

OPEN



Environment and Communities Committee

18 July 2024

Revised Street Trading Policy

Report of: Tom Shuttleworth – Interim Director Environment and Neighbourhoods

Report Reference No: EC/28/23-24

Ward(s) Affected: All

Purpose of Report

1 This report seeks adoption of a revised to Street Trading Policy.

Executive Summary

- 2 The Council adopted a Borough wide Street Trading Policy in 2013 and it is now appropriate to revisit the content of the policy to ensure it meets current requirements.
- 3 Officers have undertaken a review of the policy (appendix 1) and various changes from the previous iteration have been made. These changes are collated in appendix 2.
- 4 A consultation was conducted and ran between 11th January 2024 and the 7th March 2024. The consultation has been limited to those persons who hold consents and those organisations or bodies that are consulted on applications. The Licensing Committee was also consulted as a decision-maker that would use the policy.

RECOMMENDATIONS

The Environment and Communities Committee is recommended to:

1. Approve the adoption and implementation of the updated Street Trading Policy.

Background

- 5 On the 13th October 2011, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 was adopted in respect of the whole Borough. The first Borough wide Street Trading Policy was adopted by the Licensing Committee in 2013. That remains the policy in place today.
- 6 Given that the policy has not been amended since 2013 it is now time to undertake a review and refresh to ensure it remains fit for purpose. Following the change to a committee system, the power to adopt the policy now lies with the Environment and Communities Committee. The Licensing Committee was consulted as part of the review because they will be the Committee that uses the policy as a decision-maker.
- 7 A street for these purposes includes any road, footway, beach or other area to which the public has access without payment, including highway service areas and private land. In brief terms, street trading is defined as anyone selling or exposing or offering for sale any article (including a living thing).
- 8 The purpose of controlling street trading is to ensure appropriate controls are in place to regulate and ensure that:
 - An area is not saturated with street traders to the detriment of permanent businesses
 - The highway is not obstructed
 - The presence of the trading unit does not present a danger to pedestrians and other road users or an annoyance is caused to residents
- 9 There are approximately 20 street trading consents issued annually by the Licensing Team. The fee currently stands at £385.00 per yearly consent (there are lesser amounts payable for shorter period consents, but in practice most applicants apply for an annual consent). The fee is due to rise to £405.00 from 1 April 2024.

Consultation and Engagement

- 10 There is no statutory consultation process for adopting a new street trading policy.
- 11 It was agreed with the Interim Director of Environment and Neighbourhoods that, given the limited application of this policy, that a limited consultation process would be conducted.
- 12 As part of the consultation, all those consulted on applications were included (i.e. Town and Parish Councils, Highways Department,

Environmental Health, and Cheshire Constabulary). All those with current consents were also contacted to inform them of the consultation.

- 13 The consultation ran for 6 weeks between 11 January 2024 and the 7 March 2024. A total of five responses were received and these are set out at appendix 3.

Reasons for Recommendations

- 14 To seek adoption of the revised policy.

Other Options Considered

- 15 Consideration has been given to not revising the policy and remaining with the extant version. However, as can be seen from the proposed changes, there is a need to ensure that the policy remains fit for purpose.

Option	Impact	Risk
Do nothing	The Council's current policy (adopted in 2013) would remain extant.	The policy may be considered overdue for review and if changes in practices are not reflected in a revised policy then decisions may be open to challenge

Implications and Comments

Monitoring Officer/Legal

- 16 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 grants a Local Authority the power to adopt legislation to control Street Trading within its area.
- 17 Schedule 4 of the 1982 Act sets out the powers available, including:
- The designation of streets as prohibited, consent, or licence
 - Exemptions
 - Setting of fees
 - Applying conditions
 - Any offences
- 18 The Council should have an up-to-date policy that informs the decision-making process and gives clarity to applicants, consultees, and decision-makers.

Section 151 Officer/Finance

- 19 There are no financial implications arising from the report. The Council does charge a fee for each consent issued. These fees are set by the Licensing Committee prior to each new financial year. The fees for 2024/2025 were set by the Committee in January 2024 and are included in the income budgets for the Licensing Team. Staff time for reviewing and drawing up the revised policy were funded from existing Licensing staffing budgets.

Policy

- 20 Ensuring that the Council has a robust decision-making process, supported by a revised policy, will contribute to a number of corporate aims set out below. The Policy seeks to balance ensuring that the Borough has diverse trading opportunities with the needs and expectations of the people of the Borough by ensuring traders are well regulated, that their positive impacts are promoted, and any negative impacts are mitigated.

An open and enabling organisation Support a sustainable financial future for the council, through service development, improvement and transformation Look at opportunities to bring more income into the borough	A thriving and sustainable place A great place for people to live, work and visit Welcoming, safe and clean neighbourhoods Reduce impact on the environment
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Equality, Diversity and Inclusion

- 21 The Policy relates to the regulation of street traders and there are therefore no implications for groups protected under equalities legislation.

Human Resources

- 22 There are no human resources implications.

Risk Management

23 There are no additional risk implications to those already identified within the report.

Rural Communities

24 There are no implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

25 There are no implications for children and young people.

Public Health

26 There are no public health implications.

Climate Change

27 There are no climate change implications.

Access to Information	
Contact Officer:	Kim Evans - Licensing Team Leader licensing@cheshireeast.gov.uk
Appendices:	Appendix 1 – Revised Draft Policy (for approval) Appendix 2 – Changes made to the Policy Appendix 3 – Consultation responses
Background Papers:	Local Government (Miscellaneous Provisions) Act 1982 (legislation.gov.uk) Street Trading (cheshireeast.gov.uk)

Approvals trail: to be removed before Committee

Name	Title	Comments	Date
Contributors:			
Kim Evans	Licensing Team Leader	Prepared the draft	N/A
Approvers:			
Tracey Bettaney	Head of Regulatory Services	Typo graphical corrections	21.02.2024
Wendy Broadhurst	Lead Finance Partner (Place)	Financial Implications	20.02.2024
Garry Coghlan	Solicitor	Legal Implications	20.02.2024