

Report for: Licensing Sub Committee 17TH December 2018

Item number:

Title: Revocation of a street trading license.

Report authorised by: Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected NP

**Report for Key/
Non Key Decision:** Not applicable

This report is exempt, as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); para 3 - information relating to the financial or business affairs of any particular person (including the authority holding that information).

1. Describe the issue under consideration

1.1 This report relates to a matter for the revocation of a street trading licence for the following reasons under section 28 of the London Local Authorities Act 1990:

“ (e) – 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”

2 Recommendation

2.1 The street trading licence of the reported trader identified in Appendix A (as identified in the closed report) be:

- 1) Revoked on the grounds of non-payment of licence fee. A court summons was issued for payment of the outstanding fees in November 2018.

3 Background

3.1 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 LSC. The notice gives the trader 21 days' notice to make any representations, the notice was sent on 6th March 2018. A secondary notice was issued on 3rd September 2018. The licence holder has been sent weekly reminders relating to the outstanding fees. The Finance Team have also issued invoices and made numerous attempts to make contact with the licence holder, with no success.

The Finance Team have subsequently referred the bad debt to the court and an order for payment has been made against the licence holder. The licence holder has made no attempt to contact the Council to discuss the debt owed.

The licence holder has had a recent loss in his family but the LSC are advised that the debt has been accruing for a period of time prior to this incident, the two matters are not linked and are separate issues.

3.2 Under the Act revocation is the only sanctions open to the committee, i.e. it cannot suspend the licence.

3.3 If the committee do decide to revoke or vary a licence, the licence holder then has rights of appeal to the magistrates 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.

3.4 The trader was sent a statutory notice under Section 29 of the London Local Authorities Act 1990 (as amended) notifying him/her of the intention to revoke his/her licence.

4 Policy implications

4.1 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.

4.2 Effect of proposed changes on those effected

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).

4.3 Resource implications

Monitoring accounts, sending reminder letters, meeting with trader(s), confirming contents of meeting in writing being time consuming and costly, which is financed from Street Trading account.

4.4 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.

4.5 Equalities Impact

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

4.6 Legal implications

- i) This report recommends that the street trading licence is 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).
- ii) 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.
- iii) 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 licenced street or position or place at which the licence holder may trade; (c) restricting the items which the licence holder is permitted to sell.
- iv) 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.

- v) 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.

5 Other Considerations

5.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing
- Article 10 – Freedom of Expression

6 Use of Appendices

Appendix 1- Exempt Papers

Court Order for payment of debt

Reminder letters and invoices

Copy of previous LSC hearing minutes.

Copy of licence

Appendix 2- LLA 1990

Appendix 3- Copy of conditions attached to licences

The Street Trading is a ring fenced account outside General Fund and operated on a cost recovery basis.