

WEST DUNBARTONSHIRE COUNCIL

Report by the Head of Legal, Democratic and Regulatory Services

Licensing Committee – 31 October 2012

Subject: Hearing regarding possible suspension of a Street Trader's Licence

1. Purpose

- 1.1** To consider a suspension of a Street Trader's Licence held by Mr. Peter Brown, 156 Haywood Street, Parkhouse, Glasgow, G22 6SZ.

2. Recommendations

- 2.1** That the Committee considers the terms of this report, the terms of the evidence presented at the hearing and thereafter determines whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof.

3. Background

- 3.1** Mr. Peter Brown was granted a licence on 10 March 2011 to act as a street trader, licensed to sell ice cream, minerals, confectionary and tobaccos etc. from vehicle registration number N452 EAT within specified locations in Dalmuir, Mountblow, Old Kilpatrick, Linnvale and various other surrounding locations. Mr. Brown's licence is due to expire on 9 March 2014.
- 3.2** The Licensing Team were made aware that Mr. Brown was not operating as a street trader within these locations around December 2011 by another trader.
- 3.3** Mr. Brown was contacted by telephone in order to establish whether he intended resuming the operation of his ice cream van. Mr Brown indicated that he was attempting to source a different vehicle and would resume in the near future.
- 3.4** Mr. Brown sustained a broken leg around May 2012 and therefore was unable to drive thus postponing our attempts to take action against Mr. Brown at this stage.
- 3.5** Mr. Brown contacted the Environmental Health Section on 27 July 2012 and arranged for the inspection of a different vehicle from that stated in his licence for 2 August 2012.
- 3.6** Mr. Brown contacted the Environmental Health Section and advised them that he had a problem with the vehicle and rescheduled the appointment for Tuesday 7 August. Mr. Brown failed to attend or notify the Environmental Health Section.

- 3.7** A letter was sent to Mr. Brown on 16 August 2012 by Robert Mackie, Senior Officer (Licensing Services) reminding him of one of the conditions of holding a Street Trader's Licence which states:-

‘The Licence holder must ensure that the area granted to him is serviced regularly on the dates and times specified in the licence.’

- 3.8** Mr. Brown was also advised that if he should contact Mr. Mackie by 31 August 2012 otherwise the matter would be reported to the next available Licensing Committee. Mr. Brown failed to respond to the letter.
- 3.9** Mr. Brown was contacted by telephone on 5 October 2012 by Mr. Mackie to advise him that the failure to produce a vehicle over such a lengthy period would be resulting in a request for a suspension of his licence unless Mr. Brown was willing to surrender his licence voluntarily.
- 3.10** Mr. Brown declined the option to voluntarily surrender the licence and suggested that he wished to resume operating in the near future.

4. Main Issues

- 4.1** A licensing authority may order the suspension of a licence if in its opinion a condition of the licence has been contravened.
- 4.2** The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.
- 4.3** Where a licensing authority decides to order the suspension of a licence, the suspension generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension (28 days from the date of the decision to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension. However, if the licensing authority determines that the circumstances of the case justify immediate suspension, it may order that the licence be suspended immediately.
- 4.4** A licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity of being heard.
- 4.5** The licence holder and a representative of the Police authority have been invited to attend the meeting of the Committee on 31 October 2012 in order that a hearing may take place with regard to the possible suspension of the licence.
- 4.6** In considering whether to suspend a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence.
- 4.7** The matters which the Committee will require to consider are as follows:-

- (a) Whether the alleged misconduct has been established.
- (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, a condition of the licence has been contravened.
- (c) If the Committee is of the opinion that a condition of the licence has been contravened, the Committee must consider whether Mr Brown's licence should be suspended.
- (d) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr Brown an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
- (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.

5. People Implications

- 5.1 There are no personnel issues.

6. Financial Implications

- 6.1 There are no financial implications

7. Risk Analysis

- 7.1 There is no increased risk to the Council associated with the contents of this report.

8. Equalities, Health & Humans Rights Impact Assessment

- 8.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Strategic Assessment

- 9.1 In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Head of Legal, Democratic and Regulatory Services

Date: 8/10//2012

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Appendices: N/A.

Background Papers:

1. Letter dated 16 August 2012 from the Senior Officer, Licensing Services.
2. Letter to Mr Brown dated 12 October 2012.

Wards Affected: N/A.