



# **Review of Street Trading Policy – Report of the Scrutiny Task and Finish Group**

May 2017

## Chair's Foreword

The Task and Finish Group was commissioned to conduct a thorough and detailed review of the current Street Trading Policy.

This report sets out the work of the Task and Finish group and recommends a revised policy.

I would like to take this opportunity to thank the officers who supported us on this review to make informed decisions, produce this report and revised policy.

*Martin Wale*

Task and Finish Review Chair

## **Task and Finish Group Membership**

- Councillors Martin Wale (Chair),
- Jason Baker
- Val Keitch
- Tony Lock
- Rob Stickland
- Tony Capozzoli
- Neil Bloomfield

All members worked collectively with the support of Emily McGuinness - Scrutiny Manager and Nigel Marston Licensing Manager

## **Review methodology:**

As with all Scrutiny Task and Finish work, members first agreed their Terms of Reference, in this case, that they would:

- Conduct the review as commissioned by the Scrutiny Committee.
- Submit regular update reports to the Scrutiny Committee.
- Conduct detailed research and analysis in order to make well-evidenced recommendations to the Executive, Licensing Committee and Council as appropriate.
- To engage members, officers, members of the community and external witnesses in the review as appropriate.

The Task and Finish Group conducted a thorough and detailed review of the current Street Trading Policy in 5 stages, namely:

1. To review the existing policy.
2. To propose a new policy.
3. To undertake consultation on the new policy.
4. To consider the consultation responses received.
5. Having reviewed the responses, to amend the new policy as necessary before the policy is taken through the required committee procedures.

## **Phase One: Review of Existing Policy**

The existing Street Trading Policy was adopted by Council in November 2010 and has been in operation since that date.

The policy has proved to be robust and has stood up to legal challenge in the Magistrates' Court and also in the Crown Court on appeal. It was noted by the Judge in one case that the policy was clear unambiguous and easy to understand.

There have been changes since the last policy was agreed, most notably that the responsibility for administering and enforcing street trading in Wincanton and Yeovil has returned to the district council. Members recognised that in light of this, the policy required updating to reflect this.

As the policy was working well, it was the opinion of the group that no further major changes to the policy were required. The Licensing Manager was asked to draft a new policy to reflect this and to bring the policy back to the group prior to consultation.

### **Proposal & Consultation**

The new policy was prepared and submitted to the task and finish group.

The group decided to undertake a consultation on the new policy from the 5<sup>th</sup> December 2016 to 3<sup>rd</sup> February 2017. This 9 week consultation period was felt necessary to ensure a wide range of responses were received and that traders who would be busy in the run up to Christmas, would have sufficient time to respond.

The consultation was sent to current street traders, all town and parish clerks, in addition a press release was sent out to all press agencies drawing their attention to the consultation.

### **Consideration of Responses**

Members of the Task and Finish Group were supported by the Licensing Manager in this element of their work. A total of 15 responses from a wide variety of organisations were received to the consultation. A full list of the responses and the groups comments on each are attached as Appendix One

Many of the comments were discounted after consideration as members felt that the policy already covered these points. Other comments were considered to be helpful and minor alterations to the policy were made as a result.

There were two particular areas that members felt required further input, these were carnivals and mobile traders such as ice cream sellers and sandwich rounds. The Licensing Manager was requested to look at both of these issues and provide members with an opportunity to look at these two particular areas in more detail.

### **Carnivals**

The Licensing Manager reported back to members that other Somerset Council's do not charge a fee for street trading at carnivals. In other areas of the country street trading at carnivals is chargeable.

Members were keen to support carnivals but were not entirely convinced that such a large scale event should be totally exempt. It was therefore suggested that carnivals should be able to apply for an exemption from the requirements of street trading. This was on the proviso that they submitted an application with relevant supporting documentation and paid a nominal fee designed purely to cover the cost of dealing with the application and providing the exemption certificate. It was suggested that this fee should be no more than £50.00, with the exact fee to be determined via the normal fee setting process. It was agreed that the policy be amended to reflect this.

## **Mobile Sandwich Delivery & Ice Cream Sellers**

Research was carried out looking at other licensing authorities and how they treat mobile ice cream vendors and sandwich rounds. It is clear that if they are at a venue in a fixed spot they will require permission unless it is an event that requires payment to enter. However if they are mobile there is no uniform approach. It is apparent that some have treated them as roundsmen, South Somerset District Council is a case in point. However R v Bulldog which was an ice cream sales company who challenged Brighton council, states from the court ruling that ice cream vendors could not be treated as roundsmen.

Hillingdon Council in London were identified as a council who deal with them as itinerant vendors and therefore do not issue them with a licence or consent unless they are static. The same can be said of North Somerset Council and Sedgemoor District Council.

The only issue that would need to be clarified is how long a trader can stay in one place to be regarded as static. This is a common sense issue and we would consider 15 minutes long enough in one road. As identified previously this is the time limit used by London local authorities.

The issue of enforcement of any kind in respect of itinerant street traders is very difficult as they may have a route they follow but this is open to change by the nature of their business and it would clearly be time consuming and inefficient to wait to see if someone is operating with or without a consent. In addition to this fact, the licensing team do not currently have any capacity to undertake further enforcement.

In conclusion members were of the opinion that any sort of control by the licensing department of mobile street vendors which are not static or part of an event was unnecessary and the policy should be amended to make it clear that these types of traders are to be considered exempt from street trading.

## **The Task and Finish group Recommends:**

- (1) Recommend the adoption of the revised Street Trading Policy as detailed in the appendix
- (2) Request that Council delegate the power to make any minor amendments to the Street Trading Policy to the Licensing Manager in consultation with the Director for Service Delivery.

## **Appendix One – Consultation responses and Task and Finish group comments**

## **Appendix Two – Revised Street Trading proposal**