



## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date:** Monday 17th March 2014

**Subject:** Review of the Premises Licence for Miah's Restaurant, 3 York Place, Leeds, LS1 2DR

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	City & Hunslet	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	None	

## Executive Summary

This report informs Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by Leeds City Council's Health & Environmental Action Service in respect of Miah's Restaurant, 3 York Place, Leeds, LS1 2DR. The Licensing Authority is now under a duty to review the premises licence held by these premises.

### 1.0 Purpose of this Report

1.1 This report provides Members with the background and history to the making of the review application made by the Health & Environmental Action Service (**Appendix A**). The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"), and informs members of the options available to them when reviewing a premises licence.

### 2.0 Background Information

2.1 These premises benefit from a premises licence that was granted during the transitional period as a conversion of the existing Justices' Restaurant Licence on 24<sup>th</sup> November 2005.

- 2.2 An application was received on the 12<sup>th</sup> April 2010 to transfer the premises licence from the initial holder. On the 27<sup>th</sup> April 2012 a further transfer application was made to transfer the premises licence in to the name of the current licence holder; Mr Mohammed Miah.
- 2.3 An application was also made at the same time specify a new DPS as detailed at 4.1 of this report.
- 2.4 Both of these applications were served on West Yorkshire Police as the sole Responsible Authority. No representation was made to either application and the licence was granted as requested with immediate effect.

### **3.0 Premises Licence**

- 3.1 The premises licence holder is Mr Mohammed Miah.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:
- 3.2.1 Sale by Retail of Alcohol (for consumption on the premises only)
- |                    |                         |
|--------------------|-------------------------|
| Monday to Saturday | 10:00 until 00:00 hours |
| Sunday             | 12:00 until 23:00 hours |
- 3.2.2 Performance of Recorded Music
- |                  |                         |
|------------------|-------------------------|
| Monday to Sunday | 00:00 until 23:59 hours |
|------------------|-------------------------|

### **4.0 Designated Premises Supervisor**

- 4.1 The Designated Premises Supervisor for the premises is Zaheer Dean.

### **5.0 Location**

- 5.1 A map which identifies the location of the premises is attached at **Appendix C**.

### **6.0 Main Issues**

- 6.1 The grounds for this review centre principally on the continual criminal behaviour by large amounts of food and other waste being illegally deposited on the public Highway.
- 6.2 The business owner has failed to make contact with the authority seeking the review and the court services, despite being summoned to attend Leeds Magistrates' Courts for continually breaking the law.
- 6.3 The health issues associated with uncontained and flytipped waste are obvious and the vermin and odours produced are preventable by adopting the same method of other businesses in the area.
- 6.4 The lack of assistance, co-operation and total disregard for disposing of trade waste lawfully is having an impact on businesses in the vicinity, some of which are food led and comply fully with the lawful requirements.

6.5 In addition to the review application, Health & Environmental Action Service have provided supplementary evidence which is attached at **Appendix D** for Member's consideration. This includes witness statements of Liaison & Enforcement Officers, photographs showing the extent of dumped rubbish, abatement notices served on the licence holder and warning letters that have been sent to the premises.

## **7.0 Relevant Representations/Letters of Support**

7.1 Under the Act representations/support can be received from responsible authorities and or other persons. Representations must be relevant and, in the case of other people, must not be frivolous or vexatious.

7.2 In this instance, no additional representation or support has been expressed to this application.

## **8.0 Matters Relevant to the Application**

8.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

8.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act. A copy of the relevant section is attached at **Appendix E**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear.

## **9.0 Implications for Council Policy and Government**

9.1 It is the stated licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 13.15 of the policy with particular seriousness.

## **10.0 Legal and Resource Implications**

10.1 There are no resource implications in determining the review.

10.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

## **11.0 Recommendations**

11.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
- exclude any licensable activities to which the application relates;
- to remove the Designated Premises Supervisor;
- to suspend the licence for a period not exceeding 3 months; and/or

- to revoke the licence.

- 11.2 Members may decide that no action is necessary and that the circumstance of the review does not require the Committee to take any steps to promote the licensing objectives.
- 11.3 Members should note the guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.
- 11.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 11.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must be appropriate for the promotion of the licensing objectives.

## **12.0 Background Papers**

- 12.1 Guidance issued under s182 Licensing Act 2003  
12.2 Leeds City Council Statement of Licensing Policy

## **Appendices**

- |            |                                |
|------------|--------------------------------|
| Appendix A | Review application             |
| Appendix B | Premises Licence               |
| Appendix C | Premises Location              |
| Appendix D | Supplementary Information      |
| Appendix E | Extract from the S182 Guidance |