

CAMBRIDGE CITY COUNCIL
Record of Executive Decision

Temporary amendment to the delegation to officers: management and control of the General Market
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Decision of: Executive Councillor for Customer Services and Resources, Neil McGovern

Reference: 10/URGENCY/S&R/07

Date of decision: 31 August 2010 **Recorded on:** 31 August 2010

Decision Type: Non-Key

Matter for Decision: To delegate to the Head of Internal Audit the authority to:

1. Convene a hearing and to hear allegations against Trader A in accordance with the hearings procedure note attached; and
2. Make a decision on each of the allegations against Trader A and take whatever just and proportionate action she considers appropriate as a result of her decision, including (but not limited to) the making of a recommendation, a formal warning, suspending Trader A's market trader's licence, revocation of Trader A's market trader's licence.

Why the decision had to be made (and any alternative options):

Allegations of misconduct have been made against Trader A, a trader holding a stall on the market held on Cambridge Market Square. The trader disputes these allegations and has made counter allegations.

A trader's licence constitutes a possession of which a trader can only be deprived in accordance with law, in pursuit of a legitimate aim and where the deprivation is proportionate. In pursuing its legitimate aims in the management of the market the Council must strike a fair balance between the economic interest of the stallholder and the general interest of society, although a wide margin of appreciation exists.

Adjudications in respect of a trader's licence must be fair. The Council must observe the principles of natural justice. The market trader must be provided with a statement of the allegations, along with supporting evidence. He/she must then have an opportunity to respond to the allegations and produce evidence. A hearing should then take place where the decision maker will weigh up the evidence and make findings of fact. The decision maker will then decide what action to take in the light of the decided facts. Any decision made must be proportionate.

In this case, an independent officer should be the decision maker. City Centre Management has responsibility for management of the market and it is therefore not appropriate for the Director of Environment to hear the case. The Head of Internal Audit, being a senior and independent officer from a different Council department will hear the case.

The Executive Councillor's decision(s):

The Executive Councillor agreed:

That the Head of Internal Audit has delegated authority to:

1. Convene a hearing and to hear allegations against Trader A in accordance with the hearings procedure note attached; and
2. Make a decision on each of the allegations against Trader A and take whatever just and proportionate action she considers appropriate as a result of her decision, including (but not limited to) the making of a recommendation, a formal warning, suspending Trader A's market trader's licence, revocation of Trader A's market trader's licence.

Reasons for the decision:

These are explained above.

Scrutiny consideration:

The decision was sent to the Chair and spokes of Strategy & Resources Committee on xxxx.

Report:

Conflicts of interest:

None

Comments: