

## **Statement of Facts**

### **Waveney District Council**

**-v-**

### **Mohamed Lamarti**

The facts of this case are as follows

1. Waveney District Council (“the Council”) is the relevant authority for the purposes of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”).
2. The Act gives an Authority the power to regulate street trading in its District. The purpose of the regulation of street trading is to ensure that the character and amenity of residential and attractive areas is protected and to ensure that the system is fair to existing businesses that may be trading in the area.
3. By Schedule 4 of the Act the Council can designate streets where no street trading is allowed without the authorisation of the Council (“consent streets”). The purpose in designating a street as a consent street is to give the Council a more flexible system of control than designating it as a licence street. Designation as a consent street can cover the more itinerant and infrequent types of trading such as ice cream vans. The Council has designated all of the streets listed in this statement (namely Foxglade Close, The Glades, Kevington Drive, Pakefield Road, Pakefield Street and Wilde Street) as consent streets.
4. On 17 July 2006 at 12.20, Mr Woodrow, a Licensing Officer from the Council, witnessed a Ford Transit ice cream van parked in Wilde Street, Lowestoft, registration number M882 EGV. At 12.22 Mr Woodrow witnessed a person buying an ice cream from the same ice cream van. Mr Woodrow approached the vendor, asked whether he had permission to trade and was told by the vendor that he worked for a Mr Lamarti. Further, the vendor informed Mr Woodrow that he thought Mr Lamarti had the necessary authorisation. On his return to the Council Offices Mr Woodrow received a call from Mr Lamarti, who requested an application form for authorisation to trade in consent streets, which was subsequently posted to him.
5. On 29 July 2006 at 12.25, Mr Woodrow observed a Ford Transit ice cream van, registration M68 TNO, with the name “Lamarti” displayed on its side. Mr Woodrow followed the ice cream van and shortly afterwards observed it parked in Pakefield Street, offering ice cream for sale. Shortly afterwards Mr Woodrow observed the same ice cream van, parked in Pakefield Road, offering ice cream for sale. Shortly afterwards Mr Woodrow observed the same van, parked in its previous position in Pakefield Street, offering ice cream for sale.
6. On 3 August 2006 a vehicle check was carried out by the Council, which confirmed that vehicle registrations numbers M882 EGV and M68 TNO were registered to a Mr M Lamarti, of [REDACTED]

7. On 5 August 2006 shortly after 12.30 Mr Woodrow observed a Ford Transit ice cream van, registration number M68 TNO driving along Longfield Way. Further, Mr Woodrow observed the ice cream van stop and sell an ice cream to a lady who had come out of her house on Longfield Way. Shortly afterwards Mr Woodrow observed the same ice cream van parked in The Glades and offering ice cream for sale. Mr Woodrow approached the ice cream van and spoke to the vendor, who telephoned Mr Lamarti. Mr Woodrow then spoke with Mr Lamarti, who admitted to Mr Woodrow that he had not returned the street trading pack, which the Council had sent to him.
  
8. By paragraph 10 (1) (b) of Schedule 4 of the Act a person who engages in street trading in a consent street without authorisation is guilty of an offence unless he is able to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence. A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

On conviction the prosecution will seek a contribution towards its costs

Signed.....  
(On behalf of the Prosecutor)

Dated.....