

Licensing Regulatory Committee - 4 July 2018

Non-confidential minutes of the meeting of the Licensing Regulatory Committee held at the Town Hall, Upper Street, N1 2UD, on 4 July 2018 at 5.30 pm.

Present: **Councillors:** Nurullah Turan (Chair), Alice Clarke-Perry, Kat Fletcher and Mouna Hamitouche

Councillor Nurullah Turan in the Chair

1 APOLOGIES FOR ABSENCE (Item 1)

Received from Councillor Michelline Safi-Ngongo.

2 DECLARATION OF SUBSTITUTE MEMBERS (Item 2)

Councillor Hamitouche substituted for Councillor Ngongo.

3 DECLARATIONS OF INTEREST (Item 3)

None.

4 MINUTES OF THE PREVIOUS MEETING (Item 5)

RESOLVED:

That the minutes of the meeting held on 5 February 2018 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

5 MEMBERSHIP, TERMS OF REFERENCE AND DATES OF MEETINGS OF THE LICENSING REGULATORY COMMITTEE IN 2018/19 (Item 6)

The Democratic Services Officer alerted members to the fact that an amendment was to be made to the Committee's terms of reference at Council on the following evening to permit the Committee to determine the amount of fees and charges to be made for any approval, consent, licence, permit or registration within the terms of reference of the Committee.

Councillor Fletcher, seconded by Councillor Clarke-Perry, proposed Councillor Michelline Safi-Ngongo as Vice-Chair of the Committee.

RESOLVED:

(a) That the membership of the Committee, as appointed at the Annual Council meeting on 24 May 2018, terms of reference and dates of meetings of the Licensing Regulatory Committee for the municipal year 2018/19, as detailed in Appendix A of the report of the Corporate Director of Resources, be approved.

(b) That Councillor Michelline Safi-Ngongo be appointed as Vice-Chair of the Committee for the municipal year 2018/19, or until a successor is appointed.

6 LONDON LOCAL AUTHORITIES ACT 1990: SECTION 28(1) - BREACH OF STREET TRADING CONDITIONS - WHITECROSS STREET (Item 1)

The Street Trading Manager reported that Mr Borea had contacted her by email that day to confirm that he would not be attending the Committee. In his email, Mr Borea had requested that his licence be transferred to his assistant. Copies of the email exchange of 13 June

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2018 and 4 July 2018, between Mr Borea and the Street Trading Manager, were supplied to members of the Committee.

During a telephone conversation with Mr Borea, the Street Trading Manager had reiterated the purpose of today's meeting and her recommendation to the Committee that his licence should be revoked on the grounds of his non-attendance on the stall and issues relating to the safety of the food items on his stall.

She informed the Committee that the Street Trading Team worked very closely with Environmental Health and wanted all street traders dealing with food items to achieve at least a Food Hygiene Rating of 3, denoting "Generally Satisfactory". Where this was not achieved, the Street Trading Team and Environmental Health officers worked with the traders to help them to improve and hopefully achieve the required Food Hygiene Rating. However, the Council did not have the resources to provide continuing support on an ongoing basis of this nature to all its street traders.

She stated that there had been issues with Mr Borea and his stall since 2014, mainly because Mr Borea had not been present in person to trade. His licence had been suspended twice in the past and he had not been charged any fees since March 2018. Mr Borea had displayed a history of non-compliance with the conditions of his licence. His licence had been suspended in March 2017 following an inspection of his stall resulting in a score of 1, denoting "Major Improvement Necessary" and to the Service Manager's concern that Mr Borea attended his stall only infrequently, a contributory factor to the poor hygiene standard rating she suggested.

In response to a question from a member of the Committee, the Street Trading Manager stated that a rating of 1 would be of great concern to the Council, meaning no hot water available and poor food handling. It was noted that Mr Borea had been storing some of his food items in the basement of a local pub, at unsafe temperatures, since the air temperatures were too high. This would constitute a risk to the public.

The Street Trading Manager reported that two unknown food handlers were found on Mr Borea's stall on 17 March 2018. They said that they were there with the permission of the licensee. They were serving hot pasta, which they had cooked on camping stoves, which was another breach of street trading conditions since Mr Borea was not licensed to sell hot food.

The Committee noted that, as at 10 April 2017, Mr Borea's licence had been re-instated, following a period of suspension, as he had complied with requirements, including training for his assistants. However, shortly afterwards, Mr Borea was not seen on his stall again and was not present to oversee it. The fact that he was not present at today's meeting and instead requesting the transfer of the licence to an assistant, indicated to the Street Trading Manager that Mr Borea viewed his licence and stall as something he could sub-let. She pointed out that there were many hard working street traders who would realise the importance of their attendance at a meeting such as this, where their livelihood was under consideration, and she was concerned that Mr Borea had not communicated with her before today.

Members noted that Mr Borea had been breaching the conditions of his street trading licence for some time and regarded it as a dereliction of his duties as a licence holder. The Street Trading Manager stated that there was a waiting list for traders in Whitecross Street Market. There were so many names on the waiting list to trade in Whitecross Street, that the Street Trading Manager had to review and remove names from the list every six months.

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Mr Borea was not only posing a health and safety risk to customers in the Market, but also to the reputation of the Market. There were street traders operating in Islington who had achieved top food ratings of four or five.

Members of the Committee wished to know if it was possible to flag this revocation with other authorities, in case Mr Borea was operating at other sites across London. The Street Trading Manager said that she attended benchmark meetings with other London authorities, where information was exchanged, and would share the information about this revocation at that meeting.

Members were satisfied of the need for the revocation of Mr Borea's street trading licence.

RESOLVED:

That the application by the Council's Street Trading Team for the revocation of the street trading licence of Mr Matteo Borea, licensed trader on pitch 64 in Whitecross Street Market, be approved.

Reasons for decision

The Committee considered all of the written and oral evidence.

The Committee noted that there was sufficient evidence of persistent breaches of standard conditions of the licence, as set out in the report of the Service Director (Public Protection).

The Committee noted that Mr Borea's licence had been suspended on 15 March 2017, as a result of a breach of street trading conditions. At a subsequent meeting with officers from the Council's Street Trading Panel, he had been warned that his trading practices would continue to be monitored and he was advised of the likely consequences if there were any further concerns about health and safety. Despite this, Mr Borea's licence had to be suspended again on 9 March 2018, due to further breaches of conditions.

The Committee was satisfied that the following grounds under s28 of the London Local Authorities Act 1990 had been met:

- a) Under clause 28(1)(c), Mr Borea had failed to fully avail himself of his licence in that he had traded in person on only four occasions since 1 September 2017.
- b) Under clause 28(1)(d), Mr Borea was unsuitable to hold the licence as the licence had been suspended on two occasions and on 7 March 2018 he had allowed two unauthorised assistants to operate the pitch who were selling food not within the class of commodity allowed on the licence.
- c) Under clause 28(1)(h), Mr Borea had persistently failed to comply with conditions of his licence as specifically:
 - i) he had failed to undertake the business activity of the stall in compliance with other legislation enforced by the Council or other Agencies eg Environmental Health, Health and Safety, Food Safety, Trading Standards, Fire Prevention, Waste Management and Highways Regulations. Following an inspection of Mr Borea's stall on 14 March 2017 by the Council's Environmental Health Officer, his business had been awarded a food and hygiene rating score rating of 1, indicating that major improvement was needed.
 - ii) he had failed to ensure that his nominated assistant trading in his absence displayed a valid stall card.
 - iii) he had allowed the supply of hot food from the pitch in breach of his licence and on 7 March 2018 an inspection by the Council's environmental Health Officer found that Mr Borea's assistants were using camping gas stoves to cook pasta.

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The Committee therefore concurred with the view of the Street Trading Manager that Mr Matteo Borea's licence be revoked.

The meeting ended at 6.00 pm

CHAIR