

Report of: **Jan Hart - Service Director - Public Protection**

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	08 December		Barnsbury

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**SUBJECT:**

**London Local Authorities Act 1994 (As Amended) Section 28 (1)  
Revocation of street trading licence - Non personal trading  
Mr Osman Dursun Licence 14 Chapel Market**

**1. Synopsis**

1.1 To consider the recommendation by the street trading manager to revoke licence 14 issued to Mr Osman Dursun in January 2014.

**2. Recommendations**

2.1 The street trading manager recommends that the licence be revoked.

**3. Background**

3.1 The authority runs all street trading activities in the borough and is responsible for issuing licenses and ensuring that rules and regulations are adhered to. Such rules and regulations are governed by the London Local Authorities Act 1994 (as amended).

3.2 The Act provides that a Council may revoke a street trading licence granted by it if the licence holder has, without reasonable excuse, personally failed fully to avail himself of his licence.

3.3 Mr Osman Dursun has held a licence to trade in Chapel Market for 14 years.

3.4 In February 2014 the licensee contacted the Council to say that he would be out of the country for a couple of months and would return on 24 May 2014, **see Appendix 1**. He subsequently attended council offices to provide details of an assistant who would be trading on his behalf whilst he was away.

3.5 In early July 2014, a routine inspection of public liability insurance records; for all traders licenced with the council, was carried out. It was noticed that the licensee's public liability insurance had lapsed. This prompted the manager to check the registers to see if the licensee had resumed trading. The registers showed that the licensee's assistant was still trading on the pitch. As a result a letter was sent to the licensee, on 8 July 2014, **see Appendix 2**.

3.6 On 20 July 2014 the street trading manager on inspection of the market noticed that the licensee had not resumed trading and the goods being sold on his pitch were a different line to what he used to sell - predominantly costume jewellery instead of the usual silver jewellery. This was pointed out to the assistant who offered no explanation. The assistant was asked to inform the licensee, to make contact with the council as soon as possible. The licensee did not contact the Council as had been requested.

3.7 On 28 August 2014 it was again reported to the street trading manager that the licensee had not provided any proof of insurance. A message was immediately sent out to the licensee's assistant via the Street Trading inspector on duty, to inform him that as the pitch was not insured the Council would be suspending the licence forthwith. The Council received an updated policy bearing the licensee's name

shortly after.

Also on the same day, the street trading manager received a telephone call from another licensee in the market, to inform her that he had invested over £1000 worth of stock on Mr Dursun's business and enquired whether the pitch could be given to him. He was told that the pitch was not vacant and she warned him that if evidence came to light that the pitch in question was being "sublet" he could be prosecuted for breaching the terms of his licence as well as lose his licence for his own pitches. He immediately apologised for any wrong doing.

- 3.8 As the licensee had not returned to trade in Chapel Market and had not contacted the Council to offer any explanation in this regard, a letter was sent to him on 10 November 2014, informing him that his absence would be referred to the Licensing Regulatory Committee with a recommendation that the licence be revoked, see **Appendix 3**. To date, no response has been received.

## **4. Implications**

### **4.1 Financial implications:**

All income generated from fees is charged to the ring-fenced Street Trading account. Where a licence is revoked it can be allocated to another trader and therefore there should be no adverse effect on the street trading account.

### **4.2 Legal Implications:**

The London Local authorities Act 1994 (as amended) provides that a borough Council may revoke a street trading licence granted by them if amongst other things the licence holder:

is an individual who has without reasonable excuse personally failed fully to avail himself of his licence (Section 28 (1) (c)).

If the council considers that the licence could be revoked for this reason they may consider, instead of revoking it to vary its conditions by attaching further conditions –

- (a) reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade; or
- (b) specifying a different licence street or position or place in any such street at which the licence holder may sell or expose or offer for sale articles or things or offer or provide services; or
- (c) restricting the description of articles, things or services in which the licence holder is permitted to trade.

## **5. Conclusion and reasons for recommendations**

- 5.1 In the experience of the Street trading team it is not unusual to find that a licence is maintained by a trader who has lost interest in the site; this may happen if the trader has found alternative employment or for any other personal reasons. Traders have been known to 'sell or 'pass on' their business which results in effectively 'subletting' their pitches.
- 5.2 In this situation it becomes increasingly difficult for the Council to regulate the site and prevent further abuse.
- 5.3 In the past six months the licensee has not been able to convince the Council that the business is still his or that he is still in control of the business operating under this licence. For this reason the Committee is invited to revoke the licence.

### **Appendices**

Appendix 1 Letter from Mr Dursun

Appendix 2 Letter to Mr Dursun dated 8 July 2014

Appendix 3 Letter to Mr Dursun dated 10 November 2014

### **Background papers:**

London Local Authorities Act 1994 as amended

Final report clearance:

Signed by:



Service Director – Public Protection

Date

24/11/14

Received by:

Head of Democratic Services

Date

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