





**Brighton & Hove  
City Council**

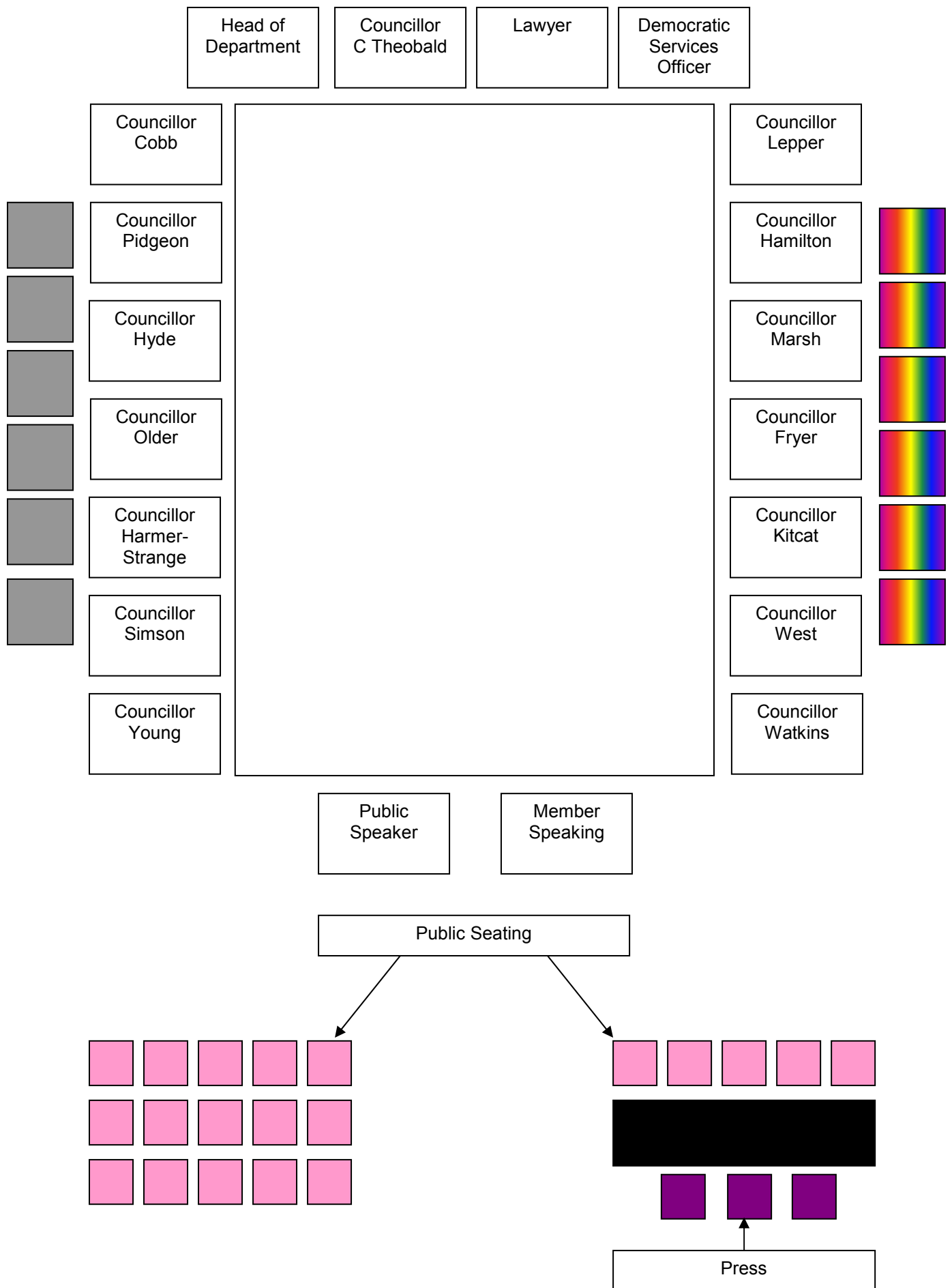
# Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	<b>Licensing Committee (Non Licensing Act 2003 Functions)</b>
Date:	<b>19 June 2008</b>
Time:	<b>3.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> C Theobald (Chairman), Lepper (Deputy Chairman), Mrs Cobb, Fryer, Hamilton, Harmer-Strange, Hyde, Kitcat, Marsh, Older, Pidgeon, Simson, Watkins, West and Young
Contact:	<b>Christian Brown</b> Democratic Services Officer 01273 291066 christian.brown@brighton-hove.gov.uk

	The Town Hall has facilities for wheelchair users, including lifts and toilets
	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
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# Democratic Services: Meeting Layout



## AGENDA

### 1. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

### 2. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 14 February 2008 (copy attached).

Minutes of the special meeting held on 28 April 2008 (copy attached).

### 3. CHAIRMAN'S COMMUNICATIONS

### 4. CALLOVER

*NOTE: Public Questions will be reserved automatically.*

### 5. PUBLIC QUESTIONS

a) the closing date for receipt of public questions is 12 noon on Thursday 12 June 2008.

b) the closing date for public questions for the meeting to be held on 2 October 2008 is 12 noon on Thursday 25 September 2008.

### 6. LICENSING NON 2003 ACT SUB-COMMITTEE

Members to confirm the establishment of the Licensing Sub-Committee (Licensing Act 2003 Functions).

**7. REPORT ON THE EXTENDED TRADING HOURS FOR UPPER GARDNER STREET MARKET**

**9 - 12**

Report of the Assistant Director, Public Safety (copy attached).

*Contact Officer: Martin New Tel: 29-2425*

*Ward Affected: St Peter's & North Laine*

**8. ITEMS TO GO FORWARD TO COUNCIL**

To consider items to be submitted to the 17 July 2008 Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 7 July 2008.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Caroline De Marco, (01273 291063, email [caroline.demarco@brighton-hove.gov.uk](mailto:caroline.demarco@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Wednesday, 11 June 2008

BRIGHTON & HOVE CITY COUNCIL

**LICENSING COMMITTEE 2003**  
**(Non Licensing Act 2003 Functions)**

**3.00PM –THURSDAY 14 FEBRUARY 2008**

**COUNCIL CHAMBER**  
**HOVE TOWN HALL**

**MINUTES**

Present: Councillor Simson (Chairman); Councillors Hyde (Deputy Chairman); Pidgeon (Deputy Chairman), Councillors Barnett, Cobb, Davey, Fryer, Hamilton, Hawkes, Janio, Lepper (OS), Marsh, Older, Watkins and West.

**PART ONE**

**ACTION**

**26 PROCEDURAL BUSINESS**

**26A Declarations of Substitutes**

26.1 Councillor Barnett substitute for Councillor Smart.  
Councillor Janio substitute for Councillor Theobald.

**26B Declarations of Interest**

26.2 There were none.

**26C Exclusion of Press and Public**

26.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

26.4 **RESOLVED** - That the press and public be not excluded from the meeting.

**27 MINUTES OF THE MEETING HELD ON 22 NOVEMBER 2007**

27.1 **RESOLVED** – That the Minutes of the meeting held on 22 November 2007 be approved and signed by the Chairman as a correct record.

**28. CALLOVER**

28.1 **RESOLVED** – That all the items on the agenda be reserved for discussion

**29. CHAIRMAN'S COMMUNICATIONS**

29.1 The Chairman stated that since the last meeting of the Committee, there had been 1 revocation of a taxi licence and three individual formal warnings issued to drivers. The revocation was because a driver had been driving over the limit and had a ban on driving imposed on him resulting in the loss of his taxi licence.

**30. PUBLIC QUESTIONS**

30.1 There were none.

**31. HACKNEY CARRIAGE FARE REVIEW**

31.1 The Committee considered a report seeking permission to advertise proposed fare increases following the Hackney Carriage Trade's request for an increase in fares.

31.2 The report also asked for the adoption of a policy that requires all new or replacement multi-seater vehicles (vehicles capable of carrying 5-8 passengers) to be wheelchair accessible.

31.3 The Committee were generally in favour with the proposed increase. However, there were some concerns over the structure of the increase. It appeared that short journeys were cheaper which could prove a disincentive to cycling or walking, while long journeys became more expensive thus making car ownership more attractive. This was deemed to be a measure that went against issues pertaining to sustainable transport in the city. It was felt by some that this policy could adversely affect elderly residents of the city who would not be able to walk or cycle the distances to shops, clinics or hospitals.

31.4 The Committee discussed the proposal that multi-seater vehicles should be wheelchair accessible, and agreed that this should be adopted. It was felt important that a mixed fleet be available

within the city.

31.5 **RESOLVED** – (1) That the Director of Environment be authorised to advertise the proposed variation in fares and to invite any objections in accordance with the legal requirements.

(2) That it be agreed that if no objections are made, or if any objections which are made are withdrawn, the varied table of fares will come into force from the date specified in the relevant notice.

(3) That the matter be reconsidered at the next meeting of the Licensing Committee if valid objections are made but not withdrawn.

(4) That the following policy with regard to multi-seater vehicles be adopted:

That from the 1 June 2008 all new or replacement multi-seater vehicles (vehicles capable of carrying 5 to 8 passengers) are wheelchair accessible.

**32. ITEMS TO GO FORWARD TO COUNCIL**

32.1 **RESOLVED** - That no items go forward to Council.

The meeting concluded at 3.25 pm

Signed

Chairman

Dated this    day of

2008





## BRIGHTON &amp; HOVE CITY COUNCIL

**SPECIAL LICENSING COMMITTEE 2003  
(Non Licensing Act 2003 Functions)****4.00PM – MONDAY 28 APRIL 2008****COUNCIL CHAMBER  
HOVE TOWN HALL****MINUTES**

Present: Councillor Simson (Chairman); Councillors Hyde (Deputy Chairman); Pidgeon (Deputy Chairman), Councillors Barnett, Cobb, Davey, Duncan, Hamilton, Hawkes, Janio, Lepper (OS), Marsh, Older, Watkins and West.

**PART ONE****ACTION****33 PROCEDURAL BUSINESS****33A Declarations of Substitutes**

33.1 Councillor Duncan substitute for Councillor Fryer.

**33B Declarations of Interest**

33.2 There were none.

**33C Exclusion of Press and Public**

33.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

33.4 **RESOLVED - That the press and public be not excluded from the meeting.**

**34. HACKNEY CARRIAGE FARE REVIEW**

- 34.1 At the meeting of the Licensing Committee on 14 February 2008 it was agreed that the Director of Environment be authorised to advertise the proposed variation in Hackney Carriage fares and invite any objections. If objections were received the matter would be considered at a future meeting of the Licensing Committee. Objections were received and therefore the Committee were required to consider those objections and to agree a table of fares to come into force with or without modifications. The objections were listed in appendices 1-4 to the report (see Minute book for details).
- 34.2 The Committee were advised that the objections received suggested an entirely new tariff rather than a modification. Therefore, if the objections were accepted it would be necessary to start the fare review again and publish the proposed table in order for any objections to be made.
- 34.3 The Committee discussed the objections received and the new alternative table of fares. The Committee were aware that there had been no increase in fares since May 2006 and that the table of fares which was discussed at the Committee meeting in February had been set after full discussions with the taxi drivers.
- 34.4 The Committee noted that the cost of running a taxi had increased and it was therefore appropriate for there to be some rise in tariffs. The Committee considered the objections but felt that the table of fares published in February were appropriate and would accept them without modification. The Committee were conscious of the importance of taxis to the city and particularly the importance of having a mixed fleet to ensure that taxis were accessible to as many people as possible. It was suggested that in future taxis were considered as part of the overall transport scheme for the city.
- 34.5 **RESOLVED** – That the objections received on the proposed table of fares as advertised having been considered, the proposed table of fares without modification would come into force on 19<sup>th</sup> May 2008.

**35. ITEMS TO GO FORWARD TO COUNCIL**

- 35.1 **RESOLVED** - That no items go forward to Council.

The meeting concluded at 4.30 pm

Signed

Chairman

Dated this    day of

2008



# Licensing Committee (Non Licensing Act 2003 Functions)

**Agenda Item 7**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Report On The Extended Trading Hours For Upper Gardner Street Market</b>		
<b>Date of Meeting:</b>	<b>19 June 2008</b>		
<b>Report of:</b>	<b>Assistant Director, Public Safety</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Martin New</b>	<b>Tel:</b> <b>29-2425</b>
	<b>E-mail:</b>	<b>martin.new@brighton-hove.gov.uk</b>	
<b>Wards Affected:</b>	<b>St. Peter's &amp; North Laine</b>		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To consider this report which was requested by licensing committee of 4 October 2007

### 2. RECOMMENDATIONS:

- 2.1 That street trading consent for Upper Gardner Street with conditions limiting trading periods for trading on Saturdays between 0700 and 1700 hours be continued.
- 2.2 Further monitoring and enforcement visits are arranged by officers and that additional reports are not required unless there is a change in circumstances, e.g. if highlighted by the planned review of the council's street trading policy

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On the 4 October 2007 the Licensing committee were asked to consider a request from the stall holders at Upper Gardner St Market that the trading hours of the market be changed. This followed a decision made at this committee's meeting of 8 February 2007. At that meeting on 4 October it was resolved :-
- i) That the street trading consent for Upper Gardner Street with conditions limiting trading periods for trading on Saturdays between 0700 and 1700 hours be continued and reviewed in six months.
  - ii) That the consent fee is set at a level that officers reasonably believe cover costs of the service and may rise incrementally each year to cover inflation

but in this case as it also covers refuse collection, as stall holders are not required to store and remove waste, it is subject to any changes in Council refuse collection charges.

- iii) That the market remain as at present being managed by the UGS market traders' association with the Council's function as regulatory authority, issuing street trading consents and enforcing conditions and provisions.
- iv) That the current informal parking arrangement continues and the Council continues to monitor the situation.

3.2 A complaint received regarding the market and the parking arrangements has now proceeded to the local Government ombudsman. The complaint has been answered and the local Government ombudsman decision has found no maladministration. The ombudsman's decision letter is appended to this report for information.

#### **4. CONSULTATION**

4.1 Ward councillors and parking enforcement have been consulted on this report. The ward councillors commented as follows: - our position remains the same as in Cllr West's letter to the environment committee on 24th January. We are concerned that the market is in decline and that it needs formal support from the council to ensure its survival. We would like to see a working group set up consisting of council officers, ward councillors, residents and the market traders to work together to ensure the future vibrancy of this valuable local asset.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### **5.1 Financial Implications:**

Capital - There are no Capital Implications.

Revenue - The Recommendation will have no financial impact on BHCC. The current rate of £511 for street trading in Upper Gardner Street Market is sufficient to cover the costs of the service provided.

##### **5.2 Legal Implications:**

None

##### **5.3 Equalities Implications:**

None

#### **5.4 Sustainability Implications**

There are no additional environmental and sustainability implications relating to these proposals.

#### **5.5 Crime & Disorder Implications:**

None

#### **5.6 Risk and Opportunity Management Implications:**

No additional risks or opportunity management issues identified.

#### **5.7 Corporate / Citywide Implications:**

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Ombudsman's decision letter





## **Item 7 – Appendix 1 – Ombudsman’s Report on UGS Market**

Dear Brighton and Hove City Council

### **Complaint**

Thank you for your letter and for the subsequent emails and information.

I enclose a copy of my letters to X explaining my initial view and final decision.

Yours sincerely

Investigator

Enc:

The Commission will include this complaint in the published figures for the year ending 31 March 2009. We will record the category as: Other and the decision as: No or insufficient evidence of maladministration (without report).

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May 2008

Dear X

I write further to my letter which explained my initial view about your complaint. I have considered the additional information that you sent, including the photographs and video, and I have contacted the Council for some further information.

However, I remain of the view that there has been no maladministration by the Council.

I asked the Council about the issue of traders placing notices on cars asking people not to park (as shown on the photographs). The Council checked with Parking, the Licensing department and the Police and it appears that the placing of such notices is not an offence. However, I have been informed that Police Community Support Officers will keep an eye on the situation in case there is an escalation in this activity which causes a problem.

The fact that the Council has not taken action against the placing of these notices is not maladministration because it does not seem to be an offence.

I can also confirm that the traders should wear ID badges and, if they do not, then enforcement action could be taken. However, as I explained in my previous letter, the Council will only take enforcement action if it thinks it is appropriate to do so; this is in line with its enforcement policy.

I also asked the Council whether details about the pitches could be put on the website. The Head of Environmental Health and Licensing considered your request but does not think it is necessary. The Council has its own records to monitor the market and it does not feel it is necessary to put any further information on the website. This is a view that the Council is entitled to take and does not represent maladministration.

You have also commented that before a test was arranged for access for Emergency Vehicles the traders were given advance notice. You think the test gave artificial results. However, whilst this may be true I think it is likely that the Emergency Services would have raised this as an issue with the Council if they had any serious concerns.

Finally you asked for the residents of Upper Gardner Street market to be consulted about future changes to the market. However, the evidence shows that residents and the North Laines Community Association have been consulted in the past so it is likely that they would be consulted again about future plans.

I appreciate that you do not think the market is well run and you have concerns about parking and the behaviour of the traders. However, I think it is important to stress again that this is not a Council run market but a group of traders who have consent to trade. And, despite your concerns, I think the Council is taking appropriate action to monitor the traders. Also, as I explained in my previous letter, a more rigorous inspection routine will be implemented over the next few months.

For these reasons, and for those explained in my previous letter, I have now discontinued my investigation and closed your complaint on the grounds that there has been no maladministration by the Council.

As required by the 1974 local Government Act, I have sent a copy of my letters to the Council's Chief Executive.

If you want any papers returned to you please let me know as soon as possible. Our normal policy is to destroy files 14 months after we have closed the complaint.

Yours sincerely

Investigator

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23 April 2008

### **Complaint against Brighton and Hove City Council**

As you are aware, I wrote to the Council to make enquires about your complaint. I enclose a copy of the reply.

This letter explains my initial view about your complaint and invites you to comment before I make my final decision.

### **Initial view**

My understanding of your complaint was explained in the letter which I sent to the Council; you have already been sent a copy of that letter.

My initial view is that there has been no maladministration (administrative error) by the Council which has caused you an injustice.

### **How I reached my initial view**

The Local Government Act 1974 says that the Ombudsman may investigate complaints of injustice caused by maladministration by the Council. I am sorry to tell you that the evidence I have seen so far satisfies me that there has been no maladministration by the Council in relation to the matters you have complained about.

You complained about a number of issues relating to Upper Gardner Street market; the full summary of your complaint was explained in the letter which I sent to the Council. However, the main elements of the complaint were that the market is badly managed, the traders behave inappropriately towards local residents and the Council has shown bias to the traders by allowing an informal parking policy to continue. You feel that parking is a problem for residents when the market is operating, and you think the present arrangements cause access problems for the Emergency Services.

Having read the information from the Council I am satisfied that the market is properly managed. I think it is also important to stress that this is not a market which is formally managed by the Council but a group of traders who are allowed to trade, subject to certain conditions. It is apparent that there are random and regular inspections involving the licensing department, the police and the highways department. During inspections the consents and pitch occupancies are checked and advice issued if any problems are noted. Also, a more pro-active inspection system is due to be implemented over the next few months and this will include Upper Gardner Street.

The Council accepts that displaying books on windscreens, as shown in your in photographs, may breach a condition of the trading consent. However, a breach would need to be witnessed by an officer and the Council would have to decide if it was appropriate to take enforcement action. Under the terms of the Enforcement Policy the Council has a range of available options if a breach is identified; options range from taking no action to deciding to prosecute. If the Council decides not to take enforcement action then this does not constitute maladministration because it is a valid option under the Enforcement Policy. The role of the Ombudsman is to check that a Council is following its policies and procedures; however, it is not for the Ombudsman to question the merits of a decision taken under that policy.

You also complained that the traders are aggressive and behave poorly towards you and other residents. I have no reason to disbelieve what you have told me, but there are no records of other residents complaining about this. Given that the licensing department works with the police, and the police are consulted over new applications, then I think the Council would have been alerted if residents were regularly reporting aggressive or inappropriate behaviour by the traders. There are also regular liaison meetings between a range of organisations and, again, I think it is likely that if the traders were causing problems then it would have become apparent during these meetings.

You also told me that the market causes parking problems. I can understand that on Saturdays it probably is more difficult to park, especially as the parking restrictions are only in force from 4pm to 8pm each Saturday. The Council accepts that this is an informal arrangement which resulted from a recent change in parking rules in central Brighton. The Council is aware that changes in Upper Gardner Street might be necessary but, for the time being, it has decided to continue to monitor the informal arrangements. This does not seem to me to be unreasonable and I note that no other residents have complained about parking whilst the market is operating. The Emergency Services have also not raised any concerns which I am sure they would have done if they felt there were serious access problems.

I do not see any evidence of bias; the market exists and the Council has to balance the interests and needs of the traders, with those of local residents. The Council is continuing to monitor the situation and has considered alternative options, and I think this is a fair compromise.

### **Next steps**

Overall, I have not identified any administrative error in the management of Upper Gardner Street market. I understand that you are unhappy with the market, and you feel that it causes you problems, but this does not mean that there is fault by the Council.

I would like to stress that this is not my final decision. This is, however, an opportunity for you to comment on my initial view and on the letter from the Council. If you have any new information or comments that you would like me to take into account, then please send them to me within three weeks of the date of this letter. If you need longer to reply, please let me know.

If I do not hear from you within this time, then it is likely that this letter will stand as my decision. I shall discontinue my investigation and close your complaint. Also, as the 1974 Act requires the Ombudsman to inform the Council of the decision on your complaint, I will then write to let the Council's Chief Executive know the outcome.

There is no formal right of appeal against our decisions so it is important that you say now anything that you want me to consider.

Yours sincerely

Investigator

