

Licensing Sub-Committee

December 18 2009
2.00 pm
160 Tooley Street, London SE1 2TZ

Membership

Councillor David Hubber
Councillor Dora Dixon-Fyle
Councillor Dominic Thorncroft

Reserves

Councillor Eliza Mann

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

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Contact

Sean Usher on 020 7525 7222 or email: sean.usher@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Annie Shepperd

Chief Executive

Date: December 8 2009



Licensing Sub-Committee

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Order of Business

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PART A - OPEN BUSINESS

1. APOLOGIES

To receive any apologies for absence.

2. CONFIRMATION OF VOTING MEMBERS

A representative of each political group will confirm the voting members of the committee.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

In special circumstances, an item of business may be added to an agenda within five clear days of the meeting.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.

5. STREET TRADING REVOCATIONS - OPEN

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ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.

EXCLUSION OF PRESS AND PUBLIC

Item No.

Title

Page No.

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

PART B - CLOSED BUSINESS

6. REPORT - REVOCATION OF STREET TRADING LICENCES - CLOSED

Date: December 8 2009

Agenda Item 5

Item No. 5	Classification: Closed	Date: December 18 2009	MEETING NAME Licensing Sub-Committee
Report title:		REVOCATION OF STREET TRADING LICENCES	
Ward(s) or groups affected:		East Walworth & Faraday	
From:		Strategic Director of Environment & Housing	

RECOMMENDATION

1. That the street trading licence of the reported trader identified in Appendix A (as identified in the closed report) be revoked on the grounds of non-payment of licence fees.

BACKGROUND INFORMATION

2. Under Section 28 (1) (e) of the London Local Authorities Act 1990 (*as amended 1994*) the Council may revoke a street trading licence:

“that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of sub section (2) of Section 33 (Receptacles and containers) of this Act”

3. The Act asks that the Council serve on the trader a notice stating that revocation is proposed and offering the opportunity to appear before the committee. The notice gives the trader 21 days notice to make any representations, the notice were sent on 12 November 2009.
4. Under the Act, revocation or variation are the only sanctions open to the committee, i.e. they cannot suspend a licence.
5. If the committee do decide to revoke or vary a licence, the licence holder then has rights to appeal to the magistrate’s court, and thereafter to the Crown Court. The licence holder is entitled to continue trading until such time as any such appeal has been determined.
6. One trader was sent a statutory notice under Section 29 of London Local Authorities Act 1990 (as amended) notifying him/her of the intention to revoke his/her licence.

MATTERS FOR CONSIDERATION

7. Condition 6.1 of Southwark’s Street Trading Licence:-

“you (the licence holder) must pay all fees and charges due to us in connection with the street trading licence before starting to trade. You must pay us the administrative costs incurred in collecting any rent arrears. Charges must be paid regardless of sickness or holiday periods. Please read the notes about sickness waivers.”

POLICY IMPLICATIONS

8. To advise the committee of trader's non-compliance with his/her street trading licence conditions, non-exercising of trading rights and to seek the Committee's authority to revoke his/her street trading licence.

EFFECT OF PROPOSED CHANGES ON THOSE AFFECTED

9. The Street Trading account is ring fenced, operating on a break even basis. The fees are kept as low as financially possible, but this can only happen if all traders adhere to the licence conditions and pay fees before their monthly trading as specified in the London Local Authorities Act 1990 (as amended 1994).

RESOURCE IMPLICATIONS

10. Monitoring accounts, sending reminder letters, meeting with trader(s), confirming contents of meeting in writing, in some instances court costs have already been incurred, being time consuming and costly, which is financed from Street Trading account.
11. If a street trading licence is revoked, the resultant vacancy will be advertised and the licence granted in accordance with Council policy. Therefore no adverse impact foreseen on the Street Trading account provided there is no delay in filling the vacancy. The Street Trading account is a ring fenced account outside General Fund and operates on a break-even basis.

EQUALITIES IMPACT ASSESSMENT

12. This decision has been judged to have no or a very small impact on local people and communities. The trader has broken his/her license conditions and therefore his/her license is being revoked, the decision has an impact solely on the trader.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director, Communities Law and Governance

13. This report recommends that the street trading licences be revoked on the grounds of persistent non-payment of fees in accordance with Section 28(1)(e) of the London Local Authorities Act 1990 (as amended).
14. It is a requirement of the Act that before revoking any licences, the Council shall have given the licence holder not less than 21 days previous notice in writing that revocation is proposed. This notice must also specify the grounds on which such a decision would be based and give the licence holder the opportunity to appear before the committee, sub-committee or officer determining the matter. The decision cannot be taken until after the 21 day period has expired. The Council is also obliged to consider any representations made by the licence holder.
15. Section 28 (2) of the Act states that the Council may instead of revoking a licence, vary it by attaching further specified conditions; (a) reducing the numbers of days in any week or the period in any one day during which the licence holder is permitted to trade; (b) specifying a different licence street or position or place at which the licence holder may trade; (c) restricting the items which licence holder is permitted to sell.
16. If the Council should decide to revoke or vary the licence, it must notify the licence holder in writing of this decision, and of the grounds for revocation/variation and notify him/her of his/her right of appeal. As the report states, an appeal may be brought in

the first instance, to the magistrates court. This is within a period of 21 days from notification in writing of the Council's decision to revoke. A further appeal may be brought to the Crown Court. In each case, the appeal would effectively be by way of re-hearing.

17. The Council has a duty in considering this matter to take account of all relevant considerations and disregard any matters of irrelevance. In doing so, it must have regard to the rules of natural justice. This is in addition to complying with procedural requirements set out in the statute.

Background Papers	Held At	Contact
London Local Authorities Act 1990 (<i>as amended</i>) Case papers held on Individual traders file.	Street Trading Section SAST House Dawes Street London SE17 1EL	Sharon Coleman 0207 525 0861
Lead Officer	Des Waters, Head of Public Realm	
Report Author	Des Waters, Head of Public Realm	
Version	Final Version	
Dated	7 December 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director, Communities Law & Governance	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Team		8 December 2009

<p>Distribution List</p> <p>Open</p> <p>Licensing Sub-Committee</p>	<p>MUNICIPAL YEAR 2009-10</p> <p>Date of Meeting: 18.12.2009</p> <p>Time: 2:00pm</p>
<p>Note: Original held in Constitutional Team; all amendments/queries to Sean Usher, Constitutional Team, Tel: 020-7525-7222.</p>	
<p>Councillor David Hubber Councillor Dora Dixon-Fyle Councillor Dominic Thorncroft</p> <p>Councillor Eliza Mann (Reserve)</p> <p>Officers</p> <p>Sharon Coleman, Street Trading Team Kate Heap, Legal Team Sean Usher, Constitutional Team (2 Copies)</p>	<p>Street Trader - On File</p>
<p>Total Copies to be printed: 15</p> <p><u>PLEASE BRING YOUR PAPERS TO THE MEETING.</u></p>	<p>Total copies to be circulated: 9</p> <p>All spares to be delivered to Sean Usher, 2nd Floor, Hub 4, Tooley Street</p> <p>Day of Despatch: 08.12.2009</p>