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Law and Governance
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My ref: RP/065128

Date: 16 August, 2013

Dear Cllr Drury

Street trading licence

Cllr O'Mara has referred your letter of 14 August to me as you are querying the legality of the introduction of trading licences for forecourt trading, tables and chairs.

You are correct that Cabinet agreed a range of savings proposals at its meeting on 23 January 2013, which included the proposed introduction of charges for trading licences. These of course formed part of the budget proposals subsequently agreed by full Council.

When it came to introducing trading licences and setting charges for them, these are Council and not Cabinet functions, and are delegated to the Director of Community Safety and Environment in accordance with Schedule B in Part 3 of the constitution. The relevant provision is:

All functions relating to licensing and registration as set out in regulation 2 and section B of Schedule 1 to the Functions Regulations,* apart from paragraph 37, other than those delegated to the Planning Board or to Licensing Committee.	These functions are delegated to the Director of Community Safety and Environment
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* Section B of Schedule 1 to the Functions Regulations - paragraph 20 - covers the power to license market and street trading under Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994.

The Director used his powers under the London Local Authorities Act 1990 to introduce trading licences for forecourt trading, tables and chairs and to set charges for them. This was not an executive decision but a council decision. It was therefore not subject to the provisions about notice and call in. Accordingly I can see no grounds under which the Director's decision may be open to legal challenge.

Yours sincerely

Head of Law and Governance

Cc Cllr Maureen O'Mara
Mary Ney
Matthew Norwell