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## AGENDA FOR THE LICENSING REGULATORY COMMITTEE

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Members of the Licensing Regulatory Committee are summoned to a meeting which will be held in Committee Room 3 , Town Hall, Upper Street, N1 2UD on, **8 December 2014 at 4.00 pm.**

**John Lynch**  
**Head of Democratic Services**

Enquiries to : Mary Green  
Tel : 020 7527 3005  
E-mail : [democracy@islington.gov.uk](mailto:democracy@islington.gov.uk)  
Despatched : 26 November 2014

### Membership

Councillor Mouna Hamitouche MBE  
(Chair)  
Councillor Marian Spall  
Councillor Kat Fletcher  
Councillor Michelline Safi Ngongo

### Substitute Members

Councillor Alice Perry  
Councillor Paul Smith  
Councillor Robert Khan  
Councillor Claudia Webbe

Quorum: is 3 Councillors

Procedures to be followed at the meeting are attached.



<b>A. FORMAL MATTERS</b>	<b>Page</b>
1. Apologies for absence	
2. Declaration of substitute members	
3. Declarations of interest	

If you have a Disclosable Pecuniary Interest\* in an item of business:

- if it is not yet on the council's register, you must declare both the existence and details of it at the start of the meeting or when it becomes apparent;
- you may choose to declare a Disclosable Pecuniary Interest that is already in the register in the interests of openness and transparency.

In both the above cases, you must leave the room without participating in discussion of the item.

If you have a personal interest in an item of business and you intend to speak on the item you must declare both the existence and details of it at the start of the meeting or when it becomes apparent but you may participate in the discussion and vote on the item.

\*(a) Employment, etc - Any employment, office, trade, profession or vocation carried on for profit or gain.

(b) Sponsorship - Any payment or other financial benefit in respect of your expenses in carrying out duties as a member, or of your election; including from a trade union.

(c) Contracts - Any current contract for goods, services or works, between you or your partner (or a body in which one of you has a beneficial interest) and the council.

(d) Land - Any beneficial interest in land which is within the council's area.

(e) Licences- Any licence to occupy land in the council's area for a month or longer.

(f) Corporate tenancies - Any tenancy between the council and a body in which you or your partner have a beneficial interest.

(g) Securities - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

This applies to all members present at the meeting.

4. Procedure for the meeting - this is attached	1 - 2
5. Minutes of the meeting held on 2 September 2014	3 - 6
<b>B. LICENSING MATTERS</b>	<b>Page</b>
1. Application to vary a condition attached to a Street Trading Licence - Whitecross Street Market	7 - 12
2. Proposed revocation of Street Trading Licence - Chapel Market	13 - 18

3. Proposed revocation of Street Trading Licence - Eburne Road, N7 19 - 24

**C. Urgent non-exempt/non-confidential matters Page**

Any non-exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.

**D. Exclusion of public and press Page**

To consider whether, in view of the nature of the remaining items on the agenda, any of them are likely to involve the disclosure of exempt or confidential information within the terms of Schedule 12A of the Local Government Act 1972 and, if so, whether to exclude the press and public during discussion thereof.

**E. Exempt/confidential matters (if any) Page**

1. Proposed revocation of a Street Trading Licence - Eburne Road, N7 - exempt appendix 25 - 26

**F. Urgent exempt/confidential matters**

Any exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.

The next ordinary meeting of the Committee is scheduled for 3 March 2015

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## LICENSING REGULATORY COMMITTEE

### PROCEDURE FOR THE HEARING OF OBJECTIONS TO STREET TRADING, TRACK BETTING, AND SPECIAL TREATMENT LICENCES

1. The Chair of the Licensing Regulatory Committee shall:
  - (a) invite all members of the Committee, the applicant, the objector, their representatives and any witnesses and officers to introduce themselves
  - (b) ascertain whether the applicant and objector(s) are present and, if unaccompanied, whether they were aware that they could be represented
  - (c) outline the procedure to be followed at the meeting
2. The Service Director (Public Protection) or his/her representative, will introduce the application.
3. (a) Council officer reports on noise and other matters  
(b) Questions to officers from objectors and applicants
4. The applicant or his/her representative will present in detail the grounds of the application.
5. Objectors and members of the Committee may ask questions only of the applicant at this stage. Statements will not be allowed.
6. The objector(s) or his/her representative(s) will present in detail the grounds of the objection and may call witnesses in support of the objection.
7. The objector(s) and any witnesses may be called be questioned by members of the Committee, the applicant or his/her representative(s) and appropriate officers of the Council. Statements will not be allowed. Witnesses called by the objector(s) may be re-examined by the objector(s) or his/her representative on matters arising from those questions.
8. A Ward councillor may be present at the meeting and may make a statement to the Committee regarding the application, if the required notice has been given.
9. The objector(s) or his/her representative may then make a closing speech.
10. The applicant or his/her representative may then make a closing speech.
11. Members of the Committee may withdraw from the room to consider their decision. The Council's legal adviser and the clerk will accompany Members, in case legal or procedural advice is required.
12. The Licensing Officers, objectors(s), applicant, any representative(s) and witnesses will remain available for recall.
13. If it is necessary to recall any party to provide further information or clarification, all parties at the meeting will be invited to return.
14. At the conclusion of the public hearing, the Committee will consider the evidence presented and the Chair will announce the decision, together with any conditions deemed fit to apply to the application. Reasons will be given for the decision and any conditions imposed on the licence.  
  
This will be confirmed in writing to the applicant and objector(s), or to their legal representative, accompanied by a description of any conditions which are to be attached to the granting of the licence, or the reasons for the refusal of the application. The applicant will be told of any statutory rights of appeal which are available to him/her.

NB - These procedures may be waived, altered or modified by the Chair of the Licensing Regulatory Committee

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# Agenda Item 5

London Borough of Islington

## Licensing Regulatory Committee - 2 September 2014

Non-confidential minutes of the meeting of the Licensing Regulatory Committee held at the Town Hall, Upper Street, N1 2UD on 2 September 2014 at 4.00 pm.

**Present:**           **Councillors:**           Hamitouche (Chair), Spall and Fletcher

### Councillor Mouna Hamitouche MBE in the Chair

**1           APOLOGIES FOR ABSENCE (Item 1)**

Apologies were received from Councillor Safi Ngongo.

**2           DECLARATION OF SUBSTITUTE MEMBERS (Item 2)**

There were no declarations of substitutes.

**3           DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**4           ELECTION OF A VICE-CHAIR OF THE COMMITTEE (Item 4)**

Councillor Spall was nominated as Vice-Chair, this was seconded by Councillor Fletcher and carried unanimously by the Committee.

**RESOLVED:**

That Councillor Marian Spall be appointed as Vice-Chair of the Committee for the year 2014/15, or until a successor is appointed.

**5           MINUTES OF THE PREVIOUS MEETING (Item 6)**

**RESOLVED:**

That the minutes of the previous meeting on 13 March 2014 be confirmed as a correct record and the Chair be authorised to sign them.

**6           MEMBERSHIP, TERMS OF REFERENCE AND DATES OF MEETINGS OF THE LICENSING REGULATORY COMMITTEE 2014/15 (Item 7)**

**RESOLVED:**

That the membership appointed by Council on 12 and 26 June 2014, terms of reference and dates of meetings of the Licensing Regulatory Committee for the municipal year 2014/15, as set out at Appendix A, be noted.

**7           APPLICATION FOR A VARIATION OF A STREET TRADING LICENCE - WHITECROSS STREET, EC1 (Item 1)**

The Committee noted that the applicant, Mr Peter Holmes, was present. They further noted that the objector was not present but had submitted a statement, copies of which had been circulated to the Committee and the applicant.

The Street Trading Service Manager reported the general background to the case. There had been an agreement in place for the applicant to start setting up at 7:30am but following

representations from the objector this had been pushed back to the original time of 8:00am. Eight traders, all selling food, had previously been granted licences to begin setting up at 7:00am.

The applicant, Mr Holmes, stated that many other traders prepared their food off site or had access to restaurant kitchens for preparation where as they had to prepare all of their stock on site. The Committee noted that the stall had been monitored several times and noise from clattering of trays had been noted on one of these. The applicant and his staff had been advised of the issue and no nuisance had been recorded by the Noise Team since that incident. The applicant reported that there were a number of other businesses who were on site earlier than the requested start time including a coffee shop under the objector's flat and a milk float that made a round early in the morning. The applicant had been trading from that site for nearly three years but complaints had only started in 2013. The applicant circulated a petition in support of his application. He noted that the signatories were clear that any early set up at the weekend would be unacceptable but they were happy to support 7:00am set up Monday to Friday.

The Street Trading Service Manager reported that on balance 7:00am was considered to be a reasonable set up time in an inner London area but would urge that the applicant be reminded to keep noise to a minimum as it was a residential area.

The applicant stated that he was on site almost every day and would ensure his staff were told that all noise must be kept to a minimum.

**RESOLVED:**

That the application from Mr Peter Holmes for a variation of his street trading licence be approved.

**Reason for decision**

The Committee considered all of the written and oral evidence.

Having considered Mr Bursey's representations, the Committee felt that because of the nature of the business and the preparation time involved, the variation to setting up times to 7.00am was not unreasonable in order for the licence holder not to breach the general conditions of the licence in respect of setting up times in Whitecross Market.

The Committee was keen to see Whitecross Street Market continue to flourish but must balance the rights of nearby residents not to have to put up with noise in the early hours, with those of the street traders to earn their living and would encourage the applicant to keep noise levels to a minimum. The application for a 7:00am set up time Monday to Friday was considered reasonable for the preparation of fresh food

**8 APPLICATION FOR A VARIATION OF A STREET TRADING LICENCE - WHITECROSS STREET, EC1 (Item 2)**

The Committee noted that the applicant, Ms Bogna McAndrew, was present. They further noted that there had been no objections to the application.

The Street Trading Service Manager reported the general background to the case. Eight traders, all selling food, had previously been granted licences to begin setting up at 7:00am. The Committee noted that the Street Trading Team had no issues at all with the operation of the business.



## Licensing Regulatory Committee - 2 September 2014

The applicant, Ms McAndrew, stated that they did not use a van to access the site but used trollies which created very little noise. The Committee noted that the stall served soup and as the business had no storage off site, all of the preparation had to take place on site hence the request for the amended setting up time of 7:00am.

### **RESOLVED:**

That the application from Ms McAndrew for a variation of her street trading licence be approved.

### **Reason for decision**

The Committee considered all of the written and oral evidence.

The Committee felt that because of the nature of the business and the preparation involved, the variation to setting up times to 7.00am was reasonable in order for the licence holder not to breach the general conditions of the licence in respect of setting up times in Whitecross Market.

The Committee was keen to see Whitecross Street Market continue to flourish but must balance the rights of nearby residents not to have to put up with noise in the early hours, with those of the street traders to earn their living and would encourage market traders to keep noise levels to a minimum.

The meeting ended at 5.00 pm

**CHAIR**

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Report of: Jan Hart - Service Director - Public Protection

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	08 December		Bunhill
Delete as appropriate		Non-exempt	

### SUBJECT:

**London Local Authorities Act 1994 (As Amended) Section 27 (1)  
Application to vary a Condition attached to a Street Trading Licence  
Ms Emis Arslan Licence number 551**

#### 1. Synopsis

- 1.1 This report relates to an application from a licensed trader in Whitecross street market to vary the condition on her licence regarding setting up times (see appendix 1)

#### 2. Recommendations

- 2.1 To grant the variation or refuse it.

#### 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 set out in the Street Trading Conditions.
- 3.2 The standard condition attached to all licences issued in Whitecross Street market state "Stalls shall not be put out prior to 8.00 a.m. on any day". However there are some exceptions, see below.
- 3.3 Ms Emis Arslan has held a licence to trade in Whitecross street Market since January 2013.
- 3.4 Since she was granted a licence, Ms Arslan has been setting up before 8am because she needs time to prepare. This has not appeared to present any disturbance. She now wishes to apply for a 7am setting up time in line, with other traders.
- 3.5 Although the Council has not received any complaints arising from the trading practices of Ms Arslan she has herself reported that one of the residents had complained directly to her and when she mentioned this to one of the Street Trading inspectors she was told that she should not be setting up prior to 8.00am.
- 3.6 Ms Arslan is now complying with the setting up time condition but claims that her business is suffering due to the reduced time she has to prepare.
- 3.7 In consideration of this application the committee is asked to note that: In July 2010 eight traders in Whitecross Street were brought to Committee for breaching the condition relating to setting up times. All were setting up their stalls before 8am. On hearing evidence from the traders, complainants and the noise team the Committee decided a 7am setting up time was reasonable. In the case of each of these traders the setting up time was varied to allow each of them to set up at 7am The Committee minutes state:  
'.....because of the nature of the business and the preparation involved and having been told that the

setting up of the stall is done by a single individual, the variation to setting up times to 7.00am was appropriate in order for the licence holder not to breach the general conditions of the licence in respect of setting up times in Whitecross Market. The Committee is keen to see Whitecross Street market continue to flourish but must balance the rights of nearby residents not to have to put up with noise in the early hours, with those of the street traders to earn their living and would encourage market traders to keep noise levels to a minimum.'

3.8 In September 2014 a further two variations to licences for traders in Whitecross Street allowing them to set up from 7:00 am were approved under similar circumstances.

#### 4. Implications

##### 4.1 Financial implications:

There are no financial implications should this application be granted.

##### 4.2 Legal Implications:

Section 27(1) of the London Local Authorities Act 1994 (as amended) provides, inter-alia, that:

- A licence granted under this Act shall....specify the conditions ....and on any occasion of the renewal of the licence, or at 1<sup>st</sup> January in any year during the currency thereof, (whether on application by the licence holder or otherwise) or at any time on application by the licence holder, the borough council may vary the conditions.

Section 27(8) of the London Local Authorities Act 1994 (as amended) provides that:

- without prejudice to the standard conditions, the borough council may in addition attach to a licence such further conditions as appear to them to be reasonable in any individual case.

#### 5. Conclusion and reasons for recommendations

5.1 No objections have been received by the council and so there is no reason why this application should not be granted. If the application is granted, the condition will automatically apply to any licence issued to her.

#### Appendices

Appendix 1 Email application

#### Background papers:

London Local Authorities Act 1990 as amended

Street Trading Conditions 2007

Final report clearance:

#### Signed by:

  
Service Director – Public Protection

Date

24/11/14

#### Received by:

Head of Democratic Services

Date

Report Author: Houriyeh Dervish  
Tel: 020 7527 3046  
Fax: 020 7527 3165

Email: [Houriyedervish@islington.gov.uk](mailto:Houriyedervish@islington.gov.uk)



**APPLICATION TO VARY A CONDITION ATTACHED TO A STREET TRADING LICENCE –MS EMIS ARSLAN, LICENCE NO 551**

Sent 20/09/14

Dear Hourkiye,

We have stopped starting at 7am due to the recent complaint made to us. We were not aware at the time that there was a dispensation list for early starters. Because we cook each product individually it requires a lot of time to ready our stall before lunch time. Seeing other stalls start at 7am we thought it was fine to do so without disturbing the residents of the market. Please understand that we didn't mean to cause any problems with anybody living close by, our intentions were made clear to Mark and Henry who told us about the complaint and we would appreciate it if our application could be forwarded to the council with your support.

I'd also like to state that my mother is not fluent in English and I do not appreciate the swearing and cursing the resident made towards her prior to the complaint made by them. I'd like that on record please.

If there's anything I can help with do not hesitate to contact me.

Thank you  
Cem

On Thu, Sep 18, 2014 at 3:12 PM, Dervish, Hourkiye <[Houriyee.Dervish@islington.gov.uk](mailto:Houriyee.Dervish@islington.gov.uk)> wrote:

Dear Cem

I am not aware of any complaints – what time do you start? You should not be setting up until 8am.

If you are there before 8am this is a breach of your street trading conditions and you must stop immediately.

Have you ever been told you can start at 7am?

Regards

Houriyee

020 7527 3046

**From:** Cem Arslan  
**Sent:** 15 September 2014 13:08  
**To:** Dervish, Houriyeh  
**Subject:** Recent Complaint - Turkish Gozleme Co.

Hi Houriyeh,

I understand there has been a complaint made to me by the resident living beside my tent. I can assure you both me and my employees are strictly instructed to keep the noise to a minimum so we don't disturb anyone in the radius of our work station.

I would also like to add that in order for me and my employees to produce and supply our customers with the best of our products we must start at 7 am, due to the fact that our product is freshly made everyday at the market and it takes a few ours for our stall to be ready to serve at lunch time.

I understand that there is a dispensation list and a few other stalls that we work alongside are on it. I was not aware of this up until I was told about the complaint and I would very much appreciate it if I could apply to be on it, just so we don't have anymore problems with residents in the future. We don't want to cause anyone discomfort, our priority is to bring in new customers to market and we enjoy doing that.

Thank you

Emis Arslan



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

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

Delete as appropriate		Non-exempt
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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

Report Author: Houriyeh Dervish  
Tel: 020 7527 3046  
Fax: 020 7527 3165  
Email: Houriyeh.dervish@islington.gov.uk





**ISLINGTON**

Street Trading Team  
Public Protection Division  
222 Upper Street  
London N1 1XR

Mr Osman Dursun

This matter is being dealt with by:  
**Houriye Dervish**

T 020 7527 3046  
F 020 7527 3165  
E [houriyedervish@islington.gov.uk](mailto:houriyedervish@islington.gov.uk)  
W [www.islington.gov.uk](http://www.islington.gov.uk)

Our ref:  
Your ref:

Date 10 November 2014

Dear Mr Dursun

**LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) – NON PERSONAL ATTENDANCE, LICENCE NO. 14**

I am writing to inform you that in accordance with Section 28 (1) (c) of the London Local Authorities Act 1994 (as amended), I am referring your case to the Licensing Regulatory Committee with a recommendation that your licence is revoked; on the grounds that:

‘The licence holder is an individual who has without reasonable excuse personally failed fully to avail himself of his licence’

You are invited to attend the above meeting and address the Committee regarding the proposed revocation of your licence. If you decide to exercise this right you should attend the meeting on Monday 8 December at 4pm, at Islington Town Hall, Upper Street, N1 2UD. You may attend the meeting with a representative of your choice and call in any witnesses. If you are unable to attend you must notify this office in writing accompanied with supporting evidence e.g. medical certificate in case of illness. However, I must advise you that if the committee is not satisfied with the reasons you have given for seeking an adjournment; it may decide to hear your case in your absence.

Yours sincerely

**Houriye Dervish**  
**Street Trading Manager**

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Report of: Jan Hart - Service Director - Public Protection

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	08 December		Finsbury Park
Delete as appropriate	Exempt		

**Appendices 1 & 2 attached** are exempt and not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

### SUBJECT:

## London Local Authorities Act 1994 (As Amended) Section 28 (1) Revocation of street trading licence - Non personal trading Ms Tracey Kinnerley Licence 732 Eburne Road

### 1. Synopsis

- 1.1 To consider the recommendation by the street trading manager to revoke licence 732 issued to Ms Tracey Kinnerley 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 Ms Tracey Kinnerley has held a licence to trade in Eburne Road N7 for over 15 years. During the past 6 years the licensee has had an assistant, Mr Riaz Ahmed, trading on the pitch assigned to her. Letters were sent to the Council by the licensee to explain the reasons for her not being able to be on the pitch as long ago as 2008 and 2009 respectively, **see Appendices 1 & 2**. For the past two years her named assistant, Mr Riaz Ahmed, has been trading on his own. Traders on scattered sites are monitored at least 2/3 times a week. Street Trading officers have verified that the licensee, Ms Kinnerley, has not been seen on her pitch for at least 2 years.
- 3.4 When the licence was renewed in January 2014 the licensee was reminded that she had to improve her attendance on the pitch and convince the Council that she was still in control of the day to day operation of the business. She was warned that the situation would be monitored and if there was no improvement she could lose her licence. Council officers monitoring scattered sites, have since reported that for the past ten months, they have not seen the licensee at the site at all.

- 3.5 A letter was sent to the licensee on 11 November 2014 informing her that her failure to use the licence during the past 11 months will 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 affectively '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 eleven months the licensee has not been able to convince the Council that the business is still hers or that she is in control of the business operating under this licence. For this reason the Committee is invited to revoke.

### Appendices

Appendix 1 Letter from Ms Tracey Kinnerley 2008

Appendix 2 letter from Ms Kinnerley 2009

Appendix 3 letter to Ms Kinnerley 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

Report Author: Houriyeh Dervish  
Tel: 020 7527 3046  
Fax: 020 7527 3165  
Email: Houriyeh.dervish@islington.gov.uk





**ISLINGTON**

Street Trading Team  
Public Protection Division  
222 Upper Street  
London N1 1XR

Ms Tracy Kinnerley

This matter is being dealt with by:  
**Houriye Dervish**

T 020 7527 3046  
F 020 7527 3165  
E [houriye.dervish@islington.gov.uk](mailto:houriye.dervish@islington.gov.uk)  
W [www.islington.gov.uk](http://www.islington.gov.uk)

Our ref:  
Your ref:

Date: 11 November 2014

Dear Ms Kinnerley

**LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) – NON PERSONAL ATTENDANCE, LICENCE NO. 732**

I am writing to inform you that in accordance with Section 28 (1) (c) of the London Local Authorities Act 1994 (as amended), I am referring your case to the Licensing Regulatory Committee with a recommendation that your licence is revoked; on the grounds that:

The licence holder is an individual who has without reasonable excuse personally failed fully to avail himself of his licence.

You are invited to attend the above meeting and address the Committee regarding the proposed revocation of your licence. If you decide to exercise this right you should attend the meeting on Monday 8 December at 4pm, at Islington Town Hall, Upper Street, N1 2UD. You may attend the meeting with a representative of your choice and call in any witnesses. If you are unable to attend you must notify this office in writing accompanied with supporting evidence e.g. medical certificate in case of illness. However, I must advise you that if the committee is not satisfied with the reasons you have given for seeking an adjournment; it may decide to hear your case in your absence.

Yours sincerely

**Houriye Dervish**  
**Street Trading Manager**

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

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