



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

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	14 July 2015		Barnsbury

Delete as appropriate	Exempt	
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Appendices 1 & 2 attached are exempt and not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: Information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) (d) & (h) Breach of Street Trading Conditions

Mr Mirwais Huidary Licence 1 & 12 Chapel Market

1. Synopsis

- 1.1 This report relates to the breach of street trading conditions by Mr Mirwais Huidary a licensed trader on pitches 1 & 12 in Chapel Market. Copies of the licences are attached as Appendix 1 & 2. He is licensed to sell Mobile Telephones, Telecommunications Equipment and accessories on pitch 1 and Jewellery and watches on pitch 12.

2. Recommendations

- 2.1 To consider
 - 1. the revocation of the street trading licences of Mr Huidary; a licensed trader on pitches 1 & 12 in Chapel Market.
 - 2. vary the conditions to the said licences and/or attaching further conditions to the said licences.
 - 3. take no further action.

3. Background

- 3.1 The authority runs all street trading activities in the borough and is responsible for issuing licences 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 Section 28 (1) (d) states a licence can be revoked if the licence holder is on account of misconduct or for any other sufficient reason unsuitable to hold the licence.
- 3.3 Section 27(3) of the London Local Authorities Act 1994 states, "The borough council may make regulations prescribing standard conditions which they may attach to the licence on the occasion of its

grant or renewal”.

- 3.4 Clause 6 of the conditions attached to all street trading licences state “The business activity of the stall shall be undertaken in compliance with other legislation enforced by the Council or other Agencies, e.g. Health and Safety, Food Safety, Trading Standards, Fire Prevention and Highways Regulations”. A copy of the conditions is attached as Appendix 3.
- 3.5 On 9 April 2015, Mr Huidary was summoned to appear in Court, and pleaded guilty to seven charges of infringement of Trading Standard laws relating to the Trade Marks Act 1994, the Electrical equipment (safety) Regulations 1994 and the Consumer Protection Act 1987; whilst trading from pitch 1 in Chapel Market. He cited mitigating circumstances. A community order was made for 12 months with 100 hours unpaid work, he was ordered to pay some of the costs and forfeit all seized goods for destruction.
- 3.6 A letter was sent to Mr Huidary on 16 June 2015 informing him that as a result of breaching both the London Local Authorities Act 1994 (as amended) and the Street trading Conditions, his licence would be referred to the Licensing Regulatory Committee for consideration. Mr Huidary has since telephoned to the council to express his concern and to confirm that he would attend the meeting accompanied by a representative. A copy of the letter sent to Mr Huidary is attached as Appendix 4.

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 on account of misconduct or for any other sufficient reason unsuitable to hold the licence (Section 28 (1) (d). and/or

has persistently failed to comply with any condition of his licence (section 28 (1) (h).

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 Recommendations

- 5.1 The street trading team work closely with other departments to ensure the safety of all its shoppers and consumers in relation to products purchased from Islington markets. It is felt that due to the seriousness of this matter it is appropriate that matters such as this should be referred to the Licensing Regulatory Committee for consideration.
- 5.2 A decision to revoke a licence is never taken lightly by the council as it affects the livelihood of the trader and sometimes the market is the only source of income for his/her family. With this particular case it should be noted that Mr Huidary had pleaded guilty. On receipt of the letter inviting him to address the committee Mr Huidary telephoned the council to express his deep concern and assurance

that this matter would not be repeated and that he would take better control of his business.

- 5.3 A decision to vary the licence could be taken to restrict the type of goods Mr Huidary is able to sell. He could for example be restricted from selling electrical items, as these were the source of the safety breaches. The Committee will need to consider representation from Mr Huidary as to whether this option is proportionate based on the percentage of electrical/non electrical goods that he sells.
- 5.4 To take no further action; members may opt for this outcome if they decide that bringing this case to the attention of the Committee adequately highlights the seriousness of the matter to the trader and that Mr Huidary has been punished enough through the courts. It is essential that Mr Huidary convinces the Committee that he will have more control over the day to day activities on the pitch. He will also need to convince the Committee that in future he will only ever buy stock from reputable suppliers and obtain receipts/invoices and appropriate documentation. Finally he must convince the Committee that he is unlikely to offend again.

Appendices

Appendix 1 & 2 copies of Mr Huidary's licences

Appendix 3 copy of the Street Trading Conditions

Appendix 4 Letter to Mr Huidary

Background papers:

None

Final report clearance:

Signed by:


Service Director – Public Protection

Date 1st July 2015

Received by:

Head of Democratic Services

Date

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