendix 6- Email to Mr Mannan from the Licensing Manager

Further information:

Christa Ferguson
Licensing Manager
Tel: 023 8028 5505
Email: licensing@nfdc.gov.uk



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Page 1 of 5

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I Brian Swallow, on behalf of the Chief Officer of Hampshire Constabulary,
(Insert name of applicant)

- Apply for the review of a premises licence.
- Apply for the review of a club premises certificate.
(Select as applicable)
- Make a representation about a premises licence/club premises certificate

Premises or Club Premises details

| | |
|-----------------------------|---|
| Postal address of premises: | India cottage 35 Christchurch Road Ringwood |
| Postcode (if known): | BH24 1DG |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Shadeq Ahmed MANNAN |
|---|

| |
|---|
| Number of premises licence or club premises certificate (if known) 713/2 |
|---|

Details of responsible authority applicant

| | |
|--|---|
| Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> | Other title / Rank: PC |
| Surname: Swallow | First Names: Brian |
| Current postal address : | C/O Neighbourhood Police Office Southampton City Council Civic Centre Southampton |
| Postcode: | SO14 7LY |
| Daytime telephone number: | 01425 473671 |
| E-mail address: (optional) | Unknown |



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

This application to review relates to the following licensing objective(s)

Select 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 grounds for review which must be based on one or more of the licensing objectives together with supporting information:

On 21st March 2020 The Health Protection (Coronavirus Business Closure (England) Regulations 2020 Act was introduced. The schedule to this act lists various premises that must close for a determined period. Those premises are:
Part 1 (1) Restaurants (2) Cafes (3) Bars, (4) Public Houses

The explanatory note at the end of the Act, states that the Regulations require the closure of businesses selling food and drink for consumption on the premises.

On Saturday 25th April the restaurant was visited by police licensing after seeing activity from within. I was amazed at what I saw. There were 7 people in this small confined area. From initial enquires they were Shadeq MANNAN who is the premises licence holder and DPS of the venue, a female member of staff who was taking telephone orders and handing over bagged items of takeaways. 2 male customers standing waiting for takeaway order and 2 males and a female child sitting on a bench style table.

It was the 2 males and a child that immediately caught my attention. They had in front of them 2 large bottles of cobra beer partially poured into pint glasses that they were drinking from in breach of the COVID legislation.

MANNAN was asked, firstly explain why there were persons on his premises consuming alcohol and secondly why he was breaching COVID legislation. He said that he was unsure of the legislation and thought he could still sell alcohol if people came in for a takeaway and his 2 customers had just asked if they could have a quick beer whilst they waited for their food to be cooked. He didn't see anything wrong with this but said that he would stop.

CCTV was operating in the venue which was requested to be immediately viewed. After some hesitation we managed to gain access. It clearly showed one of the males currently within the venue drinking beer 2 days previously. He was seen sitting drinking beer for 2 hours with another male!

Another part of the premises (2 sheds) had been dressed up to facilitate dining, this included place settings, tablecloths, glassware and cutlery. It is win all likelihood that this two



Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

structures were going to be or had been used for the consumption of food.

When the officers returned to the office, the premises licence for the venue was checked, unbelievably there is condition on the licence (Annex 2, 18) that says: Alcohol shall not be sold or supplied on the premises otherwise to persons taking table meals and for Consumption by such a person as ancillary to their meal.

Following on from this visit, MANNAN has been served with a prohibition notice by NFDC to desist in the illegal activity with regards to the COVID legislation (supplying alcohol for consumption on the premises). In effect this notice has been no punishment for what is at this time of national crisis a very serious offence.

This venue was clearly knowingly breaching the COVID legislation. The owner, operator, premises licence holder and DPS was personally facilitating this breach. If this were not serious enough, an offence under 136 of the Licensing Act 2003 has also been committed.

It cannot be ruled out that due to MANNAN's blatant dismissive approach based purely on monetary gain (greed), that persons may have become critically ill or have died.

It is the grave nature of this incident, that the chief officer of Police seeks this review for the purposes of removing the licensable of activity of the supply of alcohol from the premises licence.

Have you made an application for review relating to these premises before: Yes | No

If yes please state the date of that application:

15/ 05 / 2020

Day Month Year



Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

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

Not Applicable

Please tick

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 have sent a copy of this representation to the principal licensing officer of NFDC Council

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

Signature of Officer Completing

| | | | |
|------------|-------------------|----------------|----------------|
| Name | <u>PC Swallow</u> | Collar Number: | <u>2903</u> |
| Signature: | <u>B. Swallow</u> | Date: | <u>15/5/20</u> |

Signature of Authorising Officer (Inspector or above)

| | | | |
|------------|-----------------|----------------|----------------|
| Name | <u>PS Cohen</u> | Collar Number: | <u>2849</u> |
| Signature: | <u>R. Cohen</u> | Date: | <u>15/5/20</u> |

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Environment & Regulation

Executive Head: Colin Read

Mr S A Mannan
India Cottage
35 Christchurch Road
Ringwood
BH24 1DG

Our Ref: CF/LICPR/05/00505

Your Ref:

26 February 2020

Dear Mr Mannan

LICENSING ACT 2003 - Variation Premises Licence (S34)
INDIA COTTAGE, 35 CHRISTCHURCH ROAD, RINGWOOD, BH24 1DG
Licence No: 713/2

Please find enclosed, the Premises Licence in respect of the above named premises.

This premises licence will last indefinitely unless it is surrendered or revoked, but will lapse in the event of the death of the premises licence holder or upon the licence holder becoming mentally incapable or financially insolvent.

It is important to note that this licence does not override any planning consent restrictions the premises may have. If you operate outside the consent granted for these premises, this may result in action being taken against you. Should you wish to amend these conditions please contact the planning department for advice at planning@nfdc.gov.uk

FIRE RISK ASSESSMENT – REQUIREMENT

The Regulatory Reform (Fire Safety) Order 2005 places upon any person, who has some level of control in a premises, to take reasonable steps to reduce the risk from fire and to ensure people can safely escape in the event of a fire. This may be done as part of the general health and safety risk assessment, which is already required under the Management of Health & Safety at Work Regulations 1992 (amended 1999), or as a separate and specific fire risk assessment. Where five or more persons are employed, the significant findings of the assessment must be recorded.

Cont/d...

2
26 February 2020
India Cottage

Continuation of this licence requires payment of an annual fee, based on the rateable value of the premises. This is due on the anniversary of the grant of the licence and we will issue an invoice and covering letter for the required amount prior to this date.

Please note that failure to pay the annual fee will result in suspension of the licence.

Please check this licence carefully and report any discrepancies to this office within 21 days.

It is a legal requirement to display the Summary part of the licence on the premises.

Should you wish to make changes to the licence, an appropriate application must be made to this Licensing Authority. Forms and guidance can be found on the Council's website at www.newforest.gov.uk.

Yours sincerely

Christa Ferguson

Licensing Manager
Licensing Services
c.c. Police

Tel: 023 8028 5505
Email: licensing@nfdc.gov.uk

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Licensing Act 2003

Premises Licence

Issued under Section 24 of the above Act

| | |
|--------------------------------|--------------|
| Premises Licence Number | 713/2 |
|--------------------------------|--------------|

Part 1 - Premises Details

| Postal address of premises, or if none, ordinance survey map reference or description | |
|---|---|
| India Cottage 35 Christchurch Road Ringwood BH24 1DG | Map Ref (E): 414934.4 Map Ref (N): 105123.7 UPRN: 100062213705 |
| Telephone Number: 01425 473671 | |

| Where the licence is time limited the dates |
|---|
| This licence is NOT time limited |

| Licensable activities authorised by the licence |
|--|
| E) Performance of Live Music F) Playing of Recorded Music I) Provision of Late Night Refreshment J) Sale or Supply of Alcohol |

| The times the licence authorises the carrying out of licensable activities | | | |
|--|---|---------------|--|
| E - Performance of Live Music | Performance of live music may take place: | Indoors | Y |
| | | Outdoors | |
| | | Both | |
| Day | Start | Finish | |
| Thur | 18:00 | 00:00 | Further details: Seasonal variations: Non standard timings: |
| Fri | 18:00 | 00:00 | |
| Sat | 18:00 | 00:00 | |

| | | | | | |
|--------------------------------------|--------------|---------------|--|----------|----------|
| E - Performance of Live Music | | | Performance of live music may take place: | Indoors | |
| | | | | Outdoors | Y |
| | | | | Both | |
| Day | Start | Finish | | | |
| Thur | 18:00 | 23:00 | Further details: Seasonal variations: Non standard timings: | | |
| Thur | 18:00 | 23:00 | | | |
| Sat | 18:00 | 23:00 | | | |
| | | | | | |

| | | | | | |
|--------------------------------------|----------------|----------------|--|----------|----------|
| F - Playing of Recorded Music | | | Playing of recorded music may take place: | Indoors | Y |
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 12:00 18:00 | 14:30 00:00 | Further details: Seasonal variations: Non standard timings: | | |
| Tues | 12:00 18:00 | 14:30 00:00 | | | |
| Wed | 12:00 18:00 | 14:30 00:00 | | | |
| Thur | 12:00 18:00 | 14:30 00:00 | | | |
| Fri | 12:00 18:00 | 14:30 00:00 | | | |
| Sat | 12:00 18:00 | 14:30 00:00 | | | |
| Sun | 12:00 18:00 | 14:30 00:00 | | | |
| | | | | | |

| | | | | | |
|--------------------------------------|----------------|----------------|--|----------|----------|
| F - Playing of Recorded Music | | | Playing of recorded music may take place: | Indoors | |
| | | | | Outdoors | Y |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 12:00 18:00 | 14:30 23:00 | Further details: | | |
| Tues | 12:00 18:00 | 14:30 23:00 | Seasonal variations: | | |
| Wed | 12:00 18:00 | 14:30 23:00 | Non standard timings: | | |
| Thur | 12:00 18:00 | 14:30 23:00 | | | |
| Fri | 12:00 18:00 | 14:30 23:00 | | | |
| Sat | 12:00 18:00 | 14:30 23:00 | | | |
| Sun | 12:00 18:00 | 14:30 23:00 | | | |

| | | | | | |
|--|--------------|---------------|---------------------------------------|----------|----------|
| I - Provision of Late Night Refreshment | | | This activity will take place: | Indoors | Y |
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 23:00 | 00:00 | Further details: | | |
| Tues | 23:00 | 00:00 | Seasonal variations: | | |
| Wed | 23:00 | 00:00 | Non standard timings: | | |
| Thur | 23:00 | 00:00 | | | |
| Fri | 23:00 | 00:00 | | | |
| Sat | 23:00 | 00:00 | | | |
| Sun | 23:00 | 00:00 | | | |

| J - Sale or Supply of Alcohol | | | |
|--------------------------------------|----------------|----------------|---|
| Day | Start | Finish | |
| Mon | 12:00 18:00 | 14:30 00:00 | Further details: Condition 24 limits consumption of alcohol to inside area after 23:00hrs. Seasonal variations: Non standard timings: |
| Tues | 12:00 18:00 | 14:30 00:00 | |
| Wed | 12:00 18:00 | 14:30 00:00 | |
| Thur | 12:00 18:00 | 14:30 00:00 | |
| Fri | 12:00 18:00 | 14:30 00:00 | |
| Sat | 12:00 18:00 | 14:30 00:00 | |
| Sun | 12:00 18:00 | 14:30 00:00 | |

| The opening hours of the premises | | | |
|--|----------------|----------------|---|
| L - Opening Hours | | | |
| Day | Start | Finish | |
| Mon | 12:00 18:00 | 14:30 00:00 | Seasonal variations: Non standard timings: |
| Tues | 12:00 18:00 | 14:30 00:00 | |
| Wed | 12:00 18:00 | 14:30 00:00 | |
| Thur | 12:00 18:00 | 14:30 00:00 | |
| Fri | 12:00 18:00 | 14:30 00:00 | |
| Sat | 12:00 18:00 | 14:30 00:00 | |
| Sun | 12:00 18:00 | 14:30 00:00 | |

| Where the licence authorises supplies of alcohol whether these are on and/or off supplies: |
|---|
| Alcohol is supplied for consumption ON premises only |

Part 2

| | |
|--|--------------------------|
| Name, (registered) address, telephone number and email (where relevant) of holder of premises licence | |
| Shadeq Ahmed Mannan 17 Talbot Hill Road Talbot Park Bournemouth Dorset BH9 2JT | Telephone: Email: |

| |
|---|
| Registered number of holder, for example company number, charity number (where applicable) |
| |

| | |
|---|--------------------------|
| Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol | |
| Shadeq Ahmed Mannan 17 Talbot Hill Road Talbot Park Bournemouth Dorset BH9 2JT | Telephone: Email: |

| |
|---|
| Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol |
| BH14862 Bournemouth Borough Council |

The licence is granted by New Forest District Council, as licensing authority pursuant to the Licensing Act 2003 and regulations made thereunder.

Date licence issued: 26/02/2020

Date licence commences: 13/02/2020

Date first licence came into force: 24/11/2005

Colin Read

Executive Head of Environment & Regulation
(Authorised Officer)

Annex 1 - Mandatory conditions

Where licence authorises supply of alcohol:

- (1) No supply of alcohol may be made under the premises licence:
 - (a) at a time when 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.
- (2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Where licence authorises door supervision:

- (1) Each individual at the premises to carry out a security activity must:
- Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001;
- or
- Be entitled to carry out that activity by virtue of section 4 of that Act.

(Additional Condition with effect from 28 May 2014)

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 amount 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.

(Additional Conditions with effect from 1 October 2014)

1. (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);
 - (iii) 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;
 - (b) 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;
 - (c) 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.
 - (d) 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).

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

3. (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.

4. 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-
 - (e) beer or cider: ½ pint;
 - (i) gin, rum, vodka or whisky: 25ml or 35ml; and
 - (ii) still wine in a glass: 125ml;
 - (b) these measure 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.

Where licence authorises supply of alcohol:

- (1) No supply of alcohol may be made under the premises licence:
 - (a) at a time when 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.
- (2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

(Additional Condition with effect from 28 May 2014)

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 amount 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

a) General - all four licensing objectives (b, c, d, e)

b) The prevention of crime and disorder

1. The Designated Premises Supervisor will nominate a responsible person to manage the premises in his absence.
2. The premises shall have sufficient cameras located within the premises to cover all public areas. Continuous CCTV recording will take place in all licensed areas of the premises. The CCTV system must be operating at all times whilst the premises are open for licensable activity.
3. An incident book will be provided and maintained at the premises and completed by staff. It will remain on the premises at all times and will be available to a responsible authority for inspection upon request.
4. Any incidents that include physical altercation or disorder, physical ejection, injury, identification document seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction between members of staff and the public the entry will include what physical activity occurred between each party. The entry shall be timed, dated and signed by the author.
5. Each incident book record should be retained for at least 12 months.
6. There shall be in place on the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy will comply with Challenge 25. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.
7. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" (Proof of Age Standards Scheme) logo and the persons date of birth. Armed Forces ID will also be acceptable.
8. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.
9. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

c) Public safety

The premises must have adequate lighting inside and outside.

11. Clear exit signs will be displayed. Emergency exits must be kept clear at all times.
12. A policy must be in place to exercise due diligence with regard to health and safety and fire safety.
13. The Fire Assessment will be reviewed annually.
14. Staff will be trained in health and safety and fire safety and a record will be kept of all training.

d) The prevention of public nuisance

15. Alcohol must not be removed from the premises by customers.
16. The premises shall operate a smart/casual dress code policy.
17. The premises will not promote 'Happy Hours' drinking offers

- 18. Alcohol shall not be sold or supplied on the premises otherwise to persons taking table meals and for consumption by such a person as ancillary to their meal.
- 19. Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises.
- 20. A smoking area for customers will be provided and suitable receptacles for cigarette debris provided.

e) The protection of children from harm

- 21. Children must be accompanied on the premises by an adult.
- 22. There shall be no nudity or sexual performances at the premises.

Conditions consistent with those suggested by Environmental Protection in their role as a responsible authority prior to the hearing, as amended by the Sub-Committee:

- 23. All licensable activities must cease at 23:00 hours in the outdoor area of the premises marked on the plan dated December 2019 by shading comprising the open sided, covered area, the converted sheds and outside area to the rear of the restaurant ("the Outside Area").
- 24. Customers must not be permitted to consume alcohol in the Outside Area after 23:00 hours.
- 25. Smoking by customers outside of the premises must be monitored and management must ensure that customers do not cause noise nuisance to neighbours.
- 26. Management shall make provisions to ensure the safe and quiet dispersal of customers. Any customers congregating or loitering outside after leaving the premises will be asked to depart quickly and quietly.
- 27. All external doors and windows shall be kept closed after 23:00 hours, except for access and egress and in the event of an emergency.

Annex 3 - Conditions attached after a hearing by the licensing authority

N/A

Annex 4 - Plans

This licence permits the licensable activities stated at the premises addressed above in accordance with the plan(s) attached.

| | |
|-------------------------|--------------------------|
| Plan of Premises | |
| Plan/Drawing No: | Plan approved 13/02/2020 |
| Date of Plan: | |

((n))



((1))

Licensing Act 2003

Premises Licence Summary

Issued under Section 24 of the above Act

| | |
|--------------------------------|--------------|
| Premises Licence Number | 713/2 |
|--------------------------------|--------------|

Part 1 - Premises Details

| Postal address of premises, or if none, ordinance survey map reference or description | |
|---|---|
| India Cottage 35 Christchurch Road Ringwood BH24 1DG | Map Ref (E): 414934.4 Map Ref (N): 105123.7 UPRN: 100062213705 |
| Telephone Number: 01425 473671 | |

| Where the licence is time limited the dates |
|---|
| This licence is NOT time limited |

| Licensable activities authorised by the licence |
|--|
| E) Performance of Live Music F) Playing of Recorded Music I) Provision of Late Night Refreshment J) Sale or Supply of Alcohol |

| The times the licence authorises the carrying out of licensable activities | | | |
|--|--|---------------|--|
| E - Performance of Live Music | Performance of live music may take place: | | Indoors Y |
| | | | Outdoors |
| | | | Both |
| Day | Start | Finish | |
| Thur | 18:00 | 00:00 | Further details: Seasonal variations: Non standard timings: |
| Fri | 18:00 | 00:00 | |
| Sat | 18:00 | 00:00 | |

| | | | | | |
|--------------------------------------|--------------|---------------|--|----------|----------|
| E - Performance of Live Music | | | Performance of live music may take place: | Indoors | |
| | | | | Outdoors | Y |
| | | | | Both | |
| Day | Start | Finish | | | |
| Thur | 18:00 | 23:00 | Further details: Seasonal variations: Non standard timings: | | |
| Thur | 18:00 | 23:00 | | | |
| Sat | 18:00 | 23:00 | | | |

| | | | | | |
|--------------------------------------|----------------|----------------|--|----------|----------|
| F - Playing of Recorded Music | | | Playing of recorded music may take place: | Indoors | Y |
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 12:00 18:00 | 14:30 00:00 | Further details: Seasonal variations: Non standard timings: | | |
| Tues | 12:00 18:00 | 14:30 00:00 | | | |
| Wed | 12:00 18:00 | 14:30 00:00 | | | |
| Thur | 12:00 18:00 | 14:30 00:00 | | | |
| Fri | 12:00 18:00 | 14:30 00:00 | | | |
| Sat | 12:00 18:00 | 14:30 00:00 | | | |
| Sun | 12:00 18:00 | 14:30 00:00 | | | |

| F - Playing of Recorded Music | | | Playing of recorded music may take place: | Indoors | |
|--------------------------------------|----------------|----------------|--|----------|----------|
| | | | | Outdoors | Y |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 12:00 18:00 | 14:30 23:00 | Further details: Seasonal variations: Non standard timings: | | |
| Tues | 12:00 18:00 | 14:30 23:00 | | | |
| Wed | 12:00 18:00 | 14:30 23:00 | | | |
| Thur | 12:00 18:00 | 14:30 23:00 | | | |
| Fri | 12:00 18:00 | 14:30 23:00 | | | |
| Sat | 12:00 18:00 | 14:30 23:00 | | | |
| Sun | 12:00 18:00 | 14:30 23:00 | | | |

| I - Provision of Late Night Refreshment | | | This activity will take place: | Indoors | Y |
|--|--------------|---------------|--|----------|----------|
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | | | |
| Mon | 23:00 | 00:00 | Further details: Seasonal variations: Non standard timings: | | |
| Tues | 23:00 | 00:00 | | | |
| Wed | 23:00 | 00:00 | | | |
| Thur | 23:00 | 00:00 | | | |
| Fri | 23:00 | 00:00 | | | |
| Sat | 23:00 | 00:00 | | | |
| Sun | 23:00 | 00:00 | | | |

| J - Sale or Supply of Alcohol | | | |
|--------------------------------------|----------------|----------------|---|
| Day | Start | Finish | |
| Mon | 12:00 18:00 | 14:30 00:00 | Further details: Condition 24 limits consumption of alcohol to inside area after 23:00hrs. Seasonal variations: Non standard timings: |
| Tues | 12:00 18:00 | 14:30 00:00 | |
| Wed | 12:00 18:00 | 14:30 00:00 | |
| Thur | 12:00 18:00 | 14:30 00:00 | |
| Fri | 12:00 18:00 | 14:30 00:00 | |
| Sat | 12:00 18:00 | 14:30 00:00 | |
| Sun | 12:00 18:00 | 14:30 00:00 | |

| The opening hours of the premises | | | |
|--|----------------|----------------|---|
| L - Opening Hours | | | |
| Day | Start | Finish | |
| Mon | 12:00 18:00 | 14:30 00:00 | Seasonal variations: Non standard timings: |
| Tues | 12:00 18:00 | 14:30 00:00 | |
| Wed | 12:00 18:00 | 14:30 00:00 | |
| Thur | 12:00 18:00 | 14:30 00:00 | |
| Fri | 12:00 18:00 | 14:30 00:00 | |
| Sat | 12:00 18:00 | 14:30 00:00 | |
| Sun | 12:00 18:00 | 14:30 00:00 | |

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:
 Alcohol is supplied for consumption ON premises only

Name, (registered) address of holder of premises licence
 Shadeq Ahmed Mannan
 17 Talbot Hill Road
 Talbot Park
 Bournemouth
 Dorset
 BH9 2JT

Registered number of holder, for example company number, charity number (where applicable)

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Shadeq Ahmed Mannan

State whether access to the premises by children is restricted or prohibited

Not Restricted

Duty to Keep & Produce Licence – Premises
Licensing Act 2003

Section 57 – Duty to Keep and Produce Licence

- (1) This section applies whenever premises in respect of which a Premises Licence has effect are being used for one or more licensable activities authorised by the licence.
- (2) The holder of the Premises licence must secure that the licence or a certified copy of it is kept at the premises in the custody or under the control of –
 - (a) the holder of the licence, or
 - (b) a person who works at the premises and whom the holder of the licence has nominated in writing for the purpose of this subsection.
- (3) The holder of the Premises licence must secure that –
 - (a) the summary of the licence or a certified copy of that summary, and
 - (b) a notice specifying the position held at the premises by any person nominated for the purpose of subsection (2),

are prominently displayed at the premises.
- (4) The holder of a Premises Licence commits an offence if he fails, without reasonable excuse, to comply with subsection (2) or (3).
- (5) A constable or an authorised person may require the person who, by virtue of arrangements made for the purposes of subsection (2), is required to have the Premises Licence (or a certified copy of it) in his custody or under his control to produce the licence (or such a copy) for examination.
- (6) An authorised person exercising the power conferred by subsection (5) must, if so requested, produce evidence of his authority to exercise the power.
- (7) A person commits an offence if he fails, without reasonable excuse, to produce a Premises Licence or certified copy of a Premises licence in accordance with a requirement under subsection (5).
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (9) In subsection (3) the reference to the summary of the licence is a reference to the summary issued under Section 23 or, where one or more summaries have subsequently been issued under Section 56, the most recent summary to have been so issued.
- (10) Section 58 makes provision about certified copies of documents for the purposes of this section.

MG11 WITNESS STATEMENT**Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B**

| | | | |
|---|--------------|-------------|----------------|
| Occurrence Number: | 44200149282 | URN: | |
| Statement of: | HAWLEY, MARK | | |
| Age: | | Occupation: | Police service |
| This statement 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. | | | |

Restorative Justice (RJ) enables communication between parties involved in a crime, and provides an opportunity for victims to explain the impact of the offence and to ask questions of the offender. I understand I may be contacted by the service provider for further information to be given.

I am PC 25491 Mark HAWLEY currently stationed on the Alcohol Harm Reduction Team (Licensing) within Hampshire Constabulary.

On Saturday 25th April 2020 I was on duty in full uniform using call sign LO511. I was crewed with PC 2903 SWALLOW.

We attended a restaurant namely India Cottage, 35 Christchurch Road, Ringwood BH24 1DG at 19:15hrs.

During this attendance I recorded footage on my BWV which I can exhibit it as MH/IC/01.

| Signature of Witness | | Signature Witnessed By | |
|----------------------|-------------------|------------------------|--|
| Name: | #25491 HAWLEY, M. | Name: | |
| Signed Time: | 29/04/2020 09:11 | Signed Time: | |

MG11 WITNESS STATEMENT

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

| | | | |
|---|----------------|-------------|----------------|
| Occurrence Number: | 44200149282 | URN: | |
| Statement of: | SWALLOW, BRIAN | | |
| Age: | 50 | Occupation: | Police service |
| This statement 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. | | | |

Restorative Justice (RJ) enables communication between parties involved in a crime, and provides an opportunity for victims to explain the impact of the offence and to ask questions of the offender. I understand I may be contacted by the service provider for further information to be given.

I am PC 2903 Swallow of the Hampshire Constabulary currently stationed at the Neighbourhood Police Office , Southampton City Council , Civic Centre, Southampton , SO14 7LY.

My position is a licensing officer within the alcohol related violent crime reduction department. My roll normally consists of checking licensed premises to ensure that they are adhering to the 4 licensing objectives and compliance to the Licensing Act 2003.

Since 26th March 2020 I have been monitoring licensed premises to ensure compliance with "The Health Protection (Coronavirus Restrictions) (England) Regulations 2020. This has involved visiting numerous premises across the county of Hampshire who are authorised to supply alcohol both on and off premises but also venues that operate as a late night refreshment business.

At 19:15 on Saturday 25th April 2020 I was on duty in full uniform accompanied by PC 25491 Hawley. At this time our attention was drawn to the Indian Cottage, 35 Christchurch Road, Ringwood, BH24 1DG. There were lights on in the premises and persons could be seen at the rear of the property (through the front window).

We entered the property via a drive way to the left of the building, just passed the building line a set of by-fold doors were partially open allowing entrance into a court yard area. As I walked into this small contained area, I could see that it was tastefully decorated with fairy style lights illuminated on the roof, a coal / wood burning patio heater fully ablaze and subtle background music being played.

However, I was amazed at what I saw. There were 7 people in this small confined area. From initial enquires they were Shadeq MANNAN (11/12/1972) who is the premises licence holder and DPS of the venue, a female member of staff who was taking telephone orders and handing over bagged items of takeaways. 2 male customers standing waiting for takeaway order and 2 males and a female child sitting on a bench style table.

It was the 2 males and a child that immediately caught my attention. They had in front of them 2 large bottles of cobra beer partially poured into pint glasses that they were drinking from.

I spoke to MANNAN and asked him to firstly explain why there were persons on his premises consuming alcohol and secondly why he was breaching COVID legislation. He was instantly clearly very nervous. He began speaking very quickly and repetitively and began to shake visibly He said that he was unsure of the legislation and thought he could still sell alcohol if people came in for a takeaway and his 2 customers had just asked if they could have a quick beer whilst they waited for their food to be cooked. He didn't see anything wrong with this but said that he would stop.

I noticed that there was a CCTV camera located behind the bar and asked to view recent footage and asked MANNAN to show me it. He was clearly reluctant to do so and suggested that I return later as he was busy. I insisted that I was shown the footage immediately and we had a few seconds of him just staring at me, I assured him that if he refused to supply me with the footage, I would seize the entire CCTV system from his premises. Reluctantly he produced his mobile phone and remotely logged on. It instantly showed live footage of a suitable quality. He then explained that the device only stored footage for 24 hours, a statement I did not believe.

MANNAN passed me his phone to view the footage. I managed to go back passed 24 hours, I managed to source images from Friday 24th April of persons drinking beer sat at the same table as those on the premises. I challenged MANNAN on this point, he just said that they were collecting a takeaway.

I left MANNAN and walked around the venue. The inside was clearly closed down and the spirits had been removed from display and covered over on tables, however upon entering the courtyard area, I saw two wooden sheds that had been converted to accommodate dining. The table had place settings laid out with napkins glasses and cutlery. The inside of each shed was illuminated with fairy / led lighting making a cosy intimate setting. I found this to be incredibly suspicious. Why go to the trouble of making these two sheds up everyday if they were not going to be used.

There was no social distancing measures in place at the venue, no signage, no additional hygiene measures, hand sanitizer etc in the main public court yard area. Neither MANNAN nor the female member of staff were wearing any form of protective equipment, masks or gloves. I witnessed two take away food orders (in white plastic bags) being handed directly to the customer.

I could see at least 3 members of kitchen staff cooking food in the kitchen area (located just off the bar serving area and viewable from a courtyard doorway), none of which were wearing any form of PPE. I also saw a member of staff out in the back yard parking area smoking and drinking from a can of beer. Once he had finished his cigarette he returned directly back into the kitchen, again he was not wearing any form of PPE.

When I returned to MANNAN at the bar, he was being spoken to by PC Hawley. PC Hawley had also viewed the CCTV on the phone and had gone back a further day to the 23rd. He had located a male consuming alcohol at the venue for 2 hours... When challenged MANNAN explained that he knew this male and he is a regular customer and had been in twice this week for food and normally liked to stay in the restaurant. He was also very adamant that he was not working that day. When continually challenged about this male drinking within the restaurant for 2 hours, MANNAN could not provide any plausible explanation for this but suggested we phone him up ??.

I suggested that he should turn the LED / fairy lights off, turn the patio heater off and turn off the music. He refused to do so, he said it was for his benefit and could not see any reason to do so, regardless of how it looked.

No members of staff had any form PPE and were being completely reckless regarding social distancing to both themselves and their customers.

It was clear to me that this premises was in all likelihood operating as a restaurant supplying meals to eat in, it was clearly operating as a takeaway and supplying alcohol for consumption on the premises in complete regard to the newly introduced legislation.

| Signature of Witness | | Signature Witnessed By | |
|----------------------|---|------------------------|--|
| Name: | SWALLOW, BRIAN | Name: | |
| Signed Time: | 29/04/2020 10:24 | Signed Time: | |
| |  | | |

Status: This is the original version (as it was originally made).

Regulations made by the Secretary of State, laid before Parliament under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2020 No. 350

PUBLIC HEALTH, ENGLAND

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

| | | |
|-------------------------------|---------|--|
| <i>Made</i> | - - - - | <i>at 1.00 p.m. on 26th March 2020</i> |
| <i>Laid before Parliament</i> | | <i>at 2.30 p.m. on 26th March 2020</i> |
| <i>Coming into force</i> | - - | <i>at 1.00 p.m. on 26th March 2020</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45C(1), (3)(c), (4)(d), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984⁽¹⁾.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England.

The Secretary of State considers that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 45R of that Act the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and come into force at 1:00 p.m. on 26th March 2020.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

(a) “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

- (b) a “person responsible for carrying on a business” includes the owner, proprietor, and manager of that business;
- (c) “vulnerable person” includes—
 - (i) any person aged 70 or older;
 - (ii) any person under 70 who has an underlying health condition, including but not limited to, the conditions listed in Schedule 1;
 - (iii) any person who is pregnant.

Revocation and saving

2.—(1) The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020(2) (the “first Regulations”) are revoked.

(2) Notwithstanding the revocation of the first Regulations, they continue in force in relation to any offence committed under the first Regulations before these Regulations came into force.

(3) A designation made in exercise of powers conferred by regulation 4(1) and (2) of the first Regulations is to be treated as it had been made in the exercise of powers conferred by regulations 8(12)(a)(iv) and 11 of these Regulations.

The emergency period and review of need for restrictions

3.—(1) For the purposes of these Regulations, the “emergency period”—

- (a) starts when these Regulations come into force, and
- (b) ends in relation to a restriction or requirement imposed by these Regulations on the day and at the time specified in a direction published by the Secretary of State terminating the requirement or restriction.

(2) The Secretary of State must review the need for restrictions and requirements imposed by these Regulations at least once every 21 days, with the first review being carried out by 16th April 2020.

(3) As soon as the Secretary of State considers that any restrictions or requirements set out in these Regulations are no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in England with the coronavirus, the Secretary of State must publish a direction terminating that restriction or requirement.

(4) A direction published under this regulation may—

- (a) terminate any one or more requirement or restriction;
- (b) terminate a requirement or restriction in relation to a specified business or service or a specified description of business or service.

(5) In this regulation, “specified” means specified in a direction published under this regulation.

Requirement to close premises and businesses during the emergency

4.—(1) A person responsible for carrying on a business which is listed in Part 1 of Schedule 2 must—

- (a) during the emergency period—
 - (i) close any premises, or part of the premises, in which food or drink are sold for consumption on those premises, and
 - (ii) cease selling food or drink for consumption on its premises; or

(2) [S.I. 2020/327](#).

- (b) if the business sells food or drink for consumption off the premises, cease selling food or drink for consumption on its premises during the emergency period.
- (2) For the purposes of paragraph (1)(a), food or drink sold by a hotel or other accommodation as part of room service is not to be treated as being sold for consumption on its premises.
- (3) For the purposes of paragraph (1)(a)(ii) and (b), an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) is to be treated as part of the premises of that business.
- (4) A person responsible for carrying on a business or providing a service which is listed in Part 2 of Schedule 2 must cease to carry on that business or to provide that service during the emergency period.
- (5) Paragraph (4) does not prevent the use of—
 - (a) premises used for the businesses or services listed in paragraphs 5, 6, 8, 9 or 10 of that Part to broadcast a performance to people outside the premises, whether over the internet or as part of a radio or television broadcast;
 - (b) any suitable premises used for the businesses or services listed in that Schedule to host blood donation sessions.
- (6) If a business listed in Part 1 or 2 of Schedule 2 (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1) if it closes down business A.

Further restrictions and closures during the emergency period

5.—(1) A person responsible for carrying on a business, not listed in Part 3 of Schedule 2, of offering goods for sale or for hire in a shop, or providing library services must, during the emergency period—

- (a) cease to carry on that business or provide that service except by making deliveries or otherwise providing services in response to orders received—
 - (i) through a website, or otherwise by on-line communication,
 - (ii) by telephone, including orders by text message, or
 - (iii) by post;
 - (b) close any premises which are not required to carry out its business or provide its services as permitted by sub-paragraph (a);
 - (c) cease to admit any person to its premises who is not required to carry on its business or provide its service as permitted by sub-paragraph (a).
- (2) Paragraph (1) does not apply to any business which provides hot or cold food for consumption off the premises.
- (3) Subject to paragraph (4), a person responsible for carrying on a business consisting of the provision of holiday accommodation, whether in a hotel, hostel, bed and breakfast accommodation, holiday apartment, home, cottage or bungalow, campsite, caravan park or boarding house, must cease to carry on that business during the emergency period.
- (4) A person referred to in paragraph (3) may continue to carry on their business and keep any premises used in that business open—
- (a) to provide accommodation for any person, who—
 - (i) is unable to return to their main residence;
 - (ii) uses that accommodation as their main residence;
 - (iii) needs accommodation while moving house;

- (iv) needs accommodation to attend a funeral;
 - (b) to provide accommodation or support services for the homeless,
 - (c) to host blood donation sessions, or
 - (d) for any purpose requested by the Secretary of State, or a local authority.
- (5) A person who is responsible for a place of worship must ensure that, during the emergency period, the place of worship is closed, except for uses permitted in paragraph (6).
- (6) A place of worship may be used—
- (a) for funerals,
 - (b) to broadcast an act of worship, whether over the internet or as part of a radio or television broadcast, or
 - (c) to provide essential voluntary services or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency).
- (7) A person who is responsible for a community centre must ensure that, during the emergency period, the community centre is closed except where it is used to provide essential voluntary activities or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency).
- (8) A person who is responsible for a crematorium or burial ground must ensure that, during the emergency period, the crematorium is closed to members of the public, except for funerals or burials.
- (9) If a business referred to in paragraph (1) or (3) (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1) or (3) to cease to carry on its business if it ceases to carry on business A.

Restrictions on movement

- 6.—(1) During the emergency period, no person may leave the place where they are living without reasonable excuse.
- (2) For the purposes of paragraph (1), a reasonable excuse includes the need—
- (a) to obtain basic necessities, including food and medical supplies for those in the same household (including any pets or animals in the household) or for vulnerable persons and supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person, or to obtain money, including from any business listed in Part 3 of Schedule 2;
 - (b) to take exercise either alone or with other members of their household;
 - (c) to seek medical assistance, including to access any of the services referred to in paragraph 37 or 38 of Schedule 2;
 - (d) to provide care or assistance, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006(3), to a vulnerable person, or to provide emergency assistance;
 - (e) to donate blood;
 - (f) to travel for the purposes of work or to provide voluntary or charitable services, where it is not reasonably possible for that person to work, or to provide those services, from the place where they are living;
 - (g) to attend a funeral of—

(3) 2006 c. 47. Sub-paragraph (3B) was substituted, with sub-paragraphs (1), (3) and (3A) to (3E) for sub-paragraphs (1) to (3) by s. 66(2) of the Protection of Freedoms Act 2012 (c. 9).

- (i) a member of the person's household,
- (ii) a close family member, or
- (iii) if no-one within sub-paragraphs (i) or (ii) are attending, a friend;
- (h) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings;
- (i) to access critical public services, including—
 - (i) childcare or educational facilities (where these are still available to a child in relation to whom that person is the parent, or has parental responsibility for, or care of the child);
 - (ii) social services;
 - (iii) services provided by the Department of Work and Pensions;
 - (iv) services provided to victims (such as victims of crime);
- (j) in relation to children who do not live in the same household as their parents, or one of their parents, to continue existing arrangements for access to, and contact between, parents and children, and for the purposes of this paragraph, "parent" includes a person who is not a parent of the child, but who has parental responsibility for, or who has care of, the child;
- (k) in the case of a minister of religion or worship leader, to go to their place of worship;
- (l) to move house where reasonably necessary;
- (m) to avoid injury or illness or to escape a risk of harm.

(3) For the purposes of paragraph (1), the place where a person is living includes the premises where they live together with any garden, yard, passage, stair, garage, outhouse or other appurtenance of such premises.

(4) Paragraph (1) does not apply to any person who is homeless.

Restrictions on gatherings

7. During the emergency period, no person may participate in a gathering in a public place of more than two people except—

- (a) where all the persons in the gathering are members of the same household,
- (b) where the gathering is essential for work purposes,
- (c) to attend a funeral,
- (d) where reasonably necessary—
 - (i) to facilitate a house move,
 - (ii) to provide care or assistance to a vulnerable person, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006,
 - (iii) to provide emergency assistance, or
 - (iv) to participate in legal proceedings or fulfil a legal obligation.

Enforcement of requirement

8.—(1) A relevant person may take such action as is necessary to enforce any requirement imposed by regulation 4, 5 or 7.

(2) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—

- (a) the person is contravening a requirement in regulation 4 or 5, and
 - (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.
- (3) Where a relevant person considers that a person is outside the place where they are living in contravention of regulation 6(1), the relevant person may—
- (a) direct that person to return to the place where they are living, or
 - (b) remove that person to the place where they are living.
- (4) A relevant person exercising the power in paragraph (3)(b) to remove a person to the place where they are living, may use reasonable force, if necessary, in the exercise of the power.
- (5) Where the person outside the place where they are living without reasonable excuse is a child accompanied by an individual who has responsibility for the child—
- (a) the relevant person may direct that individual to take the child to the place where they are living, and
 - (b) that individual must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by the relevant person to the child.
- (6) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with the restriction in regulation 6(1), the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that restriction.
- (7) For the purposes of this regulation, an individual has responsibility for a child if the individual—
- (a) has custody or charge of the child for the time being, or
 - (b) has parental responsibility for the child (within the meaning of the Children Act 1989(4)).
- (8) A relevant person may only exercise the power in paragraph (3), (5) or (6) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.
- (9) Where a relevant person considers that three or more people are gathered together in contravention of regulation 7, the relevant person may—
- (a) direct the gathering to disperse;
 - (b) direct any person in the gathering to return to the place where they are living;
 - (c) remove any person in the gathering to the place where they are living.
- (10) Paragraphs (4), (5), (6), (7) and (8) of this regulation apply to the exercise of a power under paragraph (9), as they apply to the exercise of a power under paragraph (3).
- (11) A relevant person exercising a power under paragraph (3), (5), (6) or (9) may give the person concerned any reasonable instructions they consider to be necessary.
- (12) For the purposes of this regulation—
- (a) a “relevant person” means—
 - (i) a constable,
 - (ii) a police community support officer,
 - (iii) subject to paragraph (13), a person designated by a local authority for the purposes of this regulation, or
 - (iv) a person designated by the Secretary of State for the purposes of this regulation;

(4) 1989 c. 41. The term is defined in s. 3.

(b) references to a requirement include references to a restriction.

(13) A local authority may only designate a person for the purposes of this regulation in relation to a requirement in regulation 4 or 5.

Offences and penalties

9.—(1) A person who—

- (a) without reasonable excuse contravenes a requirement in regulation 4, 5, 7 or 8, or
- (b) contravenes a requirement in regulation 6,

commits an offence.

(2) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(3) A person who, without reasonable excuse, contravenes a direction given under regulation 8, or fails to comply with a reasonable instruction or a prohibition notice given by a relevant person under regulation 8, commits an offence.

(4) An offence under this regulation is punishable on summary conviction by a fine.

(5) If an offence under this regulation committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer of the body, or
- (b) to be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) is guilty of the offence and liable to be prosecuted and proceeded against and punished accordingly.

(6) In paragraph (5), “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(7) Section 24 of the Police and Criminal Evidence Act 1984⁽⁵⁾ applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—

- (a) to maintain public health;
- (b) to maintain public order.

(8) For the purposes of this regulation, references to a requirement include references to a restriction.

Fixed penalty notices

10.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes—

- (a) has committed an offence under these Regulations;
- (b) is over the age of 18.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.

(3) The local authority specified in the notice must be the local authority (or as the case may be, any of the local authorities) in whose area the offence is alleged to have been committed (“the relevant local authority”).

(4) Where a person is issued with a notice under this regulation in respect of an offence—

(5) 1984 c. 60. Section 24 was substituted by s. 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (5) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
 - (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence;
 - (c) specify the amount of the fixed penalty;
 - (d) state the name and address of the person to whom the fixed penalty may be paid;
 - (e) specify permissible methods of payment.
- (6) The amount specified under paragraph (5)(c) must, subject to paragraph (7), be £60.
- (7) (a) Unless sub-paragraph (b) applies, a fixed penalty notice must specify that if £30 is paid before the end of the period of 14 days following the date of the notice that is the amount of the fixed penalty;
- (b) if the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—
 - (i) sub-paragraph (a) does not apply, and
 - (ii) the amount specified as the fixed penalty is to be—
 - (aa) in the case of the second fixed penalty notice received, £120;
 - (bb) in the case of the third and subsequent fixed penalty notice received, double the amount specified in the last fixed penalty notice received by that person, to a maximum of £960.
- (8) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter is sent as mentioned in paragraph (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) In any proceedings, a certificate—
- (a) that purports to be signed by or on behalf of the chief finance officer of the local authority concerned, and
 - (b) states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,
- is evidence of the facts stated.
- (11) In this regulation—
- (a) “authorised person” means—
 - (i) a constable;
 - (ii) a police community support officer;
 - (iii) a person designated by the Secretary of State for the purposes of this regulation;
 - (iv) subject to paragraph (12), a person designated by the relevant local authority for the purposes of this regulation;
 - (b) a “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

(12) The relevant local authority may only designate a person for the purposes of this regulation to issue fixed penalty notices where the alleged offence relates to the contravention of a requirement or restriction in regulation 4 or 5.

Prosecutions

11. Proceedings for an offence under these Regulations may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.

Expiry

12.—(1) These Regulations expire at the end of the period of six months beginning with the day on which they come into force.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

At 1:00 p.m. on 26th March 2020

Matt Hancock
Secretary of State for Health
Department for Health and Social Care

SCHEDULE 1

Regulation 1

Underlying Medical Conditions

1. Chronic (long-term) respiratory diseases, such as asthma, chronic obstructive pulmonary disease, emphysema or bronchitis.
2. Chronic heart disease, such as heart failure.
3. Chronic kidney disease.
4. Chronic liver disease, such as hepatitis.
5. Chronic neurological conditions, such as Parkinson's disease, motor neurone disease, multiple sclerosis, a learning disability or cerebral palsy.
6. Diabetes.
7. Problems with the spleen, such as sickle cell disease or removal of the spleen.
8. A weakened immune system as the result of conditions such as HIV and AIDS, or medicines such as steroid tablets or chemotherapy.
9. Being seriously overweight, with a body mass index of 40 or above.

SCHEDULE 2

Regulations 4 and 5

Businesses subject to restrictions or closure

PART 1

1. Restaurants, including restaurants and dining rooms in hotels or members' clubs.
- 2.—(1) Cafes, including workplace canteens (subject to sub-paragraph (2)), but not including—
 - (a) cafes or canteens at a hospital, care home or school;
 - (b) canteens at a prison or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;
 - (c) services providing food or drink to the homeless.(2) Workplace canteens may remain open where there is no practical alternative for staff at that workplace to obtain food.
3. Bars, including bars in hotels or members' clubs.
4. Public houses.

PART 2

5. Cinemas.
6. Theatres.
7. Nightclubs.
8. Bingo halls.

9. Concert halls.
10. Museums and galleries.
11. Casinos.
12. Betting shops.
13. Spas.
14. Nail, beauty, hair salons and barbers.
15. Massage parlours.
16. Tattoo and piercing parlours.
17. Skating rinks.
18. Indoor fitness studios, gyms, swimming pools, bowling alleys, amusement arcades or soft play areas or other indoor leisure centres or facilities.
19. Funfairs (whether outdoors or indoors).
20. Playgrounds, sports courts and outdoor gyms.
21. Outdoor markets (except for stalls selling food).
22. Car showrooms.
23. Auction Houses.

PART 3

24. Food retailers, including food markets, supermarkets, convenience stores and corner shops.
25. Off licenses and licensed shops selling alcohol (including breweries).
26. Pharmacies (including non-dispensing pharmacies) and chemists.
27. Newsagents.
28. Homeware, building supplies and hardware stores.
29. Petrol stations.
30. Car repair and MOT services.
31. Bicycle shops.
32. Taxi or vehicle hire businesses.
33. Banks, building societies, credit unions, short term loan providers and cash points.
34. Post offices.
35. Funeral directors.
36. Laundrettes and dry cleaners.
37. Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services, including services relating to mental health.
38. Veterinary surgeons and pet shops.
39. Agricultural supplies shop.

Status: This is the original version (as it was originally made).

40. Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this Part.

41. Car parks.

42. Public toilets.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the closure of businesses selling food or drink for consumption on the premises, and businesses listed in Part 2 of Schedule 2, to protect against the risks to public health arising from coronavirus, except for limited permitted uses. Restrictions are imposed on businesses listed in Part 3 of Schedule 2, which are permitted to remain open. The Regulations also prohibit anyone leaving the place where they live without reasonable excuse, and ban public gatherings of more than two people. The closures and restrictions last until they are terminated by a direction given by the Secretary of State.

The need for these restrictions must be reviewed by the Secretary of State every 21 days, with the first review taking place by 15th April 2020.

No impact assessment has been prepared for these Regulations.

**The Health Protection (Coronavirus, Restrictions) Regulations 2020
(SI. 2020: No.350)****PROHIBITION NOTICE****Part A**

To: Shadeq Mannan

At: India Cottage, 35 Christchurch Road, Ringwood, BH24 1DG

Of: India Cottage, 35 Christchurch Road, Ringwood, BH24 1DG

Trading as: India Cottage

This Prohibition Notice is served under Regulation 8(2) of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (the Regulations) and has immediate effect.

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, Ben Stockley, designated as a relevant person for the purposes of the Regulations by New Forest District Council, have reasonable grounds for believing that you are contravening / have contravened a requirement in the Regulations as set out in Part B below and that it is necessary and proportionate to issue this Prohibition Notice to prevent continued contravention of the requirement.

Part B. Contravention of the restrictions

During a visit to India Cottage, 35 Christchurch Road, Ringwood at 19.15 on 25 April 2020, by PC Swallow and PC Hawley of Hampshire Police it was observed that the premises was being used for the sale and service of drinks for consumption on the premises to customers awaiting takeaway food. This was confirmed to the police officers by the proprietor of the premise Mr Shadeq Mannan who was on site at the time. In addition, CCTV footage for the premises along with Mr Mannan's description of the events portrayed demonstrated to the police officers' satisfaction that that customers were also sold drinks for consumption on the premises on the 23 and 24 April 2020.

I therefore have reasonable belief that there has been a contravention of Regulation 4(1) of the Public Health (Coronavirus, Restrictions) (England) Regulations 2020 which states that a person responsible for carrying on a business which is listed in Part 1 of Schedule 2 must cease selling food or drink for consumption its premises.

Part C: Action Required

This Prohibition Notice requires that you immediately cease the activities giving rise to contravention of the Regulations. The activities must not resume before the end of the

emergency period¹. The measures specified below must be taken to prevent continued contravention of the Regulations:

- Close the premises, or part(s) of the premises, in which food or drink are sold for consumption on the premises; and
- Cease selling food or drink for consumption on the premises

Part D. Consequences of non-compliance

Failure to comply with this Prohibition Notice, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Part E. Challenging this Prohibition Notice

There is no statutory right to appeal against this Prohibition Notice.


If you consider that the Notice should not have been issued or that the actions required of you are unreasonable or unjust, you can make representations to New Forest District Council in writing outlining your reasons for challenging the Notice, within [*insert number of days*] of the date on this Notice.

Your challenge will be processed in accordance with New Forest District Council's Complaint Procedure: <http://newforest.gov.uk/complaints>

Alternatively, you may challenge this Notice by way of Judicial Review. Should you wish to pursue this option, you may wish to consult a lawyer to obtain independent legal advice.

This Notice remains in force even if you have raised a challenge.

Should the local authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.

Signed:.....Relevant Person

Name: BEN STOCKLEY, FOOD AND SAFETY TEAM MANAGER

Date: 1 May 2020

Address: New Forest District Council, Environmental Health, Appletree Court, Beaulieu Road, Lyndhurst, Hants, SO43 7PA, Tel: 023 8028 5230, eho.office@nfdc.gov.uk

Please read the following notes carefully. If you are not sure of your rights or the implications of this notice, you may wish to seek independent legal advice.

¹The Secretary of State will publish a direction terminating the emergency period as soon as they consider the restrictions or requirements set out in the Regulations are no longer necessary

NOTES

The Public Health (Coronavirus, Restrictions) (England) Regulations 2020 can be viewed by following the link: <http://www.legislation.gov.uk/uksi/2020/350/made>

The Food and Safety Privacy Notice can be viewed by following the link: <http://newforest.gov.uk/article/18318/Privacy-Notice-Food-and-Safety>.

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Jane Bosworth

From: Christa Ferguson
Sent: 07 May 2020 13:58
To: SHAD MANNAN
Cc: Peter Donelan; Ben Stockley; Joanne McClay; Sarah Herringshaw; Licensing & Alcohol Harm Reduction Team Mailbox
Subject: India Cottage

Good afternoon Mr Mannan

Following your call to a Licensing Officer earlier today you seem to be unclear as to the arrangements and legislation that applies to all businesses at this current time. I do realise that these are difficult times for businesses and whilst there is scope for creativity, the law must be complied with at all times, unless secondary legislation is provided to amend the Licensing Act in part. Therefore as the Compliance officer has already discussed the legal operating requirements of your business under the current legislation with regard to Government instruction I have clarified the situation for your premises below.

As you have already been served with a Prohibition Notice by NFDC following a visit by Hampshire Licensing Police, I hope that this further clarification assists and ensures that you follow the legal requirements to prevent any further action being taken by authorities.

I believe that you referred to some sort of "relaxation" which you have seen, however I think you may be referring to the planning arrangements which will allow some businesses to provide a takeaway service. The link to the Gov.uk website is here

<https://www.gov.uk/government/news/government-to-grant-permission-for-pubs-and-restaurants-to-operate-as-takeaways-as-part-of-coronavirus-response>

But, as you can see, it does refer to alcohol sales as follows:-

"The measures will apply to hot food and drinks. Serving of alcoholic drinks will continue to be subject to existing licensing laws."

As the premises licence for India Cottage does not permit the sale of alcohol for consumption OFF the premises, customers may NOT purchase alcohol with their takeaway.

In addition, conditions placed on the licence at the hearing in February also preclude Off sales of alcohol, namely

"15. Alcohol must not be removed from the premises by customers". And

"18. Alcohol shall not be sold or supplied on the premises otherwise to persons taking table meals and for consumption by such a person as ancillary to their meal".

Although the licence permits Late Night refreshment up to midnight this is only for INSIDE, as condition 23 states *" All licensable activities must cease at 23:00 hours in the outdoor area of the premises....."* (Garden and huts).

In other words customers are only permitted inside the premises after 23.00, so they are not permitted to wait for the service of takeaway food in the outside area (as this is when the transaction takes place, not when it is paid over the phone).

You can of course deliver/provide a takeaway service all day before 23:00.

But between 23:00 to midnight, hot food may only be provided by way of delivery, or if customers wait inside to collect the takeaway, maintaining social distancing at all times. No alcoholic drink sales at all.

With regard to submitting a TEN to allow off sales the latest guidance from the Police is that TENs should not be submitted at this time and that if they do receive an application it is likely to receive an objection by the Police and in view of the recent hearing in February, any extension of licensable activities may also result in an objection by the Environmental Health Department.

I hope that this email provides the clarification as requested.

Regards

Christa Ferguson

Christa Ferguson

Licensing Manager

New Forest District Council

Tel: **023 8028 5588**

Christa.Ferguson@nfdc.gov.uk

newforest.gov.uk



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