

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Appendices 1 & 2 attached are exempt and not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: Information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

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