

Licensing Sub-Committee

Monday 19 November 2018

10.00 am

Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1
2QH

Supplemental Agenda No.1

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Contact

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Date: 12 November 2018

Item No. 6.	Classification: Open	Date: 19 November 2018	Meeting Name: Licensing Sub-Committee
Report title:		Revocation of Trading Licence	
Ward(s) or groups affected:		East Walworth	
From:		Director of Environment	

RECOMMENDATION

1. That following market traders licences be revoked:
 Trader A - licence Number 183BE
 Trader B - licence Number 137BE

BACKGROUND INFORMATION

2. Markets established under Section 50 of the Food Act 1984, applicable to all markets listed in the schedule of market locations, operate under agreed byelaws for markets contained at Appendix A, and under standard licence conditions.
3. The fourth paragraph on page 28 of the Food Act 1984 Market Trading Licence conditions state *'Where the council considers that a serious breach of the licence condition has occurred, the trader responsible for the alleged breach is liable to be required to attend the committee hearing notwithstanding the above penalty point system'*.
4. The list of licence breaches on page 27 of the Food Act 1984 Market Trading Licence conditions also state that under BLC3 Abusive or racist behaviour has a penalty of Court proceedings, which could be a prosecution for public order offences and/or an injunction. A copy of the Market Trading licence conditions is attached at Appendix B.
5. The sub-committee can decide to:
 - a) Revoke the licence
 - b) Not revoke the licence.
6. A 'Market Trading licence' as defined in the standard licence conditions granted under the Act and valid for a period as specified under the Act and valid for at least six months and not more than 3 years.
7. Traders on markets governed under the Food Act 1984 do not have a right of appeal at the Magistrates' Court but may challenge the licensing sub-committee's decision by way of Judicial Review in the High Court.
8. If a market trading licence is revoked, the resultant vacancy will be advertised and the licence granted in accordance with council policy. Once the vacancy is filled then any revenue generated will be paid into the markets and street trading account.

KEY ISSUES FOR CONSIDERATION

Licence History

9. Trader A has held a licence as a street trader since 31 October 2000 during this period he became a permanent licence holder in March 2005.
10. Trader B has held a licence as a Market Trader since November 2016 during this period he was a permanent licence holder.

Details of the breach of Licences by Trader A and Trader B

11. On 14 September 2018, an incident occurred where a car belonging to Trader A and Trader B parked in the entrance to the market barrow yard at the rear of SAST House. Parking in the barrow yard is not permitted for anyone other than the leaseholder. Any vehicles parked there are likely to receive a fine for unauthorised parking. Vehicles are permitted to access the containers at the far end of the yard to load and unload stock only. Trader A and Trader B pay a fee to Southwark to keep containers for their stock in the yard. On this occasion the car was parked in a narrow access away from the containers and very close to the entrance to the barrow yard, see photographs attached as Appendix C. This is not an area used for parking at anytime. Another trader's assistant approached the entrance at some speed with a heavily loaded barrow, there is an incline to the yard and some speed is required to pull a heavy barrow into this location. Due to Trader A and Trader B's car being located in such a position at the entrance to the yard, the assistant pulling the barrow was unable to stop the barrow in time before the barrow hit the car. The assistant sustained a bruise to his body before he was able to move out of the way. There were reports that some damage was sustained to the front of the car bumper.
12. Market Officers have observed CCTV footage of the incident and believe the accident would not have happened if the car had not been parked in the space and that Trader A and Trader B are at fault for leaving their vehicle in such a hazardous and illegal position. The CCTV footage will be available to licensing sub-committee to view if required.
13. On 15 September 2018 Market Officer, Elvis Meshack became aware of a commotion coming from the barrow yard at SAST House. There was an altercation between Trader A, Trader B with two traders about the incident involving the car the previous day. Mr Meshack was required to physically intervene.
14. On Monday 17 September 2018 formal complaints were received by the markets manager, Lisa York from several traders regarding the threatening and abusive behaviour of Trader A and Trader B towards several other traders on the market as a result of the incident involving the car. All of the traders have requested anonymity as they fear reprisals from Trader A and Trader B. Trader A was advised by the market's manager that due to the serious allegations received an investigation into the matter would be undertaken.
15. On Tuesday 18 September 2018 several interviews were held and statements submitted to the markets office advising of serious breaches of licence conditions by Trader A and Trader B. Trader A also submitted a statement which can be found as Appendix G (of the closed report). Statements from market officer, Elvis Meshack and markets manager, Lisa York can be found as Appendix K (of the closed report).
16. On 20 September 2018 Trader A and Trader B had their licences suspended pending an investigation and a licensing sub-committee hearing which was scheduled for the 19 November 2018

17. Trader A requested that another family member operate their stall whilst the investigation and licensing sub-committee hearing took place and this was accepted by the market's manager, Lisa York so that the trader's livelihoods was not adversely affected.
18. The Markets Team are also aware of historical incidents of similar behaviour from Trader A and Trader B.
19. The Markets Team are also in receipt of complaints from several other traders who have subsequently declined to make a formal complaint for fear of verbal and physical abuse from Trader A and Trader B.

Resource implications

20. There is no fee for this application and the cost is to be met by the service.

Community impact statement

21. This decision has been assessed to have no impact on local people and communities.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

22. Under part 3 of the council's constitution, decisions on the council's licensing policies and registration are reserved to licensing committee.
23. Markets established under section 50 of the Food Act 1984, operate under agreed byelaws for markets, and under standard licence conditions. A copy of the standard licence conditions are annexed at Appendix B. A copy of the byelaws for markets is at Appendix A.
24. The fourth paragraph on page 28 of the standard licence conditions provides that "If the council considers that a serious breach of a licence condition has occurred, the licence holder responsible for the alleged breach may be required to attend a hearing, regardless of the penalty point system."
25. The sub-committee must also be satisfied that the trader has been given 21 days notice in writing of the hearing, and take into account any representations received.
26. The sub-committee can decide to:
 - a. revoke the licence
 - b. not revoke the licence.
27. Traders trading on markets which are governed under the Food Act 1984 do not have a right of appeal at the Magistrates Court, but may challenge a decision of the licensing sub-committee in the High (Administrative) Court.
28. The council must have due regard to its public sector equality duty ("PSED") under the Equality Act 2010 ("the 2010 Act"), in particular the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity for those with protected characteristics and foster good relations between those with and without such characteristics. The list of protected characteristics is set out in the 2010 Act.

Strategic Director of Finance and Governance

29. It is noted that replacement casual traders should ensure no overall loss of income to the street trading account. Any variances will be identified during budget monitoring and action will need to be taken as appropriate.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Food Act 1984	Street Trading Section SAST House Dawes Street London SE17 1EL	Lisa York 0207 525 6000
Byelaws	As above	As above
Standard licence conditions	As above	As above

APPENDICES

No	Title
Appendix A	Bye laws and Markets' schedule
Appendix B	Food Act 1984 Standard licence conditions
Appendix C	Location Map

AUDIT TRAIL

Lead Officer	Lisa York, Markets and Street Trading Manager	
Report Author	Hannah Lilley, Market Team leader	
Version	Final	
Dated	9 November 2018	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	12 November 2018	

APPENDIX A

MARKETS SCHEDULE IN THE LONDON BOROUGH OF SOUTHWARK

LOCATION	COMMODITIES	TRADING DAYS
Bermondsey Antiques Market Bermondsey Square SE1 1UN	Antiques	Friday only
East Street Market East Street SE17 1EL	General	Tue – Sun
Westmoreland Road Market SE17 2AX	General / Bric-a-brac	Mon – Sat
The Blue Market Southwark Park Road SE16 3TT	General	Mon – Sat
Choumert Road Market Peckham SE15 4SE	General	Mon – Sat
Blackwood Street Flower Market Blackwood Street SE17 1DA	Flowers / Plants / Trees / Shrubs	Sunday only
Dawes Street SE17 1EL	General	Sunday only
London Bridge Approach SE1	General	Mon – Sat
Atwell Road Peckham SE15 4TW	General	Mon – Sat
Albion Street SE16	General	Mon – Sat
North Cross Road Market Northcross Road SE22 9EU	Arts & Craft / Handmade / Vintage / Organic	Mon – Sat
Highshore Road, Peckham, SE15	General	Mon - Sat
Parkstone Road, Peckahm SE15	General	Mon - Sat
Peckham Square SE15	Arts & Craft / Handmade / Vintage / Organic	Mon - Sun
Camberwell Green, London, SE5	General	Mon - Sat
Canada Water, London, SE16	General	Mon - Sat

London Borough of Southwark

BYELAWS FOR MARKETS

Byelaws for markets made by Southwark Council under section 60 of the Food Act 1984 with respect to all Markets listed in the Schedule attached to these byelaws.

INTERPRETATION

1. In these byelaws:

“the council” means Southwark Council

“goods” means anything brought into the market place for the purpose of sale;

“market” means any market maintained by the council and listed in the Schedule to these byelaws;

“market hours” means the hours on a market day appointed by the council for the holding of a market;

“market day” means a day appointed by the council for the holding of a market;

“market officer” means the person or persons appointed by the council to exercise general management, supervision and control of a market;

“sell” and “sale” include exposing and exposure for sale;

“pitch” includes any place or space used or intended to be used for the sale of goods;

“vehicle” means a mechanically propelled vehicle [whether or not] intended or adapted for use on roads but does not include an invalid carriage.

“standard licence conditions” means the regulations to be followed whilst occupying a pitch on Southwark’s markets governed by Food Act 1984

MARKET DAYS AND HOURS

2. No person shall sell in a market place any goods other than during market hours.
3. The market shall operate between the hours set down for that particular market location. There shall be no trading in the event of Christmas Day, Boxing Day or New Years Day falling on a market day unless a prior agreement has been reached with the market officer.
4. All traders must vacate the market area by the end of the market hours, including the packing up time. No trader shall vacate their pitch before 2:00pm other than Bermondsey Antiques Market which will be 1:00pm.
5. The markets officer shall have the right to close the market at his/her absolute discretion on the grounds of public safety. Refunds of pitch fees will only be made if the market is closed prior to 10.00am on the day of trading.

PREVENTION OF OBSTRUCTION

6. No person shall bring a vehicle or ride a cycle into the market place during market hours without reasonable excuse.
7. No person in charge of a vehicle shall, during market hours allow it be halted in the market place, or in its immediate approaches, for longer than is reasonably necessary for the loading or unloading of goods.
8. No person shall bring any goods into the market place more than one hour before the market hours begin or allow them to remain there more than one hour after the market hours end.
9. Any person loading or unloading their vehicles, shall not wilfully obstruct, disturb, hinder or annoy any person using the market. In particular traders must comply with such requirements to ensure emergency access as the market officer deems necessary.
10. No person shall allow or cause any goods to be placed on any pitch or space such that they encroach beyond the allotted limits of the pitch.
11. No person shall do or permit anything to be done which may be or become a nuisance to any person using the market and pitches must be used in a diligent and business like manner.
12. Pitches must be erected in accordance with the pitch layout held by the market officer and the terms of any arrangement to let or allocate the pitch.
13. Pitches are not to be moved from their respective markers or allocated space.
14. Any person carrying out construction, unloading, dismantling or loading operations must ensure that they carry out the operations in such a manner as to safeguard themselves and any person using the market.

AUTHORITY TO USE SPACE

15. No person shall occupy or take possession of any pitch or cause to be deposited any goods, equipment or utensils on any pitch unless and until such pitch has been duly let or otherwise allocated by the market officer for the use of such person.
16. No person shall set up or attempt to set up on a pitch in the market place without the permission of the market officer.
17. All persons occupying pitches shall abide by the Council's standard licencing conditions.
18. Where the council:
 - a) designates any part of the market place for the sale of particular goods or any class of goods, or for sales by auction, and

- b) display in a conspicuous place a public notice to that effect,
- c) no person shall sell goods, or hold sales by auction, except in accordance with the terms of that designation.

FOR PREVENTION OF SPREAD OF FIRE

- 19. No person shall smoke within the pitch area during market hours.
- 20. No person shall keep or sell any explosive or highly flammable substance in the market place

FOR PRESERVATION OF ORDER

- 21. No person shall ring any bell or blow any horn or use any other noisy instrument to attract the attention or custom of any person.
- 22. No persons shall post or display any bill, placard or poster, other than a description of goods advertised for sale, in any part of the market place except with the permission of the market officer.
- 23. No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter except with the permission of the market officer.

ANIMALS

- 24. No person shall bring into or allow to remain in the market any dog or other animal belonging to him or in his charge unless it is attached to a lead, or otherwise kept sufficiently secured, and kept at all times under his control .
- 25. (a) No tenant or occupier of a pitch shall keep any dog or other animal at his pitch.

PENALTIES

- 26. Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 27. Other breaches of terms and conditions will be dealt with under penalty points system.

APPENDIX B

**LONDON BOROUGH OF SOUTHWARK
FOOD ACT 1984 PART III****MARKET TRADING LICENCE**

The London Borough of Southwark (Southwark Council) grants this licence to engage in market trading in the borough.

This licence authorises the holder to trade solely in the articles, and in the manner, and at the places and times specified in the licence. It is subject:

- (1) to complying with the Shops Act 1950 and any Act amending it and to any Orders made under it; and
- (2) to any other law or regulation in force.

The licence, unless revoked or given up, continues in force until expiry. On expiring or being revoked, it must be given up to the borough council.

The licence is renewable in accordance with the above Act.

**THIS LICENCE IS VALID ONLY IF IT BEARS A CURRENT STAMP
- SEE PAGES 3 - 8.**

LIST OF TIMES OF TRADE

MONDAY	7am to 5pm
TUESDAY	7am to 5pm
WEDNESDAY	7am to 5pm
THURSDAY	7am to 5pm
FRIDAY	7am to 5pm
SATURDAY	7am to 6.30pm
SUNDAY	8am to 2pm

A licensed trader or his assistant must not begin to set up his receptacle more than 30 minutes before the time for start of trading specified in the licence. The licensed trader or his assistant must remove the receptacle and goods within 45 minutes on weekdays or 60 minutes on Sundays of the expiry time for trading specified in the licence.

DECLARATION

I have read the London Borough of Southwark standard licence conditions as printed on pages 9 to 24 and I agree to abide by them.

SIGNATURE

DATE

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LONDON BOROUGH OF SOUTHWARK

STANDARD LICENCE CONDITIONS

1.0 Definitions

In the Regulations, unless the context otherwise requires, the following expressions have the following meanings:

- 1.1 **'The Act'** means the Food Act 1984.
- 1.2 **'Market'** a place of 5 stalls or more where street traders trade in specified commodities.
- 1.3 **'Market trading licence'** means a licence granted under the Act and valid for the period specified by the licence; this will be at least six months and not more than three years.
- 1.4 **'Temporary licence'** means a licence granted under the Act and valid for a single day or for the period of six months or less specified in the licence.
- 1.5 **'Licence holder'** means you, a person who is licensed for trading under the Act. It also includes your assistant.
- 1.6 **'The council'** means the Southwark Council, also called 'we' in these conditions.
- 1.7 **'Stall'** means any structure you use to display goods or in connection with your business, which occupies a licensed trading pitch. 'Stall' includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On 'isolated pitches', 'stall' also includes all rubbish created as a result of the business.

- 1.8 **'Receptacle'** includes a vehicle or stall or any other thing that is used (whether or not made or adapted for such use) to contain or display anything used in street trading.
- 1.9 **'Assistant'** means a person acting under your direction or with your implied authority for your benefit, whether or not you employ them and regardless of whether they receive payment, gain or reward for doing so.
- 1.10 **'Awning'** means a sheet of canvas or other material, used as protection against the weather, whether or not it projects as an extension of the roof beyond the structure of the stall.
- 1.11 **'Refuse'** includes any waste material.
- 1.12 **'High-risk food'** means food that will rapidly deteriorate in quality or pose a health hazard (or both) when incorrectly stored or displayed. 'High-risk food (non-packed)' includes all perishable foods that are stored, prepared, displayed or sold without individual wrapping or sealing and includes food for sale from catering stalls.
- 1.13 **'High-risk food (prepared)'** includes all perishable foods that are stored, displayed or sold fully wrapped or sealed where the wrapping or sealing does not take place at the stall.
- 1.14 **'Low-risk food'** includes all fresh fruit and vegetables, canned or dried foods and packaged food with an extended shelf life.

- 1.15 **'Goods'** means any article, thing or service, whether tangible or not, offered for sale or exposed, displayed or advertised at the pitch.
- 1.16 **'Licensed market trading pitch'** means a place in any street authorised as a site where street trading may take place. It includes any alternative place approved by the council or an authorised officer of the council.
- 1.17 **'Pitch limits'** means the authorised ground markings defining the area within which a market-trading stall is to be contained.
- 1.19 **'Stall card'** means a laminated card supplied by the council showing your photograph, name, pitch number and types of goods specified on the licence, with the current address and telephone number of the Markets and Street Trading Office.
- 1.19 **'Sell'** includes offering or exposing for sale and possession for the purposes of selling.
- 2.0 In these conditions:
- words such as 'he' and 'him' include 'she' and 'her' and vice versa;
 - words in the singular include the plural and vice versa.
- 3.0 All other expressions are to be interpreted in accordance with Part III of the Act.

**FOOD ACT 1984 PART III
SOUTHWARK MARKET TRADING
LICENCE CONDITIONS**

General

1. The operation of Southwark markets shall be governed by Part III of the Food Act 1984 where the number of pitches are five or greater.
2. The Council may charge such fees for the grant or renewal of a markets trading licence, the grant of a temporary licence or for the variation of the conditions of a trading licence.
3. The Council may levy from licence holders such charges as may be sufficient for the effective operation of Southwark market activities.
4. The Council will establish in any location the days, trading times, class or class of articles to be displayed for sale in respect of that market.

Licensing of Traders

5. The Licence is personal to a trader and shall be in the name of the registered trader only. At the written request of the registered trader and provided an Agreement has been completed by the Council at the cost of the trader, the licence shall be deemed to include a spouse or cohabitee.

6. When the holder of a licence has specified a relative to whom they desire the licence to be granted dies or retires or notifies the Council that owing to ill health they are unable to continue trading, the licence can be transferred by way of a next of kin transfer. For the purposes of this section a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, uncle, aunt of the former and shall be deemed to be so related notwithstanding that he is so related only through an illegitimacy or in consequence of an adoption.
7. Any application for a proposed partnership must include details of the trader who shall be present on trading days. This person shall be regarded as the registered trader in the event of a breach of these terms and conditions.
8. A registered trader may, at the discretion of the relevant council committee and payment of the relevant application fee, be able to transfer his/her licence to his/her partner or registered assistant subject to the following conditions having first been met:
 - (i) Formal written request from the exiting trader giving details of the new trader to be submitted to the Markets & Street Trading Manager.
 - (ii) The new trader has not previously had a licence terminated by the Council on any Market within the Borough.

9. Traders wishing to surrender a licence are required to give four week's written notice to the Markets and Street Trading Manager of their intention so to do. The same also applies to traders wishing to surrender a second pitch. Surrender will take effect from the last day of the calendar month.
10. Each trading licence renewal shall be valid for a period of no more than three years for permanent traders.
11. Temporary traders are required to register on an annual basis.

Applications for licenses/licence renewals

12. When applying for a licence to trade, a trader shall provide his full name and address, national insurance number, and any other details as may be reasonably required.
13. The Council may refuse an application for a licence or refuse to renew a licence subject to appeal as set out in the appeals process.
14. All pitches surrendered by existing permanent traders will be offered in the first place to existing traders through a length of service priority process.
15. Subsequently any existing temporary traders may make applications.

Allocation of trading pitches

16. Traders holding a permanent trading licence shall be allocated a fixed permanent pitch from which to trade, subject to the agreed clashing rule.
17. In the event of a licensed trader failing to inform the Markets and Street Trading Manager of his/her absence by such time as set down for each market shall first be offered to licensed traders, subject to the agreed clashing rule: (i) as a move up (ii) as an additional pitch provided it is immediately adjacent (i.e. 101, 103). An additional fee shall be payable by a permanent trader wishing to take up such pitch.
18. Should such vacant pitch not be occupied by a licensed trader, it shall then be offered to casual traders for the payment of a temporary fee.

Payment of licence fees

19. Licence fees shall be paid by one of the following two methods only:
 - (i) By standing order or direct debit (monthly, in advance).
 - (ii) By payment to the Council via a prepaid invoice. The trader must arrange for payment to be made before the commencement of trading hours using the Council's 24 hour payment line, on-line payment provision or at any of the Council's cash offices
20. Market officers are not authorised to accept cash from traders.

21. Temporary traders who do not pay pitch fees by specified time will not be permitted to trade on the Market.
22. Licence fees shall only be refunded in line with the refund policy.
23. Permanent licence holders are required to make full licence fee payments irrespective of whether the trader attends the Market. Waivers may be issued according to individual circumstances where proof has been submitted.
24. The above exceptions do not apply where a trader is in arrears with their rent on the relevant date in question.
25. The Council reserves the right to charge interest on arrears at a rate of 4.% above the Bank of England basic rate to be calculated on an annual basis.
26. Where a trader is absent from the Market all arrears must be paid within two weeks of their return to the Market. Failure to comply will result in enforcement action.
27. Any trader in arrears with their licence fee in excess of 2 months may have his/her licence revoked as per the agreed revocation procedure.
28. Any trader who has had their trading licence revoked for non-payment of fees and who intend to appeal will be entitled to trade from that day until the determination of their appeal for a daily fee or pay all outstanding arrears, any amount which is paid daily in excess of the monthly fee will be set aside against the balance of the outstanding arrears.

29. Any permanent trader paying by standing order or direct debit who has made payments on time each month and has not accumulated any arrears between Jan and December of any year shall receive up to one half of their January monthly trading fee refunded.

Absence

30. Permanent Traders are required to advise the Markets and Street Trading Manager if they will not be attending the market before commencement of trading if possible.

Insurance

31. Traders, including temporary traders, MUST provide evidence of third party public liability insurance to the Councils minimum requirement at the time but, without prejudice to the foregoing, subject to the minimum of £2,000,000 (TWO MILLION POUNDS) and a trader shall show the Markets and Street Trading Manager on demand of such policy insurance.
32. Traders will indemnify the Council against all costs, claims and damages arising from their use of the stall/pitch, car park or any other facility provided by the Council in respect of the market operation. Traders not producing evidence of insurance will not be permitted to trade until this has been rectified and will be required to vacate the market immediately. No rebate of stall rent will be given in these circumstances.

Conduct

33. All traders are expected to conduct themselves whilst on the market, in relation to the public, other traders, and council officers in a polite and courteous manner.
34. Traders are responsible for the behaviour of their employees whilst they are on the market. A breach of the regulations by assistants will be deemed to be a breach by the trader.
35. No alcohol, tobacco or illegal substances will be consumed on the Market by traders or by their assistants within the pitch area.

Hours of operation

36. The market shall operate between the hours set down for that particular market location. There shall be no trading in the event of Christmas Day, Boxing Day or New Years Day falling on a market day unless a prior agreement has been reached by all parties.
37. All traders must vacate the market area by the end of the trading day including the packing up time. No trader shall vacate their pitch before 2pm other than Bermondsey Antiques Market which will be 1pm.
38. The Markets and Street Trading Manager shall have the right to close the market at his/her absolute discretion on the grounds of public safety. Refunds of pitch fees will only be made if the market is closed prior to 10.00hrs on the day of trading.

Temporary traders

39. The Council will, at its discretion, permit temporary traders to trade from a vacant pitch, including those where the permanent trader is absent, subject to agreed allocation policies.
40. Pitches will be allocated by the Allocation Officers on a daily basis.
41. Once allocated a pitch, temporary traders are required to comply with all the Market Regulations, including the requirement to remove vehicles from the Market area by the specified time set down by that market.

Emergency access

42. During market hours emergency access must be readily available for use by emergency vehicles attending incidents within the market area and for vehicles requiring to access adjacent premises via the market area.
43. The minimum width required for a fire appliance to pass between stalls is 3.1m.
44. Fire hydrants together with their identifying plates should be kept clear of obstruction and available for use at all times.

Obstruction

45. When loading/unloading their vehicles, all traders shall cause the minimum amount of obstruction and inconvenience to the general public, other traders or council employees and contractors. In particular traders must comply with requirements to ensure emergency access as the Markets and Street Trading Manager/Officer deems necessary.
46. No trader shall allow or cause any goods to be placed on any stall/pitch or space such that they encroach beyond the allotted limits of the stall/pitch.
47. The trader must not do or permit anything which may be or become a nuisance to any member of the public, neighbouring business or any occupiers of neighbouring or adjoining stalls/pitches and to use the stall/pitch in a diligent and business like manner.
48. The stalls are erected in accordance with pitch layout held by the Markets and Street Trading Manager and as delineated in the Traders Licence Agreement.
49. Stalls are not to be moved from their respective markers/allocated space.
50. During construction/unloading/dismantling /loading operations traders must ensure that they carry out such in such a manner to safeguard themselves, their colleagues and members of the public.

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Identity

51. All traders are to display their pitch plate in a prominent and conspicuous location on their stall/pitch. This sign must remain in position throughout the trading day.
52. All traders' permanent addresses must be registered with the Markets and Street Trading Manager who must thereafter be notified of any changes. Two forms of documentary evidence of the new address must be supplied.
53. Traders are required to inform the market office of an intended move and submit documentary evidence of their new address.

Electricity

54. You must ensure that any connection for supplying artificial light to your stall is readily detachable. It must be approved by the Council and not obstruct the carriageway.
55. Except for any special arrangements for high risk food stalls and refreshment stalls, electricity must be used only for lighting, operating electrical sales and tills, and testing electrical goods. Any other uses must have our written consent.
56. The use of fires and kettles of any description is forbidden. If you use or permit the use of such equipment, you will be guilty of gross misconduct and your licence will be revoked without further warning.

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- 57. The electrical installation on each stall must be protected by an RCD (residual current device). All electrical equipment must comply with the HSE Electricity at Work Regulations 1989, the IEE Wiring Regulations as amended (or any legislation that supersedes these rules) and the requirement of the electricity provider.
- 58. You will be held liable for any damage to any installation that we provide to supply electricity if the damage is shown to have been caused by your actions or neglect.
- 59. You must not use a mobile electricity generator without our written consent.
- 60. You must not use or permit to be used any radio or other audio equipment or public address system in any licensed market except to demonstrate a particular piece of equipment to a prospective buyer.

Waste management and litter

- 61. Every trader on the market shall ensure that his/her stall and any adjoining passages, whether used by them alone or in conjunction with other traders, is properly cleared throughout the day so as to ensure that litter is not allowed to accumulate and will be removed from the stall/pitch at the end of the day.
- 62. you or your assistant must put all refuse arising from your business in suitable containers that you or we supply. The containers must be kept exclusively for that purpose and must be removed or emptied from time to time as necessary into a vehicle or container provided for the purpose.

- 63. You or your assistant must ensure that all wastewater is collected in a secure container and discharged in a way that does not cause a nuisance.
- 64. You and your assistant must give every assistance to any contractor employed in refuse or cleaning services. Any arrangements we make to clean trading areas do not take away the responsibilities of you or your assistant under the Environmental Protection Act 1990 (or any subsequent or superseding legislation).
- 65. Litter bins where provided are for use by the general public only and not trade litter.
- 66. Traders providing containers for food or drink consumption on the market place shall make such additional arrangements for litter as shall be deemed necessary.

Food stalls

- 67. All traders operating food stalls shall comply with the provisions of the Food Safety (General Food Hygiene) Regulations 1995 or such other legislation or modification for the time being in force (a copy of which is available to read from the markets officers).
- 68. A first aid box should be made available and any cuts and abrasions shall be covered by a blue, waterproof dressing.
- 69. Waste water from sinks, wash hand basins etc must be discharged to the discharge points located near the standings in accordance with the requirements of the Markets and Street Trading Manager.

- 70. Food handlers should keep their clothing and all parts of the person likely to touch the food clean.
- 71. Food handlers should wear clean, washable over-clothing, preferably a coat or overall.
- 72. No unbagged refuse, waste or unfit food is to be allowed to accumulate on or about the stall/pitch. It must be bagged securely on a regular basis throughout the day.

Stalls

- 73. Any proposed stalls are to be subject to the prior approval of the market authority. It shall be the responsibility of the Council to consult with traders and/or their representative body prior to any changes to existing arrangements.
- 74. Inevitably, during the stall erection and dismantling process, members of the public will cross the site. Stall erectors must, therefore, take additional care if members of the public are in the immediate vicinity in order to avoid injuring a member of the public.
- 75. Traders are to provide awnings for their stall/pitch as appropriate. The market authority reserves the right to require traders to use a agreed style, brand or colour of awning.

LICENCE CONDITIONS FOR ENFORCEMENT AND APPEALS

Penalty Points System Procedure

Where a trader is in breach of licence conditions the following procedure must be followed:

1. Officer will issue a verbal warning in first instance. The verbal warning will be noted in the officers note book, dated and timed and when possible supported with photographic evidence. The offender at this point in time, has the right to inspect the notes relating to the offence.
2. Persistent offenders will be informed that the matter will be reported by means of a penalty point notice.
3. The Officer shall complete a written warning slip at the time of the inspection and the white copy handed to the trader after they have been offered the opportunity to sign it. If they refuse to sign then 'Refused to sign' shall be written where their signature would normally be placed.
4. If the behaviour of the trader does not enable the officer to hand the white copy to the trader both the white copy and the pink copy should be handed to the Market and Street Trading Manager. In all other circumstances the pink copy only shall be handed to the Market & Street Trading Manager.

5. The Market and Street Trading Manager will write to the trader within 3 days of receipt pointing out the nature of the breach, the number of penalty points incurred and the likely outcome of future breaches i.e. revocation.
6. The Commercial Officer will record on the penalty point's database the details of the trader and the number of penalty points incurred. Should the total number of penalty points reach or exceed the number stated. The trader will be called before the Licensing Sub Committee then the Commercial Officer shall be informed by the Market and Street Trading Manager, if not already aware, in order that such a panel hearing can be arranged.
7. Where the Council considers that a serious breach of any trading licence condition has taken place, the trader responsible for the alleged breach is liable to be required to attend a hearing notwithstanding the penalty point system. **This includes where the licence holder has persistently refused or neglected to pay charges due from him to the Council.**
8. At the hearing officers should note that they might be required to attend in person to give evidence of the breach of licence conditions.

London Borough of Southwark – Breach of Licence Conditions

Code	Narrative of Breach	Penalty Points
BLC1	Violent behaviour/assault	Court Proceedings
BLC2	Non-compliance with food/health & safety acts	Court Proceedings
BLC3	Abusive or racist behaviour	Court Proceedings
BLC4	Offer for sale of falsely described, illegal or counterfeit goods	Court Proceedings
BLC5	Trading on days & times other than on licence	15
BLC6	Setting up prior to commencement times	10
BLC7	Displaying commodities other than those on licence being sold	10
BLC8	Stalls & goods not removed after trading	10
BLC9	Prices not displayed for goods on sale	10
BLC10	Using receptacles as defined not approved by council	10
BLC11	No amplified music unless playing goods sold	10
BLC12	Contravention to EPA 1990 regarding waste disposal	5
BLC13	Failure to remove staff in the event of an emergency	5
BLC14	Failure to produce trading licence within 7 days	5
BLC15	Traders Vehicle not removed/entering before time	5
BLC16	Oversized trading	5
BLC17	Failure to trade from position indicated on licence	5
BLC18	Failure to supply copy of public liability insurance	5
BLC19	Display of advertisement other than for goods on sale	5
BLC20	Notification of change of address not given	5

Code	Narrative of Breach	Penalty Points
BLC21	Notification of change of assistant not given	5
BLC22	Failure to give assistance to council officers	5
BLC23	When approved mobile electrical generators not positioned correctly	5
BLC24	Failure to display pitch plate	5
BLC25	Unfounded/malicious allegation	5
BLC26	Failure to notify food stall storage address details	5
BLC27	Breach of any other standard licence condition not listed above	5

Fixed Penalty Notices (FPN's) can be given in place of penalty points.

Traders receiving 30 penalty points within a rolling twelve-month period will be invited for interview by the Markets and Street Trading Manager at which time consideration will be given as to whether special conditions should be attached to their licence or whether their licence should be considered for revocation.

Serious breaches of the licence conditions may result in legal action. If convicted this could result in a fine of up to £1000 per breach and be followed by revocation of the trading licence.

Appeals against penalty points issued should be made in writing to the Markets and Street Trading Manager. The appeal will be placed before the Licensing Sub Committee for consideration and the trader notified of the outcome of the appeal.

Where the Council considers that a serious breach of any trading licence condition has occurred, the trader responsible for the alleged breach is liable to be required to attend the Committee hearing notwithstanding the above penalty point system.

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Please note that failure by any assistant employed by a licenced holder to comply with any of the conditions of the trading licence held by the licence holder shall be deemed to be a failure of the licence holder.

I have read the London Borough of Southwark's Standard Licence Conditions as set out above and agree to abide by them.

Signature: Date:

Print Name: Licence No.

NOTES

The Council may revoke or vary or refuse to renew this licence if (1) on account of misconduct, arrears, or any other sufficient reason the holder is in the opinion of the Council unsuitable to hold it; or (2) the space available in the market is insufficient; or (3) the street specified is not a designated market; or (4) the articles specified are of a class which, under the terms of a resolution passed by the Council may not be sold or exposed or offered for sale in the market specified; or (5) the holder has persistently refused or neglected to pay charges due from him to the Council. These payments must be made in advance of trade; (6) the holder has for a period of not less than four weeks not fully excised his rights under the licence.

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Notwithstanding any time specified in the final column of the Schedule, this licence does not authorise the holder to trade at anytime in contravention of any Order made under the Shops Acts or any other statutory enactment.

In the event of a trader being unable to trade in the market by reason of ill health, a medical certificate should be submitted to the Market and Street Trading Manager, as the Council will consider waiving the payment of weekly charge. Payment waiver will only be considered for illness covered by medical certificate for periods of illness in excess of four weeks. The first certificate must be submitted within two weeks of the first day of the period of illness. Except in extenuating circumstances as decided by the Council.

Where the holder of a trading licence is not for the time being exercising his rights under the licence, a temporary licence authorising trading in the position or place prescribed by the street trading licence may be granted to any other person but shall be subject to the condition that it shall cease to be valid if during the currency thereof the holder of the licence desires to resume the exercise of his rights and gives the appropriate notice to the council, and for the purposes of this subsection 'the appropriate notice means:

- (a) in the case of a holder of a licence who has not exercised his rights under the licence for a period of at least 14 days, 7 days' notice;
- (b) in any other case 24 hours' notice.

This licence must be produced on demand whilst trading and produced to a police officer or authorised official of the Borough Council on demand. Should this licence be lost, immediate application must be made for a duplicate for which an administration charge will be levied.

APPENDIX C



Location where car was parked at entrance to Barrow Yard

User's of this car park do so at their own risk.
The management cannot accept liability for
accidents, loss or damage

Southwark
Council

CLAMPING
Illegally parked vehicles
will be clamped.

Southwark
Council

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LICENSING SUB-COMMITTEE DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2018-19

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