



# CHELTENHAM

## BOROUGH COUNCIL

Mr Bambas Shaouna  
[REDACTED]  
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ask for: Sarah Hughes  
ddi number: 01242 262626  
email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
our ref: Street Trading  
date: 23/04808/LSTTRD  
12/10/23

Dear Mr Shaouna

### Re: Street Trading Consent

Thank you to Will Capstick for taking the time to come into the office on Friday 7 October 2023 and discuss the complaints received in regards to the street trading activity from 'Mr Whippy' vehicles.

Four complainants had been identified over a period of three months.

The complaints received were that;

- The vehicle was parking too close to school premises
- The vehicle was positioned at a location for longer than permitted
- The chimes were sounded for longer than permitted
- The vehicle was operating beyond 7pm

All are contrary to the code of conduct and the conditions of the consent.

It was discussed at our meeting that you have spoken to the female driver with regards to the complaints received and you are confident that this driver understands the importance of adhering to the conditions attached with the consent. You have a copy of these conditions and the code of conduct, and have agreed that this will remain in the vehicles and be displayed clearly for staff to reference.

It was also suggested that, for due diligence and to prevent further complaints, that you may wish to;

- Ensure that the conditions and code of practice are available in all vans operating in the Borough of Cheltenham
- Consider the use of a chime with a timed cut out mechanism to prevent the chimes from being able to be sounded over the 12 second's limit.
- Ensure that staff are trained and understand the conditions of consent to operate. Talk new members of staff through these and provide tips (you discussed that a specific tune is shorter, perhaps suggest this is used?)

- Create a physical file for each member of staff and include training in this. Ask staff members to sign to confirm that they have received training on a specific subject.
- If you have need to discuss ANY issues or concerns with a staff member, document that you have done so. You may find the attached document useful as a simple template, changing 'product' to the van registration and 'reason for refusal' to topic discussed for example  
[https://www.cheltenham.gov.uk/downloads/file/8281/refusal\\_log\\_template](https://www.cheltenham.gov.uk/downloads/file/8281/refusal_log_template)
- I would also suggest that you look to fit trackers to your vehicles. From a business point of view you may find your insurance company look favourably at this, but it may also allow you to disprove allegations

Please, however, be aware that if the code of practice is not followed then Environmental Health will investigate to establish if the issues reported constitute a 'statutory nuisance' under the Environmental Protection Act 1990. If the investigation identified a statutory nuisance they have a duty to serve an abatement notice to abate the nuisance.

As discussed during the meeting, compliance with the code of practice also helps to show that a vendor has used best practicable means to prevent, or counteract, the effects of any nuisance resulting from the chiming, which would be a consideration given when determining whether a statutory nuisance exists. Also, Compliance with the code of practice also helps to demonstrate that a vendor has complied with Section 63 of Control of Pollution Act 1974 (CoPA). Therefore, this emphasises the importance of adhering to the code of practice.

Additionally, Environmental Health officers may then object to future street trading applications which would mean that the application is referred to licensing committee for consideration.

We thank Will again for his time to attend last week and am hopeful that the measures you are considering implementing will prevent any future complaints.

Please make contact with us if you wish to discuss any points in this letter. We are happy to assist you, particularly with suggestions that may prevent a nuisance being caused to members of the public and persons within their homes.

Yours sincerely

Sarah Hughes  
Licensing Enforcement Officer, Licensing

Amy McArthur  
Technical Officer, Environmental Health