



Home Office

Premises Licence Review

Jade Garden
43 High Street
Chatham
Kent
ME4 4EN

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Case Summary

On 10 December 2023, the South East ICE team visited Jade Garden, 43 High Street, Chatham Kent ME4 4EN, after intelligence was received that the owners of the business were employing illegal workers. Entry was gained to the premises at 17:20hrs under Section 179 of the Licensing Act 2003.

Officers encountered a total of 6 persons within the premises of which 5 were immigration offenders.

A referral has been made to the Civil Penalty Compliance Team in relation to the illegal working

Licensed Premises History

The premises license number is **Medway-05-PREM-0111** and is held by:

Mrs Xueyan Chen
43 High Street
Chatham
Medway
ME4 4EN

and

Mr Shunxin Ke
26 St Dunstons Street
Canterbury
Kent
CT2 8BT

The company registration number is 13793099. Companies House show that it was incorporated on 10 December 2021, is currently active under the name MEEN JADE LIMITED and Shunxin Ke was appointed director on 10 December 2021. There was also a trace on Companies House for a company called JADE GARDEN (CHATHAM) LIMITED and the registration number for this company is 13412526 this company is showing as incorporated on 20 May 2021 and was dissolved on 07 November 2023, this company as registered at 114 Colindale Avenue, Colindale, London, United Kingdom, NW9 5GX. The listed director for this company was Miao Ling CHU who was appointed on the 20 May 2021. CHU is listed on the Premises licence of Jade Garden as the designated premises supervisor where the premises licence authorises the supply of alcohol.

Licensable activities authorized by the license; sale of retail of alcohol and late night refreshment (on and off premises).

Sale of Retail of Alcohol

Monday to Saturday 10:00 to 00:00 and Sunday 12:00 to 23:30.

Seasonal Times:- Good Friday and Christmas Day 12:00 to 23:30. Non Standard Times: New Years Eve 10:00 (12:00 if it falls on Sunday) to end of hours on New Years Day.

Late Night Refreshment

Monday to Saturday 23:00 to 00:30 and Sunday 23:00 to 00:00.

Monday to Saturday 10:00 to 00:30 and Sunday 12:00 to 00:00.

Seasonal & Non Standard Times: Opening hours will end 30 minutes after the times and occasions listed.

The premises may open outside authorised hours for non-licensable activities subject to planning or other legislation.

Enforcement Visit dated: 10 December 2023

Entry was gained to the premises at 17:10. Upon entering, immigration officers encountered the following individuals:

██████████

██████████ was encountered whilst cooking in the kitchen area and packing food for customers. As immigration officers entered ██████████ presented an adverse reaction by running to the back of the kitchen and informing other staff members to run. The individual was seen working in the kitchen and appeared very nervous. ██████████ initially showed officers a photograph on her phone of asylum docs claiming she had an outstanding asylum claim, but subsequently deleted these images. ██████████ had actually produced images of a third party's asylum claim in an attempt to deceive officers.

Home Office records indicate that ██████████ was granted a visit visa valid from June 2023 to June 2025 with no work permitted. When initially questioned by immigration officers ██████████ stated that she came to the UK to earn money despite acknowledging she was not allowed to work in the UK.

██████████ claimed that she was not working but helping in the kitchen for the last month. She stated that her duties include cooking, cleaning, packing bags for customer and helping out. ██████████ confirmed that she helps out once or twice a week or when it was busy with no set times or days. She claims not to receive money but 'helps' in exchange for food and accommodation. ██████████ confirmed that no right to work checks were conducted and the employer is aware that she is not allowed to work in the UK. ██████████ was arrested as a worker in breach. This is a breach of Paragraphs 321(i)/323(3) of the Immigration rules for breach of conditions and had therefore committed an offence under Section 24(1)(b)(ii) of the 1971 Act (as amended).

██████████

██████████ was encountered at the front of the property and observed taking orders from a customer. ██████████ claimed she is not working at the premises but helps in exchange for free accommodation. ██████████ stated she has been at the premises for approximately 3 weeks and covers Friday, Saturday and Sundays. Her role is passing orders to the kitchen. She claims '██████████' gave her the position. She had a return flight booked for 25 December 2023.

Home Office checks revealed that ██████████ last entered the UK prior to the enforcement visit as a non-visa national visitor in September 2023. This does not permit ██████████ the right to work in the UK. ██████████ also showed immigration officers a flight ticket that was booked for herself and her family to leave the UK on 25 December 2023.

Subsequent to this, further checks on Home Office systems show that ██████████ has been entering and leaving the UK using visa-free travel on a regular basis since 2019 (as a Malaysian national), the last time ██████████ entered the UK was on the 28 December 2024 which was just 3 days after leaving the UK.

It is considered ██████████ is abusing visa-free travel in order to live and work illegally in the UK. It is considered that ██████████ is not a genuine visitor and was working in breach of the restrictions placed on visitors.

██████████

██████████ was encountered by immigration officers in the kitchen area. Initially ██████████ claimed that he was just visiting and later stated that he was helping out at the premises in return for food. Home Office records show that ██████████ has an outstanding application, and his bail conditions do not permit him to work in the UK.

██████████ stated to officers that he helps at the premises sometimes by packing food and cleaning. ██████████ also stated he worked at another premises managed by the same person who manages Jade Garden. He went on to explain that the 'boss' had seen his passport and bail form. Therefore it is considered that ██████████ was employed knowing that he had no right to work.

██████████

██████████ was seen attempting to leave via the rear of the kitchen upon entry of immigration officers. The officers noticed that ██████████ had food stains on his shoes and clothing. Home Office records show that ██████████ has an outstanding application, and his bail conditions do not permit him to work in the UK.

██████████ maintained that he did not work at the premises throughout his interview despite wearing food stained clothing and front house of staff confirming that he worked at the premises. ██████████ claimed he lives in the accommodation upstairs and came down to cook for himself.

Although ██████████ denied working at the premises it is considered that he attempted to deceive immigration officers as he was wearing food stained clothing, displayed an adverse reaction to the presence of immigration officers and front of house staff confirmed that he worked in the kitchen.

██████████

██████████ was seen attempting to leave via the rear of the kitchen upon entry of immigration officers. ██████████ claimed that he entered the UK in 2003 using fraudulent documents and had not submitted any applications to regularise his stay in the UK.

██████████ admitted he had been working at the premises for three weeks. He works 3 days per week, 10 hours per day. His duties include cooking, cleaning and any task that needs completing. He confirmed that he was paid £600 in cash every two weeks.

Reasons for Review

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

There were five illegal workers encountered at the premises on this occasion. This represents over 80% of the workforce.

It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. In this case, two employees had outstanding claims. Claimants are issued Application Registration Cards (ARC), these cards clearly state the holder's employment restrictions. The license holder could have easily avoided employing a worker illegally by abiding by the restrictions on the card. It is considered that in this case the license holder has failed to conduct any type of Right to Work checks on the illegal workers outlined above.



Example of an ARC card where work is not permitted.

Whether by negligence or wilful blindness, illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person can work. All employers are dutybound by law to conduct these checks, and guidance can be found on the GOV.UK website or by using a search engine. Additional information on how to conduct these checks is available online, this includes the Home Office's official YouTube page. The information is readily available; however, the license holder has deliberately overlooked the rules and laws in place to prevent crime and disorder.

3 workers had claimed they were "helping out", however officers witnessed them carrying out duties consistent with working at the premises. It is considered that their claims of "helping out" were an attempt to deceive officers. In addition, they stated that their labour was being exchanged for food, this raises additional concerns for modern day slavery and exploitation.

Section 182 guidance at point 11.27 states that certain activity should be treated particularly seriously, and this includes employing someone who is disqualified from that work by reason of their immigration status in the UK. 11.28 of the guidance states that it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Immigration Enforcement submits that for commercial reasons those engaged in the management of the premises employed illegal workers and a warning or other activity falling short of a review is inappropriate; therefore, Immigration Enforcement has proceeded to review.

Outcome Sought

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol or provide certain types of regulated entertainment and late-night refreshment.

There are four licensing objectives which underpin the Act, and which need to be taken into account and promoted throughout the licensing process.

The licensing objectives are:

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

Employing illegal workers in the UK has the following impacts:

- It deprives HMRC and the Government of revenue by non-payment of tax and national insurance.
- It exploits the undocumented worker by paying them less than the minimum wage and provides no employment or income protection.
- It encourages others without permission to work to seek similar work. The ability to work illegally is a key 'pull factor' for illegal migration to the UK. It encourages people to break immigration law and provides a practical means to remain unlawfully in the country. It encourages clandestine means of travel to the UK, such as small boats or lorries.
- Tackling illegal working directly protects the UK economy. Illegal working also has wider economic impacts as it allows unscrupulous employers to undercut competitors who play by the rules, takes job opportunities away from the resident labour force and legal migrants, and drives down wages.
- Illegal workers can find themselves being housed in cramped and unsatisfactory conditions by the employer as part of their working arrangement. Taking the necessary steps to discourage employing illegal workers assists in the prevention of harm and promotion of safeguarding the public.
- Safeguarding the vulnerable: Illegal working has been proven to have links to other forms of exploitation and non-compliance in the workplace where businesses who employ illegal migrants often have scant regard for health and safety rules or the tax and national minimum wage regimes. In the worst cases, migrants can be subjected to labour exploitation and modern-day slavery by organised criminal groups.

Jade Garden under the control of Xueyan Chen and Shunxin Ke has been found employing illegal workers. This business has clearly failed to meet the prevention of crime and disorder objective. The license holders would have been aware of their responsibilities to uphold the licensing objectives as they are clearly defined as part of the premises license application. The license holders would have also received relevant training to understand and uphold the licensing objectives.

Right to work checks should be carried out on all prospective employees prior to their first day, the checks are also irrespective of the length of the engagement or employment contract. Guidance is available online and the Home Office have published "[Right to work checks: an employer's guide](#)" which can be found on the GOV.UK website.

It is clear that significant levels of illegal working have taken place at the premises. As a starting point, this can be remedied by a suite of measures which act as a deterrent to the licence holder and others from employing illegal workers:

- removal of the DPS, and
- conditions added to the license to ensure the compliance and record keeping of right to work checks, and
- a period of suspension to allow the premises time to adjust and improve their practises.

The guidance at 11.27 and 11.28 outlines that employing illegal workers should be treated particularly seriously, which has occurred in this case. In line with this, revocation of the license should be seriously considered.