

F.A.O. Mr Chris Butler
City Centre Improvement Officer - Licensing
Gloucester City Council
Herbert Warehouse
Gloucester Docks
GL1 2EQ

Sent by post and by email to: Chris.Butler@gloucester.gov.uk

URGENT

Dear Mr Butler,

**Our clients: Mr Taran Catley (“Mr Catley”) and NMTF Limited (“the Federation”).
Re: Mr Catley’s application for Street Trading Consent - Gloucester City Centre.**

We refer to the above matter.

We have now had the opportunity to carefully consider the contents of your letter dated 6th January 2020 (“the Decision Letter”) and the representations relied upon in the Decision Letter (sent to us with your email dated 14th January 2020).

The decision set out in the Decision Letter breaches the Council’s Street Trading Policy 2017-2022 (“the Policy”) as follows:-

1. The application and the three representations relied upon have not been considered alongside the list of set criteria set out in Annex 1 as required by Paragraph 2.6.1.
2. There has been no attempt by a Licensing Officer to mediate between Mr Catley and Sally Goodwin, Charlotte Bowles-Lewis and Counsellor Paul James, as required by Paragraph 2.6.3. You did not even ask Mr Catley for his comments on the representations made by Sally Goodwin, Charlotte Bowles-Lewis and Counsellor Paul James let alone attempt to mediate between the relevant parties.
3. There has been no consideration given to the possible compromises set out in Paragraph 2.6.4 or, indeed, to any possible compromises.
4. No reference has been made to the possibility of a referral to the Licensing & Enforcement Sub-Committee for determination of the application, pursuant to Paragraph 2.6.7.

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The Decision Letter proceeds on the basis that you are entitled to refuse to grant a street trading consent simply because objections have been raised. This is both irrational and procedurally unfair. In determining the application you must give proper consideration to the Policy. This includes having regard to the purpose of the Policy as well as the provisions referred to above. We refer you to Paragraphs 1.2.1 and 1.2.2 of the Policy. Street trading activities are recognised by the Policy as, 'an essential part of a vibrant and lively city and [are] important to both the local environment and [the] local economy'.

The failure to give proper consideration to the Policy would be concerning enough in isolation. However, it follows on from the concerns raised by our clients about statements made by your Mr Ismael Rhyman ("Mr Rhyman"), the Council's City Centre Improvement Officer. Prior to Mr Catley's application being made Mr Rhyman stated to Mr Catley and Tania Murphy, of the Federation, that the Council would not issue any new street trading licenses and so Mr Catley should not bother applying. When we raised concerns about this statement in correspondence, Mr Rhyman responded by suggesting that Mr Catley and Tania Murphy had 'misunderstood' what he had said during a discussion about the option of The Cherry and White Market relocating to the Gate Streets. However, Tania Murphy's contemporaneous note of the relevant discussion with Mr Rhyman reads as follows:

"Ishmael advises that street trading licence have been revoked and that the kiosks on the square be given notice. He advises that no new Street trading licenses will be issued as Gloucester vision is that the town centre should be free of any market (apart from the Farmers market at present) trading activity. This hasn't been taken lightly and there has been some senior official involved in making this decision - I rather think he has made this call".

You will appreciate that it is very implausible to suggest that the above note could have been the result of a misunderstanding during a discussion about the option of relocating The Cherry and White Market to the Gate Streets. It is also very implausible to suggest that both Mr Catley and Tania Murphy misunderstood Mr Rhyman's statement in the same way (Mr Rhyman's statement was made to both Mr Catley and Tania Murphy).

The combination of Mr Rhyman's statement prior to the application being submitted and the fact that you have failed to give proper consideration to the Policy is compelling evidence that Mr Catley's application has not been determined fairly and has not been determined on its merits. Notwithstanding the purpose and the terms of the Policy, it is clear that the decision you have reached was pre-determined (by an unofficial decision/policy of the Council to refuse to grant any new street trading consents).

We have advised our client that the decision breaches basic public law principles. Mr Catley has a legitimate expectation that his application will be dealt with in accordance with the Policy (the Council's published policy on street trading). If you do not take action to rescind the decision and determine the application in accordance with the Policy then Mr Catley will be deprived of his rights.



As it stands, the decision set out in the Decision Letter is both irrational and procedurally unfair. It also fails to accord sufficient respect for Mr Catley's right to a fair hearing in determination of his civil rights under Article 6 of the European Convention on Human Rights.

In failing to take proper account of the Policy, the decision set out in the Decision Letter is susceptible to challenge in the High Court by way of judicial review and/or an action under the Human Rights Act 1998.

We require you to confirm, in writing, within 14 days of the date of this letter that the decision set out in the Decision Letter has been rescinded and that Mr Catley's application will be dealt with fairly and in accordance with the Policy. If you fail to do so then we shall advise Mr Catley to proceed with an application for judicial review and/or an action under the Human Rights Act 1998. Mr Catley will seek to recover the costs of any such application, which will be substantial, from you.

For the avoidance of any doubt, the Federation is more than happy to fund any legal action required in this matter.

We look forward to hearing from you.

Yours faithfully

Chafes Hague Lambert Solicitors

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