

Street Trading Policy

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Purpose of the Report

To inform members of the results of the Street Trading Policy consultation and the Scrutiny Task & Finish Review.

Recommendation(s)

- 1) To note the contents of the report.
- 2) Recommend the adoption of the revised Street Trading Policy as detailed in Appendix One.
- 3) 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.

Background

The new policy was prepared and submitted to Licensing Committee in December 2016. The policy was also subject to a Scrutiny Task & Review Group.

The group decided to undertake a consultation on the new policy from the 5th December 2016 to 3rd 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, carnival committee representatives and all town and parish clerks. In addition a press release was sent out to all press agencies drawing their attention to the consultation.

The major changes proposed to the policy were as follows:

- Ice cream sellers and sandwich delivery rounds would require street trading consent.
- A right of appeal against refusal has been added (page 8).
- Right to work checks will be conducted on the applicant for permanent pitches and any assistants that they may employ (page 9).
- ID badges will be issued to applicants and assistants (page 9).
- Basic criminal record checks will need to be provided for all applicants for permanent pitches and assistants (page 9).
- Vacant pitches will be advertised on the licensing website (page 12).
- Food trading consents will only be granted to those with a four or five star food hygiene rating (page 13).

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 Two.

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. The fee to be 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 a 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, Sedgemoor District Council and more recently Taunton Deane.

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.

Financial Implications

The administration and enforcement of street trading will be cost neutral to the authority.

Implications for Corporate Priorities

There will be a positive impact on promoting a strong economy with thriving rural and local businesses by this policy enabling street trading to take place lawfully. It will also prevent those that are unlicensed from competing with those that are licensed and enable appropriate enforcement action to be taken.

Other Implications

None

Background Papers: Licensing Committee 13/12/16
Scrutiny Committee 29/11/16, 31/01/17, 28/02/17, 04/04/17 and 01/06/17
