

**Report of: Service Director, Public Protection & Development Management**

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	28 July 2009	B1	Holloway

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## **SUBJECT: LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) SECTION 28 (1) BREACH OF STREET TRADING CONDITIONS**

### **1. Synopsis**

- 1.1 This report relates to the continued breach of the street trading licence conditions by Mr Tony Harris a licensed trader trading from two kiosks, Licence number 740 and 744, located in Holloway Road, N7.

### **2. Recommendation**

- 2.1 To revoke the street trading licences of Mr Tony Harris, licence number 740 and 744.

### **3. Background**

- 3.1 Mr Tony Harris is a licensed street trader who is licensed to sell fruit and vegetables from two kiosks in the Nag's Head Town Centre. The kiosks are considered to be in a prime position located outside the front of Selby Department Store, in Holloway Road N7.
- 3.2 The licence was previously held by his father, who made a request to the Officers' Panel that the licence be transferred due to retirement. The Officers' Panel agreed the request on 7 March 2005, on the grounds that it was Mr Tony Harris running the pitch on a daily basis.
- 3.3 Mr Harris was issued with a Temporary Licence lasting for 6 months. He was also issued with a copy of the Street Trading Conditions.
- 3.4 At this time, Mr Harris originally had only one pitch, Licence number 740. He made several requests to extend the trading area, as he often stored goods and waste outside of the confines of the trading area.

- 3.5 A decision was made to provide Mr Harris with additional space extending his trading area from approximately 3 metres in length to 6 metres in length. This agreement was made as a concession which could be withdrawn at any time.
- 3.6 In April 2005, Mr Harris was invited to attend the Officers' Panel to discuss the forthcoming installation of the kiosks and the Street Trading Conditions, as he was often found to be in breach of his trading conditions. **(See Appendix A)**. At this meeting Mr Harris was informed that the kiosks were being provided to enhance the appearance of the street whilst trading was taking place.
- 3.7 In August 2005, a letter was sent to Mr Harris addressing the fact that he was trading in breach of the Street Trading Conditions. This letter outlined exactly what he had to do to comply with the Street Trading Conditions and that the additional kiosk was a concession, **(See Appendix B)**.
- 3.8 In November 2005, at the time of the renewal of the Temporary Licence, Mr Harris's case was referred to the Officers' Panel for a decision whether to reissue another temporary licence for a period of six months or terminate the licence entirely.
- 3.9 Temporary licences were issued to Mr Harris, up until January 2007, as the Street Trading Section found that he was not completely adhering to the licence conditions. On the 15 January 2007, Mr Harris signed for his full licence, which expired on 31 December 2007. In line with all other licensees located around the borough, Mr Harris was issued with a new licence which will expire on 31 December 2010.
- 3.10 There have been a number of letters addressed to Mr Harris warning him that he may face prosecution if he failed to comply with the Street Trading Conditions. **(See Appendix D -K)**.
- 3.11 On the 7 April 2009, Mr Harris was prosecuted in Highbury Magistrates Court for 6 offences in regards to the breach of the Street Trading Conditions. Mr Harris pleaded guilty to all 6 offences.
- 3.12 Since Mr Harris's appearances in court, he has been reported for further offences. There are two pending cases against him.

## **4. Implications**

### **4.1 Financial implications**

The Street Trading Account should break even each year and any shortfall would be met from compensating savings within this account. The target for income for 2009-10 is set at £625,745.

The current rental for these pitches is £144.00 per week. If the licence was revoked there would be a loss of income for the period of time the site was vacant. The pitch however, is situated in a prime location within the shopping area and will be highly sought after.

### **4.2 Legal implications**

Section 28 (1) of the London Local Authorities Act 1990 (as amended) provides that a borough council may at any time revoke a licence if they are satisfied that:

- (h) that the licence holder has persistently failed to comply with any condition of his/her licence

If a licence is revoked, the trader has a right of appeal to the magistrate's court. Any appeal must be made in writing within 21 days of receiving written notice of the revocation.

### 4.3 Equality impact assessment

An equalities impact assessment (EIA) on this proposal has been carried out. The EIA identified that there would be no differential impacts on different groups in Islington and no negative consequences for community cohesion. This conclusion was drawn because this report is dealing with a particular individual who has breached the street taking conditions and no policy has been changed

## 5. Conclusion and reasons for recommendation

- 5.1 Recommending the revocation of a licence is never taken lightly. The Street Trading Team always seeks ways to resolve issues and works with traders to find solutions prior to referring the case to the Licensing Regulatory Committee. Officers have attempted to resolve the issues outlined in the report over a lengthy period of time with Mr Harris but these efforts have, unfortunately, proved to be unsuccessful.

### Appendices

Appendix A – K , letters addressed to Mr Harris

### Background papers:

Letters and reports kept on file from 1997 to date  
Old Street Trading Conditions  
Current Street Trading Conditions which came in force January 2008  
Equalities Impact Assessment  
London Local Authorities Act 1990 (as amended)

Final report clearance:

### Signed by:

**Received by:** Assistant Director – Public Protection Date

Head of Democratic Services Date

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