

REGULATORY SERVICES COMMITTEE – 1 DECEMBER 2021

PART I - DELEGATED

6. INTRODUCTION OF A STREET TRADING POLICY (LICENSING)

(DCES)

1 Summary

- 1.1 In recent months, following a number of street trading applications, it is evident the Council requires a specific Policy to cover Street Trading and tighter internal processes which would be best achieved by implementing a new Street Trading Policy (“the Policy”).
- 1.2 The aim of the Policy is to create a street trading environment which ensures fair trading, protects the amenity of residents, ensures the safety of those trading, promotes diversity and consumer choice and provides applicants with advice and guidance on the Council’s approach to the administration for street trading consents and licences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”).
- 1.3 Currently the licensing department rely on Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) when processing applications as no street trading policy exists. That said, the department does currently have a list of prohibited and consent streets (see Appendix II of the Policy) which were passed by Council on 10 July 2007. These streets and the designation of streets as prohibited, consent or licence streets have not been reviewed at the current time. However, a review of the streets would be undertaken and reported within the next 18 months with amendments made thereafter.
- 1.4 Officers are therefore seeking Member agreement in adopting the Policy following a public consultation.

2 Details

- 2.1 Street Trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. Under Schedule 4 of the Act, the Council can manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’.
- 2.2 For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street will also fall within the scope of the Policy. The definition does not include buildings themselves or commercial premises.
- 2.3 As highlighted above, the department does have a list of prohibited and consent streets which is displayed on our website. The current list of prohibited streets generally comprise of trunk roads, principle roads and specific named roads across the district. Additionally, at the Regulatory Services Committee in December 2017 it was agreed that trading be prohibited within 50m of any school boundary unless written permission is ascertained from the Head Teacher.
- 2.4 It should be noted that there are a number of different type of street trading activities, from static street trading (i.e. burger van), mobile street trading (i.e. ice cream traders), buskers, markets/fairs/carnivals and special events.

2.5 The Policy sets out the following in order to assist potential applicants before applying:

- criteria for choosing a trading location/pitch which is aimed to assist potential applicants
- requirements of trading vehicles i.e. emissions and encouragement of electronic vehicles
- guidance on employees of street traders
- operating hours
- guidance on ice cream van chimes
- trading near to schools
- how the application process works from submission, consultation and determination
- guidance on suitability of an applicant
- requirements for street trading during events / special events

2.6 The purpose of the Policy is therefore to:

- provide guidance to applicants and the decision makers
- to ensure fair trade occurs between mobile traders
- protect the amenity of residents
- promote diversity and consumer choice
- provides applicants with advice and guidance on the Council's approach to the administration of applications for street trading licences
- prevent obstruction of the streets in the district and to ensure the safety of persons using them

3 Consultation

3.1 A public consultation is required and will take place for 6 weeks if agreed. The consultation will include a press notice in the local paper as well as existing street traders licensed with the Council, those that are consulted as part of the individual application process and any other consultee that is considered appropriate by Officers/Members.

4 Options and Reasons for Recommendations

4.1 There are 3 options available for Members:

- **Option 1:** Authorise Officers to consult on the Policy. Following the expiry of the consultation for the Policy to be brought back to a future Regulatory Services Committee for adoption.

- **Option 2:** Authorise Officers to make further changes on the Policy before going out to public consultation. Following the expiry of the consultation for the Policy to be brought back to a future Regulatory Services Committee for agreement before adoption at Full Council.
- **Option 3:** Decide not to adopt the Policy.

5 Policy/Budget Reference and Implications

- 5.1 The recommendations in this report are within the Council's agreed budgets. Costs associated with a press notice are to be subsumed within existing licensing budgets.
- 5.2 There are no performance indicators impacted.

6 Staffing, Environmental, Community Safety & Public Health Implications

- 6.1 None specific.

7 Financial Implications

- 6.1 There are no financial implications.

8 Legal Implications

- 8.1 The adoption of the Policy will assist Officers and ensure the Council has a robust procedure in place when dealing with street trading within the district including in the determination of street trading applications.

9 Equal Opportunities Implications

- 9.1 Relevance Test

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	N/A

9.2 Impact Assessment

- 9.2.1 There is no detrimental impact likely towards any protected group from introducing the Policy.

10 Customer Services Centre Implications

- 10.1 CSC staff will be made aware of the Policy once it comes into force.

11 Communications and Website Implications

- 11.1 If agreed the Policy will be displayed on the TRDC website and will be published via TRDC social media platforms.

12 Risk and Health & Safety Implications

- 12.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 12.2 The subject of this report is covered by the Regulatory Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Option 1:	Delays the department from having a consistent approach when dealing with street trading and preventing guidance being readily available to applicants	Members to agree to recommendation provided to ensure it can be adopted in the early part of 2022 following consultation process	Treat.	Low 2.
Option 2:	Delays the department from having a consistent approach when dealing with street trading and preventing guidance being readily available to applicants	Officers to make the necessary changes and bring back to the relevant Committee at their earliest opportunity.	Treat.	Low 2.
Option 3:	Prevents consistency to decision making and ensuring suitable guidance is available to applicants	Officers to advise against this approach to ensure that there is greater consistency to street trading.	Treat.	Low 2.

12.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- Remote	Low	High	Very High	Very High
	4	8	12	16
	Low	Medium	High	Very High
	3	6	9	12
	Low	Low	Medium	High
	2	4	6	8
	Low	Low	Low	Low
	1	2	3	4
	Impact			
	Low	----->		Unacceptable

Impact Score

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

Likelihood Score

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

12.4 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

13 Recommendation

13.1 It is recommended that Members’ agree to Option 1:

Agree the draft Policy and authorise Officers to consult on the draft Policy. Following the expiry of the consultation for the draft Policy to be brought back to a future Regulatory Services Committee for agreement and P&R Committee before adoption of the final policy at Full Council.

Report prepared by: (Lorna Fryer, Lead Licensing Officer)

Data Quality

Data sources:

Data checked by: Matthew Roberts, Team Leader, Development Management

Data rating:

1	Poor	
2	Sufficient	
3	High	X

Background Papers: None.

APPENDIX:

Appendix A: Draft Street Trading Policy 2021