

CITY COUNCIL 4 FEBRUARY 2008

REPORT OF THE PORTFOLIO HOLDER FOR CUSTOMER SERVICES, CONSULTATION AND AREA WORKING

STREET TRADING – THE PROMOTION OF A PRIVATE PARLIAMENTARY BILL

1. SUMMARY

- 1.1 This report seeks final authorisation for the promotion of a Private Bill in accordance with section 239 of the Local Government Act 1972.
- 1.2 The Private Bill will supplement the City Council's enforcement powers relating to unlawful trading by:-
- (i) amending the definition of street trading to include the supplying or offering to supply any service in a street, and the purchasing or offering to purchase any ticket for gain or reward;
 - (ii) altering the Pedlars exemption so that it only applies to house to house trading;
 - (iii) enabling authorised Council Officers and Police Constables to seize articles being sold, offered or displayed for sale in suspected unauthorised street trading cases;
 - (iv) enabling courts to order forfeiture of such articles on conviction; and
 - (v) enabling authorised Council Officers to serve fixed penalty notices where they have reason to believe that street trading offences have been committed.

2. RECOMMENDATIONS

2.1 It is RECOMMENDED:-

- (1) that the Resolution of this Council passed at a Meeting of the Council held on Monday, 15th October 2007 to promote a Bill in the present Session of Parliament, pursuant to which the Bill intituled "A Bill to confer powers on Nottingham City Council for the better control of street trading in the City of Nottingham" has been deposited in Parliament, be and the same as hereby confirmed;

- (2) that the Corporate Director of Resources be given delegated power to take all necessary steps to carry the above resolution into effect, including the approval of any amendments to the Bill as deemed necessary, as it progresses through Parliament.

3. BACKGROUND

3.1 The City Council resolved on 15 October 2007:-

- (1) to authorise the promotion of a Bill in Parliament to supplement its enforcement powers relating to street trading in the City by:-
 - (i) amending the definition of street trading to include the supplying or offering to supply any service in a street;
 - (ii) altering the Pedlars exemption so that it only applies to house to house trading;
 - (iii) enabling authorised Council officers and Police constables to seize articles being sold, offered or displayed for sale in unauthorised street trading cases; and
 - (iv) enabling courts to forfeit such articles on conviction.
- (2) that the City Council join together with other local authorities to promote their own Bills with the prospect of fee sharing.

3.2 Following that resolution, Solicitors and Parliamentary Agents Sharpe Pritchard were instructed to promote and draft the Bill. Sharpe Pritchard are also representing Leeds City Council, Reading Borough Council and Canterbury City Council, who are all promoting similar Bills, and so the costs of promotion of the Bills will be shared.

3.3 The Nottingham City Council Bill was laid before parliament on 27 November 2007.

3.4 The Nottingham City Council Bill includes all of the supplemental enforcement powers outlined in paragraph 3.1 (1) above. It also contains the following supplemental provisions:-

- (i) to amend the definition of street trading to include the purchasing or offering to purchase any ticket for gain or reward; and

(ii) to enable Council Officers to serve fixed penalty notices in cases where they have reason to believe that street trading offences have been committed.

- 3.5 Both additional provisions detailed above have been included in the Bills promoted by Reading and Canterbury, and the power to serve fixed penalty notices has been included in the Bill Promoted by Leeds. These provisions, together with those detailed at paragraph 3.1 (1) above, are considered to be necessary to supplement the City Council's powers relating to street trading in Nottingham. The amended definition of street trading is intended to catch ticket touts. Ticket touting is understood to take place during events at the Nottingham Arena and elsewhere in the city. The ability to serve fixed penalty notices will provide an opportunity to discharge any liability to conviction by payment of a fixed penalty.
- 3.6 The possibility of including the additional provisions detailed at paragraph 3.4 above was discovered at the final stages of drafting the Bill, and therefore too late for an additional report to be taken to Council before the Bill was laid before Parliament. These additional provisions are considered to be complimentary to the enforcement powers detailed in paragraph 3.1(1) above.
- 3.7 Copies of the Nottingham City Council Bill as laid before Parliament are available in the Members' Room.

4. LEGAL IMPLICATIONS

- 4.1 It is necessary for more than 50% of the members of Council to vote to confirm the Council's resolution of 15 October 2007 to promote this Bill. If less than 50% of members support the proposed confirmation of that resolution the Bill must be withdrawn.
- 4.2 Specialist legal advice has been taken in respect of the promotion of the Bill, including Counsel's opinion that the Bill is compliant with the provisions of the Human Rights Act. If the Bill becomes law it will supplement this Council's existing enforcement powers and aid the regulation of street trading.

5. FINANCIAL IMPLICATIONS

5.1 Financial provision for the cost of promoting the Bill has been earmarked within the 2007/8 corporate contingency.

6. List of background papers other than published works or those disclosing confidential or exempt information

None.

7 Published documents referred to in compiling this report

7.1 "Street trading – the promotion of a Private Parliamentary Bill" – report presented at City Council Meeting 15 October 2007

7.2 Minutes of the City Council meeting held on 15 October 2007

7.3 Nottingham City Council Bill

COUNCILLOR EUNICE CAMPBELL

**PORTFOLIO HOLDER FOR CUSTOMER SERVICES,
CONSULTATION AND AREA WORKING**