

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

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory	14 December 2009	B1	Bunhill

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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 Sorakitguson a licensed trader on pitch 41 in Whitecross Street Market.

## **2. Recommendation**

- 2.1 To agree the revocation of the street trading licence of Ms Orawan Sorakitguson, a licensed trader on pitch 41 in Whitecross Street Market.

## **3. Background**

- 3.1 Ms Sorakitguson was brought before the Licensing Regulatory Committee on 6<sup>th</sup> October 2009 (see report, appendix 1)
- 3.2 The Committee decided not to revoke her licence but to add a condition which stated 'the receptacle to be used for trading in Whitecross Street Market will be a canopy. The condition to take effect within seven days' (see minutes appendix 2).
- 3.3 To date Ms Soragkitguson still trades from a trailer, has not appealed against the decision and has not communicated her reasons for this in any form.
- 3.4 Ms Soragkitguson was written to on 9 November informing her that this case would be returned to the Licensing Regulatory Committee on 14 December 2009 (appendix 3). As she had not contacted the team a courtesy telephone was made to ask if she had received the letter. She confirmed that she had and that she would be attending. A letter confirming this conversation was also sent (see appendix 4).

## **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 If the licence was revoked there would be a loss to the account of £3380.00 per annum.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) (h) 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:

- 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 Sorakitguson 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

Licensing Regulatory Report and Minutes 6 October 2009

Equalities Impact Assessment

London Local Authorities Act 1990 (as amended)

Final report clearance:

**Signed by:**

2<sup>nd</sup> December 2009



Service Director – Public Protection

Date

**Received by:**

Head of Democratic Services

Date

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