

WYFRA	FINANCE & RESOURCES COMMITTEE	18 JULY 2008	ITEM NO
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REPORT OF: DIRECTOR OF FIRE SAFETY & COMMUNITY RELATIONS

PURPOSE OF REPORT: TO INFORM MEMBERS OF THE LEGAL PROCEEDINGS
TAKEN AGAINST THE PANSHEE RESTAURANT

RECOMMENDATIONS: THAT MEMBERS NOTE THE REPORT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT DETAILS

EXEMPTION CATEGORY: NONE

ACCESS CONTACT OFFICER: CRAIG McINTOSH 01274 655705

**BACKGROUND PAPERS
OPEN TO INSPECTION:** NONE

1. BACKGROUND

- 1.1 As a result of a fire safety inspection on the Panshee Restaurant, Bradford, officers of the West Yorkshire Fire & Rescue Authority issued Article 31 Prohibition Notices on the restaurant's two partners.
- 1.2 The Notices which restricted the capacity of the premises to 60 people, including staff, were flagrantly breached on seven occasions with up to several hundred people on the premises.

2. INFORMATION

- 2.1 Due to the seriousness and ongoing nature of these breaches, and the inevitable delay in reaching a conclusion to the criminal prosecution, the West Yorkshire Fire & Rescue Authority in partnership with Bradford Council, sought a High Court injunction under section 222 of the Local Government Act 1972, to restrain the continuing commission of criminal activity involving the repeated ongoing breach of the Prohibition Notices and the consequential threat to public safety. Joint action with Bradford Council was necessary because Metropolitan Fire and Rescue Authorities (unlike LFEPA and Principal Councils) do not have the power to take legal proceedings for injunctions in their own name to seek to restrain criminal activity and it was considered a more expedient process to work in partnership with Bradford Council than the only alternative which would have been to seek the approval of HM Attorney General for a relator action.
- 2.2 The High Court in Leeds granted an interim injunction and this was subsequently confirmed. The two partners were ordered to pay costs in the sum of £7,650. If they had subsequently breached the Injunction restraining them from exceeding the numbers allowed on the premises as specified in the Prohibition Notice they would then have been liable to imprisonment for contempt of court.
- 2.3 Subsequently, the two partners both pleaded guilty at Bradford Magistrates' Court to a number of charges of contravening a Prohibition Notice and were committed to Bradford Crown Court for sentence as the Magistrates viewed the matter as too serious for them to deal with.
- 2.4 The Recorder of Bradford, HH Judge Gullick, sentenced both men to suspended prison terms and fines as detailed in the following table.

Date of Offence	Partner (Mr Ali)	Partner (Mr Mia)
23/10/07	4 mths suspended for 2 years + £1000 fine	
7/11/07	4 mths suspended for 2 years + £1000 fine	
25/11/7	6 mths suspended for 2 years + £1000 fine	6 mths suspended for 2 years + £1000 fine
25/12/07	6 mths suspended for 2 years + £1000 fine	6 mths suspended for 2 years + £1000 fine
28/01/08		6 mths suspended for 2 years + £1000 fine
12/02/08		6 mths suspended for 2 years + £1000 fine
13/02/08	6 mths suspended for 2 years + £1000 fine	6 mths suspended for 2 years + £1000 fine

2.5 Both defendants were also ordered to pay costs of £1975 and placed under a supervision order for 6 months.

3. FINANCIAL IMPLICATIONS

3.1 In addition to officers time the Authority incurred legal fees of £11,233 obtaining the injunction plus a further £1,100 in costs totalling £12,333. The authority has been awarded costs and will receive total income of £9,625 against these costs leaving a net cost of £2,708 plus the cost of officer time.

4. EQUALITY & FAIRNESS ISSUES

4.1 There are no equality or fairness issues arising from this report.

5. CONCLUSION

5.1 In summing up HH Judge Gullick said "*These are extremely serious offences. You clearly were prepared, for financial gain, to potentially put the lives of your customers at considerable risk*".

5.2 West Yorkshire Fire & Rescue Service is grateful for the co-operation of Bradford Council in what may well be a innovative use of S222 powers in this manner – the resultant suspended prison sentences and fines and legal costs of around £20,000 incurred by the two restaurant owners should send a powerful message to others tempted to ignore Prohibition Notices of the folly of such a course of action and the very serious legal consequences which can arise

5.3 The High Court injunction and the Prohibition Notices remain in force.