

Statement of Mark Croxford – 4 March 2014

I am Mark Croxford, Head of Environmental Health (North) and Birmingham Markets. I am employed by Birmingham City Council and have been a senior manager for approximately 10 years and a Head of Service for the Markets Service for 1 year.

Following reports from traders and markets officers that there were apparently people trading on the open market with staff who do not have the right to work in the UK I referred the matter to West Midlands Police (WMP) and the UK Border Agency (UKBA).

I was advised that on the 24th January 2014 that WMP attended the markets assisted by Markets Police Officers and arrested 7 persons from 2 stalls. This subsequently turned out to be 3 persons from stall 9 & 11 (1 trading stall) and 3 persons from stall B22. The Seventh person was arrested in the public aisle after a short foot chase by a PCSO from WMP. Market traders confirmed to the WMP and Markets Officers that this arrested person had been working on one of the stalls that morning.

Via WMP and the UKBA I have been informed that 6 of the 7 persons detained are to be deported and are now in detention centres and identity checks are being carried out by WMP and UKBA to confirm the 7th person's eligibility to work in the UK. I know this from conversations with [REDACTED], Markets Police, emails and discussions with WMP and UKBA.

Accordingly I wrote to the two licensed stall holders requesting they attend a meeting on the 14th February 2014 to discuss the events surrounding their stalls.

On the 14th February in accordance with their wishes I saw both Mr S Nazary and Mr Aryubi together. I was accompanied by [REDACTED] and [REDACTED] both employees of Birmingham City Council and attached are the typed notes of that meeting. They also contain the conclusions of the Panel and my thoughts as the Chair.

During the meeting it became very apparent that both Mr Aryubi and Mr Nazary were trying to distance themselves from the events in that:

1. Both stated they had left the Market for Friday prayers on the 24th January 14, but when asked how they were advised of the WMP attendance at the stalls, SN said he was present.
2. Initially both denied the 7 people were arrested on their stalls even though Dave Corner advised this was the case he confirmed that 3 were arrested on each stall and a 7th in the aisle. This is despite SN later admitting he had been present at the time of the arrests.
3. When pressed SN and QA confirmed that 3 of the arrested persons were known to them, however when asked about employment checks they gave comprehensive answers showing that they were aware of the checks required by the UK legislation to be undertaken. Both advised they had carried out ID/Passport, a home address and National Insurance number checks.

As stated above in my opinion the answer to 3 showed a very good awareness of UK employment legislation. Both SN and QA advised the panel they could bring the photocopies of the checks undertaken and that there was nothing more they could do to ensure they had not employed workers who were ineligible. The fact that SN and QA could only advise of 3 names of their employees lead me to the conclusion the checks were not undertaken properly or that SN and QA were being dishonest in their answers.

I also formed the opinion that we were discussing 2 small outlets, i.e. Market stalls, employing 7 people, to have 6 persons without the correct authorities to work in the UK was beyond the likelihood of accident or happenstance SN seemed less engaged and was following QA's lead.

As a Senior Manager I have a duty to Birmingham City Council to ensure that nothing untoward occurs on the markets and that every effort is made to have a fair trading environment. I also have a duty to try and ensure that nothing our staff or our market does is likely to bring the Council or the Bull Ring Market into disrepute.

Under the terms of the Licence on page 3, points 2(k) and 2(l) both stallholders had failed to comply with UK legislation and to comply with the Markets Rules and Regulations.

This action of employing people that cannot lawfully work in the UK, is illegal it is also likely to damage the reputation of Birmingham City Council's Markets and has the potential of calling the Council and the Bull Ring Retail Markets into disrepute. In action by the council would do nothing to protect the reputation of the Council either.

In my opinion committing criminal offences on the Market is serious misconduct.

In deciding whether to suspend or terminate the stallholders licences, consideration was given to the likelihood of QA/SN knowing whether or not they were breaking the law (it is evident by the level of checks they claim to have undertaken in checking the ID of their employees that they are well aware of UK employment legislation); However there is no evidence the checks were undertaken and had they been undertaken as appears to have been suggested by the stallholders they would have been aware that they should not have employed the individuals concerned and should have refused them employment but they did not do so.

The Markets Rules and Regulations (2006) allow for people to continue to trade whilst under appeal however, the rules fail to address serious misconduct such as violence where it would be more appropriate to protect other traders and members of the public rather than ensuring people could continue to work whilst the matter is resolved. Similarly they do not cover the situation where the Bull Ring Market can be called into disrepute by actions of Stallholders.

In this instance, I considered that there is a huge reputational issue around Local Authorities allowing the employment of people who are not entitled to work in the UK and that currently this being played out in the press around a government minister who had employed a cleaner who could not be lawfully employed in the UK.

On balance I concluded that if one person had had been arrested for not having the correct paperwork would be serious. However for both stalls to be completely populated with staff all of whom did not have the correct paperwork was intentional. I have subsequently been informed that during a conversation with a UKBA officer one of the staff was paid £20 per day. This also shows that SN and QA were exploiting the individuals and reinforces the opinions I formed during the meeting. This was more than happenstance or "unluckiness" that so many people had been found on the market.

In my opinion the lease and the rules and regulations had been breached in a very serious manner. For that reason I decided the lease should be terminated forthwith.

**NOTES OF MEETING TO DISCUSS AN INCIDENT ON THE BULL RING OPEN MARKET
WHERE PEOPLE WHO WERE INELIGIBLE TO WORK WERE ARRESTED BY WEST
MIDLANDS POLICE**

Held on Friday, 14 February 2014 at 12.30pm

PRESENT:

Mark Croxford, Chair

MC

[REDACTED], Birmingham City Council Equalities

[REDACTED]

[REDACTED], Markets Operations Manager

[REDACTED]

[REDACTED], Senior Officer

[REDACTED]

[REDACTED], Markets Police Inspector

[REDACTED]

Mr S Nazary, Licence Holder

SN

Mr Q Aryubi, Licence Holder

QA

Colleague/Translator

Introductions were made and MC advised that MC understood that both Mr Aryubi and Mr Nazary wished to have a joint meeting and not be heard separately, which was confirmed. MC advised them that it was regarding a serious issue whereby West Midlands Police had arrested 7 people on 24 January 2014 and this was effectively a disciplinary meeting to understand what had occurring on the Bull Ring Open Market.

SN/QA initially advised that they were unaware of 7 people being arrested, but following questioning advised that they were aware of [REDACTED], [REDACTED] and [REDACTED] having been arrested on 24 January 2014.

They advised that the remaining people were possibly friends of the 3, but they were unaware of who they were.

When asked where SN/QA were on this date, SN/QA advised that they had left around 11.30am and gone to the mosque for Friday prayers.

MC asked QA if he knew all of the employees on his stalls and QA confirmed that that he did. MC asked SN if he knew all of the employees on his stalls and SN confirmed that that he did too. When asked, SN/QA confirmed that the employees had worked for them for a period of between 5 weeks and 2 months. Both confirmed that their staff members were not paid sufficiently to purchase assistants to work on the stall and therefore, only employees of NS/QA would be on the stall.

MC asked how they found out about police attendance at their stalls, as both had previously indicated that they had gone to prayers however, at this stage QA advised he was telephoned and SN advised that he was present when the police arrived.

There were no further questions from the Panel and MC invited [REDACTED] to make a statement as to the morning events on the 24 January.

[REDACTED] advised that a Market Officer had observed the stalls at around 10am and noted that each stall had 3 persons serving the public. At 12 noon he attended with West Midlands

Police and 3 people were arrested on SN's stall and Andy Millar, Markets Police Patrol Officer, advised [REDACTED] that a further 3 were arrested from QA's stall. A seventh person appeared in the Market and other traders advised that he had been working on one of the stalls too, which was believed to be SN's stall and after a short foot chase, this person was caught by a PCSO and brought back to the stall. Again, this person was identified by other market traders as having worked on the stall in the morning.

[REDACTED] advised that West Midlands Police have subsequently confirmed that 6 of the 7 people arrested were not eligible to work in the UK.

[REDACTED] advised that he had not been present on the morning of 24 January 2014 however, he was aware that in the days leading up to this date, there had been between 3 and 4 people working on SN's stall and 2 and 3 people working regularly on QA's stall.

MC invited questions from both officers and stall holders. Neither the officers nor stallholders asked any questions of each other.

At approximately 1310 hours, there was a short break for the panel to discuss the information they had heard. At approximately 1320 hours, SN was invited back with the interpreter and asked by WA how he recruited staff. SN advised that people approach him randomly and ask for work.

[REDACTED] asked what checks SN undertook to ensure that the people were illegible to work in the UK and he advised that he obtained an ID with an address on it, a National Insurance Number and usually a driving licence with a photo ID. SN then advised that he keeps all of these and takes photocopies.

[REDACTED] asked how quickly the staff turnover and SN advised people can work for him for a period of 1 week to 3 months. SN offered to produce the photocopies of the records subsequent to the meeting.

QA was then invited back into the meeting and SN left. [REDACTED] asked how QA recruited new employees. QA advised that friends refer workers to him and he takes copies of an Insurance Number (National Insurance Number) and ID with a photograph such as a driving licence or passport that contains an address. QA stated he could do no more as he has to assume that the IDs are legitimate and cannot do checks to ensure that they are not fraudulent and he offered to share the ID photocopies with MC.

CONCLUSION BY PANEL

The panel considered the evidence that they had heard and the following conclusions were drawn:

- 7 people were arrested on 24 January 2014 and QA/SN could only provide 3 names of people who worked on their stalls on that morning after questioning by MC.
- If the seventh person from aisle was not from the stalls, but was not entitled to work in the UK, then a minimum of 5 of the 6 persons from the stalls had to be working illegally in the UK.
- If SN/QA had undertaken the checks as diligently as described, they would have known the names of the people employed on their stalls.
- SN/QA had confirmed that they were the only people that employ people on their stalls and that the 3 people they had named were their employees.
- SN/QA confirmed only employees would work on their stalls and that their employees would not sub-contract others.

CONCLUSION BY CHAIR

MC is satisfied that a minimum of 5 people were employed on the Bull Ring Open Market who did not have the right to work in the UK.

MC is satisfied that there was a lack of honesty in the meeting, either the checks were not carried out as described or QA/SN or that QA/SN knew the IDs of the 6 people arrested from their stalls, but failed to give them to the panel.

MC considered the merits of the case and the significant impact such matters can have on the reputation of Birmingham City Council and the Traders of the Bull Ring Market.

QA/SN were asked to come back into the meeting at 13.45 approx. and were advised of the conclusions and decision to terminate the licence forthwith. MC advised of the right of appeal to the Director of Regulation and Enforcement and that a letter would be sent that day confirming the decision.

Termination letters were sent on the evening of 14 February 2014 to SN/QA at their home address in Formans Road, Sparkhill.