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# Tonbridge & Malling Borough Council

## Street Trading Policy

November 2022 V2

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### Licensing Contact Details

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## 1. Overview

- 1.1. In 2009, Tonbridge and Malling Borough Council adopted provisions contained in the Local Government (Miscellaneous Provisions) Act 1982 relating to Street Trading and as a result trading in certain streets (or parts thereof) within the Borough was either allowed, with the written consent of the Council, or prohibited.
- 1.2. In 2022, the Council sought to re-designate the borough to increase the councils reach with regards to issuing Street Trading Consents.
- 1.3. This policy is designed to cover a wide range of applications so it can be as inclusive as possible whilst also outlining what is both in and out of scope under the re-designation.
- 1.4. The table below gives an overview of the types of application that will require a street trading consent and those that will likely not:

Activities In Scope	Activities out of scope
Food & Drink sellers trading on the Highway	Markets trading at market venues
Food & Drink sellers trading on Private Land	Farmers Markets
Food & Drink sellers trading on Council Owned Land	School Fates and Fairs
Roadside fruit sellers	Church Fates and Fairs
Roadside flower sellers	Christmas Light events
Christmas tree sellers (except those trading in garden centres/yards etc)	Music Events (Festivals)
Non-itinerant ice cream seller (stopping in one location for a period of time)	Pedlars, Roundsmen & News vendors
Selling goods outside a shop if the goods are not the same as those on offer inside the shop	Charities and organisations handing out leaflets
Charities and organisations selling goods <i>may</i> require consent	Sales of articles by householders on their own land (vehicles, plants, household goods)
Placing cars for sale on any public road or land	Charity collections – although these will require a street collection permit
<b>This is not an exhaustive list, and all applications will be reviewed individually and judged on its own merit.</b>	

## 2. Purpose of this policy

- 2.1. The purpose of this policy is to provide a framework for applicants looking to gain consent to trade within the borough. It will set out the decision-making criteria so applicants know what is expected of them and it will provide guidance to Council officers who are responsible for administering and enforcing the street trading regime.
- 2.2. This policy will help shape the street trading environment, ensuring it remains sensitive to the needs of the residents, provides the public with good quality choice and compliments those premises-based businesses already trading in the borough.
- 2.3. Public safety will be considered with each application as well as the prevention of crime, disorder, and nuisance.

## 3. What is Street Trading

- 3.1. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 gives local authorities the power to allow or prohibit street trading within their administrative areas; across the whole of it or just in certain parts.
- 3.2. The Local Government (Miscellaneous Provisions) Act 1982 (from here on referred to as 'the Act') defines 'street trading' as being 'the selling or exposing or offering for sale of any article (including a living thing) in a street.'
- 3.3. It defines a 'street' as being:
  - a) Any road, footway, beach, or other area to which the public have access without payment; and
  - b) A service area as defined in Section 329 of the Highways Act 1989 ('An area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road')
- 3.4. When determining what constitutes a street, council officers will use the following as a test –
  - If members of the public have unrestricted access to the area to look at goods offered for sale without having to pay a fee, the area will be considered a street.
- 3.5. Anyone wishing to trade in a street within Tonbridge & Malling will be required to apply for consent.
- 3.6. The council does not hold a list of suitable street trading locations. Applicants should have regard to this policy and the requirements contain within to identify suitable locations.

## 4. Exemptions

- 4.1. The Act states that the following activities are not 'street trading' and therefore would not require consent:
- (a) trading by a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871;
  - (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order;
  - (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
  - (d) trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act;
  - (e) trading which:
    - i) is carried on at premises used as a petrol filling station; or
    - ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the business of the shop (such business must not obstruct the highway or payment area);
  - (f) selling things, or offering or exposing them for sale, as a roundsman;
  - (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway;
  - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
  - (i) the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 i.e. the collection of money or selling of articles for the benefit of a charity or other similar cause.

### Pedlars

- 4.2. A pedlar is defined in law as being 'any hawker, pedlar, petty chapman, tinker, caster of metals or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered. So in practice, a pedlar is someone who sells items on the move and sells items as he/she travels.
- 4.3. Established case law has set out other criteria which helps to further differentiate pedlars from street traders. These are that:
- a pedlar cannot travel to a location to trade, they must trade when they travel.

- a pedlar must only travel and trade on foot.
- a pedlar must not unnecessarily linger if they put their goods down or stop for a reason other than to sell their goods.
  - if a pedlar uses a trolley or cart to help transport their goods, it must be small and easily moved.
  - a pedlar must only sell goods when approached by members of the public.

4.4. A person who does not meet all of the above criteria must be treated as a street trader (and will require consent to trade in the Council area).

4.5. A person who intends to trade as a pedlar requires a pedlar certificate. Further information on how to apply for a pedlar certificate can be found here: <https://www.gov.uk/pedlars-certificate>

### **Roundsman**

4.6. Although the Act does not define what a roundsman is, there is legal precedent in case law, specifically the case of *Kempin t/a British Bulldog Ice Cream V Brighton and Hove Council*, where Lord Justice Latham ruled that a roundsman was someone who delivered pre-ordered goods within a locality.

### **Local Exemptions**

4.7. Tonbridge & Malling also exclude the following from needing to apply for Consent –

- Itinerant traders: someone who trades from a vehicle which goes from place to place, remaining in any one location in the course of trading for periods of 15 minutes or less and does not return to the same location or within 200m, on the same day. Common examples are ice cream vans and sandwich vendors. Whilst itinerant traders are exempt from street trading, they must still get permission from the Council if they intend to trade on Council owned land, such as parks and open spaces. See below for further details.
- Non commercial events: events that are community-based and run for non-commercial purposes, such as a fete or school fund raising activity. Where any of the profit of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the activity is not exempt from needing a consent.
- Shopping malls etc: traders that are set up within covered shopping malls, centres, arcades or similar.
- Working farms: goods from working farms sold at the premises where they were produced.
- Residential properties: unwanted household items or produce, such as homegrown fruit and vegetables, eggs, preserves e.g. jam etc.

- Travelling fairs and circuses: traders as part of an established travelling fair or circus.
- Used vehicles: where a vehicle is legally parked and advertised for sale.

## 5. Locations and Permissions

- 5.1. When deciding where to trade, you must consider which permissions you may need.
- 5.2. Any person wishing to trade on Council owned land must get permission to do so before applying for a street trading consent.
- 5.3. Any person wishing to trade on privately owned land should get permission before applying for a street trading consent. The permission must be submitted as part of your application, it should be in writing and contain the contact details for the landowner in case the Council wishes to confirm the permission is legitimate.

## 6. Trading on Council owned land

- 6.1. Any person wishing to trade on Council owned land must get permission to do so before applying for a street trading consent. This is the case with Council owned parks and open spaces. A copy of the council's public open spaces policy can be found [here](#).
- 6.2. Any form of trading on Council owned land, including itinerant traders and others which might be exempt, all require permission.
- 6.3. Even those forms of trading which have been deemed exempt from a street trading consent will still need permission from the Council if they wish to trade on Council owned land. Please contact [property.services@tmhc.gov.uk](mailto:property.services@tmhc.gov.uk) for further information or to ask about trading in a specific area owned by the Council.
- 6.4. Additional pitch fees may be required to gain permission for trading on council owned land. These fees are in addition to the consent application fees.
- 6.5. Once permission has been granted, you should include the details of the permission as part of your application. We would expect to see the confirmation in writing/email from a member of Tonbridge & Malling council staff. Officers will not contact other departments on your behalf and all permissions should be in place before you submit your street trading application.

## 7. Trading in Multiple Locations

- 7.1. Applicants may wish to apply for multiple locations on one consent.
- 7.2. These locations must be defined on the application form and the days and times of trading in each location must be specified.
- 7.3. When determining the application, the Council will need full details for each location including a map/plan of the area, the appropriate permissions to trade (if necessary) and any other information that is important for each location.

- 7.4. The Council can choose to refuse some locations or days and times for specific locations if it is deemed necessary. For example, if a trader applied for a late-night licence in a residential area, this may cause a nuisance to residents.

## **8. Markets & Events**

- 8.1. The following annual events within the Borough are exempt from requiring a Street Trading consent:
- Tonbridge Christmas Lights
  - West Malling Christmas Lights
  - Borough Green Christmas Lights
  - Tonbridge Farmers Market
  - West Malling Farmers Market
- 8.2. This is not an exhaustive lists and Event organisers can apply to have their events exempted from the requirements of a Street Trading consent. Requests should be made in writing to [street.trading@tmbc.gov.uk](mailto:street.trading@tmbc.gov.uk) All requests will be judged on their own merit.

## **9. Additional Legislation Requirements**

### **Licensing Act 2003**

- 9.1. The supply of alcohol and the provision of late-night refreshment (food and drink supplied between the hours of 23:00 and 05:00) are 'licensable activities' under the terms of the Licensing Act 2003.
- 9.2. Where a person's street trading involves selling alcohol or provision of late night refreshment, they will need a premises licence or temporary event notice (TEN) issued in accordance with the Licensing Act 2003, as well as a street trading consent. More information on both can be found on the Council website.
- 9.3. The Council may decide to refuse to grant a street trading consent or revoke one which has been granted, where the applicant or consent holder cannot demonstrate that a premises licence or TEN is in place or has been applied for.

### **Food business registration**

- 9.4. Where a person's street trading involves selling food and/or drink, they must register as a food business with the Council where their business is based or where their vehicle/stall is stored overnight, as well as holding a street trading consent.
- 9.5. All businesses selling food and/or drinks are advised to display their current food hygiene rating.
- 9.6. The Council expects traders to maintain good standards of hygiene. Traders who sell food and or/drink will, as a condition of their consent, be required to achieve and maintain a minimum food hygiene rating of 3 or above. The Council may decide to refuse to grant a street trading consent or revoke one which has been granted, where the applicant or consent holder has a



rating of less than 3. A business may be able to continue trading whilst they work to improve their standards but only in exceptional circumstances. This would be at Licensing Officers discretion in consultation with the Councils Environmental Health team.

## **Planning**

- 9.7. In some cases, planning permission may be required in addition to a street trading consent.
- 9.8. A person intending to apply for a street trading consent should always check to see if they need planning permission before making their application.
- 9.9. The Council may revoke a consent in the event of the holder being in breach of planning legislation.

## **10. Suitability of applicants**

- 10.1. A person can only be granted consent if they are aged 17 years or older.
- 10.2. When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:
  - Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.
  - Refusal or neglect in paying fees due to the council in relation to a street trading consent.
- 10.3. Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:
  - whether the conviction is relevant;
  - the seriousness of the offence;
  - the length of time since the offence occurred;
  - whether there is a pattern of offending behaviour;
  - whether that person's circumstances have changed since the offence occurred;
  - the circumstances surrounding the offence and the explanation offered by that person.

## **11. The Application Process**

- 11.1. The council will only accept and validate applications in the prescribed format.
- 11.2. The application form can be found on the **council's website** (insert link once published)
- 11.3. The application form should be fully completed and emailed to [street.trading@tmbc.gov.uk](mailto:street.trading@tmbc.gov.uk)
- 11.4. Part of the application form requires you to accurately describe the articles you wish to sell. These articles will become a condition of your consent should it be granted. If you change the articles you sell, this could breach the consent and result in the consent being revoked.

- 11.5. If you wish to change the articles at a later date, you are able to submit a variation to the consent, however you will not be guaranteed these articles will be approved if they are unsuitable.

## Assistants and Employees

- 11.6. As part of the application, you will be required to supply the details of all assistants and employees who work at any consent location(s) when the consent holder is not present. The application form can be found on the [councils website](#) (insert link once published).
- 11.7. Any assistant working alone at a consent location must be a minimum of 17 years old and have a sound understanding of the conditions outlined on the consent document.
- 11.8. You will need to complete their details on the Assistants and Employees application form and supply the following:
- A Basic DBS check (no more than one month old). This check must be renewed every 3 years.
  - A photograph of the assistant/employee.
- 11.9. Further assistants can be added throughout the consent by submitting the Assistants and Employee application and supporting documentation. The fee to add assistants is shown [here](#). (insert link to fee's)

## Supporting Documentation

- 11.10. For your application to be validated, you must email the supporting documentation to [street.trading@tmhc.gov.uk](mailto:street.trading@tmhc.gov.uk) You can either send it on the same email as the application form or on a separate email.
- 11.11. The following supporting documentation is required –
- A map and/or plan of the location with the trading position clearly marked (further detail below), preferably to scale. If you are applying to trade as Mobile in more than one location, please use markers (for example, location 1, 2 or 3).
    - The applicant should mark on the plan/map the exact position of the van, stall etc. they intend to use in the location, with measurements. If the van, stall etc. includes an awning, canopy or hatch that will extend out, this must be indicated on the plan. The applicant should also indicate the orientation of the stall, so that it is clear where customers will stand to be served.
    - Officers will need to identify any neighbouring properties who may be affected, so it may be necessary for the applicant to submit a series of plans and/or maps of varying sizes and scales. Road names should also be included, where appropriate.

- As well as showing the positioning of the van, stall etc. the applicant must include on the plan, any furniture, containers e.g. bins or signage that they intend to use.
- If the plan(s) accompanying the application do not indicate the proposed pitch accurately enough, the application will be rejected.
- Photographs which clearly show the vehicle, stall etc. to be used, including its actual design/artwork. Or in the case of a unit which is under construction, a detailed illustration.
- Planning permission (if necessary) or proof of permission given by any Landowner if trading off the Highway
- Proof of public liability insurance (minimum £5million).
- A copy of the current food registration or proof that a food registration has been applied for (if you intend to sell food and/or drinks)
- A Basic DBS certificate, no more than 1 month old. This check must be renewed every 3 years.
- A photograph of the applicant holder.

## 12. Fees

12.1. The fee for your application will be determined by:

- The length of consent applied for (single day, a week, a month, or a year)
- The location(s) you wish to trade
- The size of the pitch required

A full list of fees can be found on the [council's website](#). (insert link to fee's)

12.2. Fee's will be paid in two parts.

- Part A is the application fee and must be paid to validate and process the application
- Part B is paid once the application has been granted following a successful consultation period. The part B fee must be paid in order for the consent document to be issued. Failure to make the part B fee will result in the consent being revoked.

12.3. The fee can be paid via XXXXXX (to be confirmed)

12.4. Incomplete applications will not be processed or validated, and the applicant will be informed by email. If you are unable meet all the requirements, your application will be rejected, and your fee will be refunded minus an admin fee as outlined in our fee chart.

12.5. Applications that remain outstanding with no contact will automatically be withdrawn after a period of six months.

12.6. There are no refunds for withdrawn applications.

## 13. Consultation

13.1. The consultation period for the application is determined by the type of application. For a one-year consent, the consultation period is 28 days. For a one month, week or day consent, the consultation period is 14 days.

13.2. The relevant consultation period will start the day after the council receives a valid application.

- 13.3. Once the council has validated the application, it will consult with the following –
- Kent County Council Highways;
  - Environmental Health;
  - Economic Development;
  - Property Services
  - Planning;
  - Kent Police;
  - Kent Fire and Rescue;
  - Trading Standards;
  - The Parish Council for the location of the proposed consent;
  - Town Council (where appropriate);
  - The Ward Member for the location of the proposed consent;
  - The Kent County Council Member for the location of the proposed consent
- 13.4. As well as the consultees listed above, any interested party may request to see a copy of the application (redacted where necessary).
- 13.5. Consultees will receive details of the application, including maps and plans via email.
- 13.6. Consultees or interested parties may submit comments or objections against, or in favour of the application during the consultation period. These comments or objections should be relevant to the criteria outlined in section 12. The Council will consider responses from the consultees and any other interested party when determining the application.

## 14. Advertising your application

- 14.1. The applicant must display a notice prominently at the proposed trading location(s) for the entire consultation period to publicise the application.
- 14.2. The notice must be printed on A4 white paper and state the following:
- The applicant's name.
  - The proposed days and hours of trading.
  - A description of the articles it is proposed to sell.
  - That representations against the application must be submitted to the Council by email to [street.trading@tmbc.gov.uk](mailto:street.trading@tmbc.gov.uk)
  - The date by which representations must be made (the end of the consultation period).
- 14.3. A template for this public notice can be found [here](#). (insert link to notice on web page)
- 14.4. Applicants must ensure the notice is adequately fixed or erected and are encouraged to laminate it, so that it can withstand wet and windy weather. A check of the notice will be carried out by an officer during the consultation period.
- 14.5. If the application is not advertised properly, the consultation period may be extended.

## 15. Decision making criteria

15.1. Applications for a street trading consent will be determined by the relevant Licensing Officer, under delegated powers, using the criteria listed below. Each case will be assessed on its own merits and individual circumstances, where appropriate, may be taken into consideration. When determining the application, we will look at the following criteria:

- **Suitability of location**

The location of the proposed trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term 'public' refers to both customers and other members of the public using the street. The pitch should also not conflict with any Traffic Orders, such as waiting restrictions. The applicant must also ensure they have adequate access to toilet facilities. As well as the suitability of the location, the council will also assess the likely, unreasonable burden on other agencies. The street trading activity should not present a risk to good public order.

- **Suitability of applicant**

As detailed in section 10, the suitability of applicants will be assessed before a licence is granted.

- **Suitability of goods on offer**

The existence of shops and businesses operating in the immediate area will be considered, if appropriate, to avoid, amongst other things, unfair economic advantage.

- **Does the application satisfy a need in the area?**

In areas where there are no other traders, does this proposed application satisfy a need? For example, on an industrial estate where there are no other food outlets, a trader offering both hot and cold food and beverages could be suitable.

- **Does the application support local community needs?**

In some locations, traders wishing to sell fresh, local produce could be a great support for the community. However, if there are already a number of established businesses, selling similar items, granting consent to a street trader could have a negative impact on the community.

- **Could the application if granted, present a significant risk of nuisance to residents and businesses in the area?**

The council will seek to ensure there is no nuisance caused by noise, fumes, smells, or light pollution.

- **Does the appearance of any vehicle or stall compliment the visual amenity of the location?**

Photographs of any vehicle or stall must be included with the application so the council can ensure its appearance is suitable for the location.

- **Is the business environmentally sustainable?**

As the council moves towards carbon neutrality, consideration will be given to the environmental sustainability of the business. The use of local produce and products will be encouraged.

## 16. Refusal of an application

- 16.1. When the Council refuses an application for consent, the applicant will be notified in writing (normally email) and given the reasons for the refusal.
- 16.2. There is no right of appeal against a decision to refuse to grant or renew a street trading consent.
- 16.3. The Act entitles the applicant to a partial refund for the application fee in the event it is refused. The Council will take two payments for applications. A part A fee to validate and process the application and a part B fee to grant the application (see section 12 of this policy for further details). For any application which is refused, the applicant will not need to pay the part B fee.

## 17. Consent Conditions

- 17.1. Where a consent is granted, the applicant will be issued with a consent document which will contain:
  - Their name, being the holder of the consent and person legally responsible.
  - The address and/or description of the location where they are permitted to trade.
  - A individual consent number.- uniform ref number
  - A photograph of the van, vehicle, stall etc they can use, if applicable.
  - The names of all consent holders, assistants and employees authorised to work at the consent location(s).
  - The dates the consent starts and ends (expires).
- 17.2. Consents will be issued for the length that has been applied for unless it is deemed appropriate to grant it for a shorter term, having considered the individual merits of the application.
- 17.3. All consents are subject to certain, standard conditions as outlined in **ANNEX A**. Each consent will have conditions that specify:
  - The location(s) that the holder can trade from.
  - The permitted trading days and times.
  - The items that can be sold.
- 17.4. The Council may decide to add additional conditions when granting a consent, where it is deemed appropriate having considered the individual merits of the application.
- 17.5. Failing to comply with any conditions can lead to revocation of the consent.

## 18. Transferring a street trading consent

- 18.1. There is no provision for transferring a street trading consent in the Act.

- 18.2. If the holder of a consent wishes to sell or give up their business, the new owner must apply for a new consent. The former owner should surrender their consent when they wish to cease trading.
- 18.3. If a new consent is to be applied for, the former owner should notify the council of their intent to cease trading so that a new application can be considered and if granted, can take effect once the former consent is surrendered. The council will not allow the two owners to trade at the same time, in the same location.
- 18.4. Any application will be subject to the same process as a new application and the full 28 day consultation period.

## **19. Varying a consent**

- 19.1. The Act gives the council the power to vary the conditions attached to a consent at any time.
- 19.2. Should the holder of a consent wish to change any of the conditions on their consent, they can, at any time, submit a written request to vary the consent. This would be required where the consent holder wishes to:
- Change the operating days and/or times.
  - Trade from a different stall, vehicle etc.
  - Start selling something new i.e. articles not currently listed on the consent.
- 19.3. A fee will apply to the variation.
- 19.4. The Council will determine a request to vary a condition or conditions in the same way it would consider a new application, by carrying out a 28-day consultation and making a decision based on the criteria listed in this policy.
- 19.5. The consultation period may be reduced from 28 days to 14 days if the variation is minor. Requests to change conditions which restrict the items that can be sold or the stall, vehicle etc. will generally be considered to be a minor variation.
- 19.6. Changes to trading locations or the addition of additional trading locations will require a new application.

## **20. Renewing a consent**

- 20.1. The holders of one year street trading consents will receive a renewal notification (via email) approximately two months before the consent is due to expire.
- 20.2. Holders of shorter consents (one month, week or day) will not receive renewal notifications and should submit new applications as and when required.
- 20.3. Consent holders are able to apply to renew their consent with exactly the same terms as before i.e. for another year and with the same conditions attached.

- 20.4. If consent holders wish to vary the conditions at the same time as renewing the consent, they will be required to complete the 28 day consultation period and should therefore submit the renewal application and updated supporting documentation in advance to prevent one consent lapsing before the renewed (amended) consent is granted.
- 20.5. Renewal applications should be submitted no less than four weeks before the expiry date of the consent to ensure a new consent is issued in good time.
- 20.6. If a renewal application is not submitted before or on the expiry date of the consent, the consent will lapse, and a new application would then be required.

## **21. Surrendering a consent**

- 21.1. The holder of a consent may, at any time, surrender it if it is no longer required. The original consent document must be returned to the council and the holder of the consent should formally surrender the consent in writing (or by email).

## **22. Enforcement, non-compliance and revocation of consents**

- 22.1. The Council has a duty to carry out enforcement where it becomes aware of or receives allegations which concern unauthorised trading (trading in a street without first obtaining a consent) or non-compliance with street trading consents that have been granted.
- 22.2. Consent holders who are found to be non-compliant with related regulations, such as food and hygiene, trading standards or the Licensing Act, may have their consent revoked.
- 22.3. All enforcement and compliance activity will be carried out in accordance with the councils enforcement policy which can be found [here](#).
- 22.4. Under paragraph 10 of schedule 10 of the Act, a person commits an offence if they:
- Trade in a street without first obtaining a street trading consent.
  - Have a street trading consent and breach a condition of it, or trade from a stall, vehicle etc. that they have not been given permission to trade from.
- 22.5. A person who is found guilty and convicted of this offence can receive a fine of up to £1,000.
- 22.6. Other than prosecution, the Council may decide it appropriate to take one of the following actions:
- Verbal warning.
  - Written warning.
  - Vary the conditions attached to a consent to, for instance, change the operating days or hours.
  - Revoke a consent.
- 22.7. The Act gives the Council the power to revoke or vary the conditions attached to a consent at any time, to which there is no right of appeal.



- 22.8. Council Officers who are authorised to carry out enforcement and compliance activities carry photographic ID, Council issued identity cards and authorisations which they will produce, if requested.

### **23. Fee setting**

- 23.1. The Act allows the council to set its own fees, with the aim being to cover all costs incurred by the council.
- 23.2. Street Trading consent fees are reviewed on an annual basis and any changes come into effect on 1<sup>st</sup> April.

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## Annex A

### Standard consent conditions

#### General

1. Trading must only take place between hours specified on the consent.
2. The consent holder must only trade at the location(s) identified on the consent.
3. The consent holder must ensure they have written permission from the respective landowner to occupy the area.
4. The consent holder must only trade from the van / vehicle / stall / barrow / cart specified on the consent.
5. The consent holder must only sell the articles (items) specified on the consent.
6. Counterfeit articles must not be sold.
7. The consent must be displayed prominently at the trading location(s), during the course of trading, so that it is clearly visible to the public.
8. The consent holder and any assistants employed by them, must treat the public (including other street traders) fairly and with courtesy at all times.
9. The consent holder and any assistants employed by them, must not obstruct any officer of the council and should comply with any reasonable requests.
10. The consent holder must ensure that their business/activity is conducted in a way that does not:
  - a) Cause a nuisance to residents and businesses nearby.
  - b) Cause an obstruction to the vehicles or pedestrians in the street or adjacent streets.
  - c) Endanger the public, themselves or any assistant they employ.
  - d) Obstruct the emergency services.
11. The consent holder must ensure that the trading area and immediate vicinity remains clean and tidy. This includes providing sufficient suitable containers e.g. bins, for refuse and waste that the trading activity generates. Such refuse containers must be kept as clean as is reasonably possible and be emptied on a regular basis to prevent accumulations of refuse and/or attracting pests.

12. The consent holder must ensure that the refuse and waste containers they provide are removed at the end of the consent period (daily) and are not emptied into public bins. All waste should be disposed of responsibly.
13. The consent holder must ensure that they and any assistants employed by them have adequate access to proper toilet facilities.
14. All 'A' boards, waste containers, furniture and signs to be displayed must have prior permission
15. The consent holder must not cause or allow to be caused, any damage to the street surface, street furniture, lighting and landscaping within the permitted area and will be responsible for the making good of any such damage.
16. Consent holders must pay for all services and utilities used during the course of the consent at any location. This includes but is not limited to electricity, water and gas.
17. Fire hydrants, manholes and other street furniture must not be obstructed.
18. The consent holder must, at all times, have in place public liability insurance cover with a minimum liability of £5million.
19. All electrical cables must be safely covered if they run along the ground, or suspended properly with support, to minimise the risk of harm to the public.

## **Annex B**

### **Relevant Convictions when determining the suitability of an applicant for street trading consent**

#### **1. Dishonesty**

A street trading consent will not be granted unless 4 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

#### **2. Violence**

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

#### **3. Drugs**

A street trading consent will not be granted unless 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

#### **4. Sexual and Indecency Offences**

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children, any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

#### **5. Exploitation**

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

#### **6. Motoring Convictions**

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

## **7. Street Trading Legislation**

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction unless 5 years have lapsed.

## **8. Formal Cautions and Fixed Penalty Notices**

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

## **9. Existing Consent Holders Convicted of An Offence**

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence fall into one of the categories detailed above.

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