Dear Sir/Madam,

ECONOMIC AND CORPORATE OVERVIEW AND SCRUTINY PANEL

Thursday, 19th March, 2015

I refer to agenda item no. 9 on the agenda for the above meeting and attach an addendum for the procedure in respect of Market Appeals for consideration at this meeting.

Yours faithfully,

ALAN FRANKS
Managing Director

To: All Members of the Economic and Corporate Overview and Scrutiny Panel

(Councillors B.J. Longden (Chair), R. Tromans (Vice-Chair), P.M. Elliott, P.D. Hickling, K.A. Kondakor, S.J. Margrave, G.D. Pomfrett, J.A. Tandy, C.M. Watkins, Ms D. Palmer and Mr G. Sonola)
16.0 DISCIPLINARY PROCEDURE

16.1 Reasonable effort will be made to resolve any disciplinary issues informally where appropriate.

16.2 There are 2 levels of offences that will be dealt with differently. These are classed as minor or serious.

16.3 Minor Offences

16.3.1 Minor contraventions of the Market Regulations will result in the issue of a Penalty Notice. The market management will inspect the market at anytime during the trading day and issue a Penalty Notice for any minor contravention of the Regulations. A Penalty Notice may be issued for a repeated offence that same day.

16.3.2 The following scheme will operate upon issue of Penalty Notices: -

16.3.2.1 Receipt of 3 Penalty Notices within any 6 month period will result in suspension from the market for the next 2 trading days. Rent is payable for the suspended days and there is no right of appeal against this suspension.

16.3.2.2 Receipt of a further Penalty Notice within 3 months of having received a first suspension in 16.2.1 above, will result in the issue of suspension for the next 4 trading days. Rent is payable for the suspended days and there is a right of appeal against this suspension.

16.3.2.3 Receipt of any further Penalty Notice within 3 months of the second suspension will result in the trader being excluded for a period to be determined by the market management. There is a right of appeal against this exclusion.

16.3.3 To exercises their right of appeal against their suspension a trader must submit their appeal in writing within 3 working days of the receipt of the Penalty Notice. The stallholder may continue to trade until the determination of the appeal at the discretion of the market management.

16.4 Serious offences

16.4.1 Any stallholder who commits what is considered a serious offence will be liable to immediate exclusion from all markets operated by the Council including removal of goods on display by a method to be determined by the markets management. There is a right of appeal against this exclusion.
16.4.2 To exercises their right of appeal against their suspension a trader must submits their appeal in writing within 3 working days being notified of the exclusion.

16.4.3 The stallholder shall not be able to trade until the outcome of any appeal is notified. The following are examples of Serious Offences but the list is not exhaustive:

- Acts of dishonesty (e.g. Police enquiries against trader which may result in legal proceedings or immediate removal).
- Acts of indecency.
- Any deliberate act causing or likely to cause death or personal injury to a person.
- Acts bringing the market into disrepute e.g. fighting, selling defective goods.
- Obscene and abusive language.
- Threatening behaviour
- Illegal trading e.g. no insurance cover, persistent failure to pay rent, trading from any stall when the market is cancelled.
- No trader shall be allowed to sell replica guns or offensive weapons of any kind.
- Stallholders and their employees shall not sell solvents, cleaning fluids, lighter fuels or other such substances to persons under the age of 18.

17.0 APPEALS PROCEDURE

17.1 A stallholder may appeal in writing to the Director against any exclusion or suspension; see Sections 16.3.3 and 16.4.2.

17.2 A hearing for any appeal should be held within 7 working days of receipt of the appeal request.

A trader may present their own case and/or be represented.

The Director will give their decision verbally on the day of the hearing where possible and will confirm their decision in writing normally with 5 working days.

17.3 The stallholder may further appeal to the Appeals Committee in writing within 7 working days of receiving the decision letter from the Director.

17.4 The decision of the Appeals Committee shall be final and binding except on a point of law.

17.5 Where the exclusion is for minor offences a stallholder may be allowed to continue to trade pending the outcome of the appeal unless they withdraw their appeal.
17.6 The Council’s Appeals Committee shall give its decision, in writing, as follows:-

17.6.1 allow the stallholder's appeal,

17.6.2 suspend the stallholder preventing trading for a period not exceeding 3 months or such period as was set out in the Notice of Suspension, whichever is the lesser,

17.6.3 terminate the stallholder's right to trade on any of the authority’s markets.