



APPENDIX 1

Report of: **Service Director (Public Protection)**

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory	6 October 2009	B2	Bunhill

Delete as appropriate		Non Exempt
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SUBJECT: LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) SECTION 28 (1) BREACH OF STREET TRADING CONDITIONS - MS ORAWAN SORAKITGOSON - LICENCE 541 WHITECROSS STREET MARKET

1. Synopsis

- 1.1 This report relates to the persistent breach of street trading conditions by Ms Orawan Sorakitgosen a licensed trader on pitch 541 in Whitecross Street Market.

2. Recommendation

- 2.1 To agree the revocation of the street trading licence of Ms Orawan Sorakitgosen a licensed trader on pitch 541 in Whitecross Street Market..

3. Background

- 3.1 Ms Sorakitgosen has traded in Whitecross Street Market for a number of years selling hot takeaway food.
- 3.2 All Street Trading licenses are subject to the Street Trading Conditions. A copy of the current Street Trading Conditions is attached as Appendix 1.
- 3.3 Street Trading condition 22 states "The stall and goods are to be removed from your pitch to your nominated storage area, as stated on the application form or agreed in writing by us, within one hour of the cessation of the day's trading (i.e. the time shown on your licence to end trading for that day).
- 3.4 Street Trading condition 23 states "Stalls not removed at the cessation of trading may be removed by us to a place of storage. We will have the right to recover from you any costs incurred by us in removing and storing your stall"

- 3.5 The records held by street trading indicate that over recent years there have been complaints received by the Council of Ms Sorakitgosen leaving her trailer on the public highway overnight in breach of Street Trading Condition 22.
- 3.6 Ms Sorakitgosen was called to an Officer's Panel in December 2008 in relation to this issue. Ms Sorakitgosen informed the panel at that meeting that she would be making arrangements for her trailer to be stored on private land.
- 3.7 In March 2009 the Street Trading Section wrote to Ms Sorakitgosen advising her that they had again received complaints that she was leaving her trailer in Roscoe Street EC1. (Appendix 2).
- 3.8 In May 2009 another letter was sent to Ms Sorakitgosen as further complaints had been received about the trailer being parked in Roscoe Street. (Appendix 3).
- 3.9 On 8 May 2009 the trailer was parked in Roscoe Street after the close of the market and was removed by the Council. (Appendix 4)
- 3.10 In June 2009 another letter was sent to Ms Sorakitgosen advising her that the trailer would be removed if she failed to comply with the Street Trading conditions. (Appendix 5).
- 3.11 Ms Sorakitgosen was invited to attend an Officers Panel on 10 August 2009. At the Panel meeting it was again reiterated that the trailer needed to be removed to a place of storage at the end of the trading day. It was promised that this would be done.
- 3.12 Despite attendance at the Panel on the 10 August the trailer was left in Roscoe Street on 12, 14, 19 and 20 August 2009. (Appendix 6).
- 3.13 On the 28 August 2009 the trailer was removed from the street by the Council. (Appendix 7).
- 3.14 On the 4 September a letter was sent to Ms Sorakitgosen advising her that this matter would now be referred to Licensing Regulatory Committee. (Appendix 8).

4. Implications

4.1 Financial implications

- 4.2 The current rental for this pitch is £65.00 per week. If the licence was revoked there would be a loss to the account of £3380.00 per annum. However with current demand for places Whitecross Street it is likely that this vacancy would be filled quite quickly.

4.3 Legal implications

- 4.4 Section 27(3) of the London Local Authorities Act 1990 (as amended) provides that a borough council may make regulations prescribing standard Conditions, which they may attach to the Licence on the occasion of its grant or renewal.
- 4.5 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:
- (c) the licence holder is an individual who has without reasonable excuse personally failed fully to avail him/herself of his licence
 - (e) that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence he licence holder has persistently failed to comply with any condition of her licence.

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

4.6 In determining each case, the Council should act reasonably taking into account all relevant factors and ignoring all irrelevant factors.

The Human Rights Act 1998 makes it unlawful for the Council to act in a manner incompatible with Convention Rights. Convention Rights include the right to peaceful enjoyment of possessions (a licence has been held to be a person's possession). The licensee has the right to a fair hearing within a reasonable time by an independent and impartial tribunal. The actions of the Committee in attaching a condition to a licence must be based on the principle of proportionality and reasons should be given not only on refusing a licence but also on granting it.

4.7 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

4.8 Equality impact assessment

4.9 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 A recommendation to revoke a licence is never taken lightly. The Street Trading Team always seek to try and resolve issues and always work with traders to find solutions prior to referring the case to Licensing Regulatory Committee. Officers have attempted to resolve the issues outlined in the report over a lengthy period of time with Ms Sorakitgosen but these efforts have, unfortunately, proved to be unsuccessful.

Background papers:

Street Trading Strategy 2008 – 2012
 Letters and reports kept on file from start of licence
 Equalities Impact Assessment
 London Local Authorities Act 1990 (as amended)

Final report clearance:

Signed by:

Assistant Director – Public Protection Date

Received by:

Head of Democratic Services Date

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