

## TONBRIDGE &amp; MALLING BOROUGH COUNCIL

## LICENSING &amp; APPEALS COMMITTEE

29 November 2022

## Report of the Director of Central Services and Deputy Chief Executive

## Part 1 - Public

## Delegated

**1 UPDATED FOLLOWING STREET TRADING CONSULTATION****1.1 Introduction**

- 1.1.1 At a meeting of the Licensing & Appeal committee on 27<sup>th</sup> September 2022, members determined to continue with the re-designation of the borough in respect of the councils Street Trading provisions.
- 1.1.2 Following this meeting, the Licensing Department published the Resolution of the re-designation in a local newspaper and on the council's website. This consultation period ran from 13<sup>th</sup> October 2022 for 28 days until 9<sup>th</sup> November 2022.
- 1.1.3 During the 28 day consultation, the Licensing department received no comments.
- 1.1.4 Below is the updated timeline for the introduction of the new Street Trading provisions:

ACTION	DATE	
10-week public consultation  <b>COMPLETED</b>	Start 20.06.2022* End 29.08.2022*	The DRAFT policy will be shared with – <ul style="list-style-type: none"> <li>• Ward Members</li> <li>• Parish &amp; Town Councils</li> <li>• Kent County Council Highways;</li> <li>• Environmental Health;</li> <li>• Economic Development;</li> <li>• Property Services</li> <li>• Planning;</li> <li>• Kent Police;</li> <li>• Kent Fire and Rescue;</li> <li>• Trading Standards;</li> <li>• Current Traders (list supplied by the councils Food Safety Team)</li> </ul>

Review consultation responses  <b>COMPLETED</b>	W/C 05.09.2022*	The responses will be reviewed by: <ul style="list-style-type: none"><li>• Head of Service for Licensing, Community Safety &amp; Customer Services</li><li>• Licensing Officers</li></ul>
Licensing & Appeals Committee  <b>COMPLETED</b>	27.09.2022*	<ul style="list-style-type: none"><li>• L&amp;A committee to approve the policy following the public consultation prior to the resolution</li></ul>
Publish Resolution with consultation  <b>COMPLETED</b>	Start 10.10.2022 * End 07.11.2022	The council must publish a notice containing the DRAFT resolution with a <b>28-day consultation period.</b>
Review resolution consultations  <b>COMPLETED</b>	W/C 07.11.2022*	The responses will be reviewed by: <ul style="list-style-type: none"><li>• Head of Service for Licensing, Community Safety &amp; Customer Services</li><li>• Licensing Officers</li></ul>
Licensing & Appeals Committee	29.11.2022*	<ul style="list-style-type: none"><li>• L&amp;A committee to approve the resolution consultation responses</li></ul>
Full Council	21.02.2023*	<ul style="list-style-type: none"><li>• Full Council approval prior to publishing the final resolution</li></ul>
Publish 1 <sup>st</sup> Notice	01.03.2023*	The first notice must be published no later than 28 days before the date specified in the resolution for the new designation coming into force.
Publish 2 <sup>nd</sup> Notice	08.03.2023*	The second notice must be published within one week of the first public notice.
Resolution and new policy will come into force	01.04.2023*	Subject to all other actions being approved.
*All dates are subject to approval at each stage.		

- 1.1.5 Following this period of consultation, we have now created the second draft of the proposed Street Trading Policy which can be seen at **ANNEX 1**.
- 1.1.6 Within this policy we have updated the Overview section to make it clearer what is in, and out of scope, following both members comments and comments received from the first public consultation. Whilst it is impossible to include every eventuality or every type of business, it is hoped this gives a clearer view as to what businesses will require a Street Trading consent and those which will not.
- 1.1.7 Additionally, at **ANNEX 2** is a draft copy of the proposed application form. This application form gives members an idea of the requirements for the application process.
- 1.1.8 At **ANNEX 3** is a copy of the Assistants and Employee application form, this is to be used by applicants wishing to add assistants and employees to their business.

## **1.2 Legal Implications**

- 1.2.1 The statutory regime for designating streets for the purposes of street trading and the granting of street trading consents and related matters is set out in Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. There is no statutory requirement to have a licensing policy for street trading.
- 1.2.2 However, it is considered best practice and also a modern, effective policy document will ensure that the trade and public alike will have a document that fully explains the elements of the regulatory process. This will include the principles to be applied when considering applications for street trading, the application process itself and the grounds for objection, refusal, the hearings procedure and the grounds for appeal.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 By approving this new policy for street trading, the council will have greater scope to collect licence application fees for those seeking to trade within the Borough.
- 1.3.2 The re-designation of streets requires two further newspaper adverts to be published.

## **1.4 Risk Assessment**

- 1.4.1 The introduction of a policy should provide a transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts

## **1.5 Equality Impact Assessment**

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact to end users.

**1.6 Policy Considerations**

1.6.1 None at the present time.

**1.7 Recommendations**

1.7.1 Members are RECOMMENDED to approve the second draft policy for the introduction of Street Trading consents prior to the policy being finalised following any suggested changes at this meeting.

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