

STREET TRADING POLICY REVIEW - CONSULTATION



Date: _____
Agenda Item: _____
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Key Decision? YES
Local Ward All wards
Members

Regulatory and Licensing Committee

1. Executive Summary

- 1.1 The policy is designed to regulate street trading in order to:
 - Accommodate the wide ranging and diverse local environments in the District
 - Create a street trading environment which complements premises-based trading
 - Ensure activities involving street trading are sensitive to the needs of residents and do not cause unreasonable nuisance or annoyance
 - Protect public health and ensure public safety of the people using or impacted by trading
 - Complement and support other council policies including the Events and Festivals policy
 - The ambience and safety of local environments, recognising the impact that street trading can have on the local economy and the character of the area.
- 1.2 This review of the Council's Street Trading Policy is intended to test whether the above objectives are being achieved and consider where there are alternative options to explore.
- 1.3 In addition to the above considerations it proposes the following key changes for consultation:
 - Local exemptions – some community events, goods from farms sold outside their premises
 - The addition of seasonal and multi-site consents
 - Making clear the requirement for DBS checks for mobile traders
 - Criminal record disclosures and declarations.
 - Consultation with key stakeholders for all traders other than those trading at events

2. Recommendations

- 2.1 The Committee agree the revised street trading policy for consultation and authorise the Chairman and Vice Chairman of Regulatory and Licensing Committee and Head of Regulatory Services, Housing and wellbeing to consider the consultation responses, make minor amendments and agree the Policy for publication.
- 2.2 The Committee authorise the Chairman and Vice Chairman of Regulatory and Licensing Committee and Head of Regulatory Services, Housing and wellbeing to make minor amendments to the Policy that may be required from time to time.

- 2.3 The Committee recommends that Council delegate the powers and functions of the Council in relation to Street Trading in Council owned parks and public open space to the Head of Operational Services.

3. Background

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982, “The Act”, allows for the council to adopt ‘streets’ in which trading requires the consent of the council. This is a means of regulating street trading within the council’s area. To this effect the Council adopted all streets in the Lichfield District as Consent Streets’ with the exclusion of the A38, which is designated a prohibited street. This allows for street trading to take place on these streets and be regulated.
- 3.2 The legal definitions of street are set out in the policy, in effect it refers to any road, footway, beach or other area to which the public have access without payment.

3.3 Street Trading

“Street trading” means – the selling, or exposing or offering for sale, of any article (including a living thing) in a street;

A summary and explanation of the main amendments is provided in the table below:

Section	Reason for amendment
2 – What is Street Trading	Public Access without Payment In light of recent challenges, this section provides clarity about the legal position with respect to what constitutes ‘public access without payment’.
7 - Types of Consents	The draft policy proposes changing the duration of issued consents from expiring on 31 March, to expiring 364 days after the date of issue. The issue of 12-month consents is beneficial to the applicant, who is then able to plan their business activities knowing their authorisation to trade is valid for a full year. The benefit to the Council is that it avoids the administrative burden of all annual consents, no matter when they were applied for or granted, expiring on the same day each year.
6.2.9 Goods offered for sale	Specific criteria for judging when consent won’t normally be granted to prevent unfair competition with fixed premises traders.
6 - Determining Applications	Consultation The existing consultation process has been reviewed and developed to focus on prevention rather than enforcement. Where traders on a regular basis wish to trade from locations within the district and where trading is not associated with an event all applications, will be subject to a full consultation with all relevant authorities, agencies and interested parties. This amendment ensures consistency (this was previously done on officer discretion) and allows the implications of trading from that location to be raised by interested parties. In the event that the consultation received valid objections, the consent would usually be revoked or, if trading had already taken place, future consents would usually be refused.

7 - Mobile Street Trading	Prevent mobile traders competing unfairly with fixed premises in town centres.
7 - Seasonal and multi-site consents	To provide a more flexible system for a diverse trading patterns and ensuring that appropriate fee levels can be charged
3 – Local exemptions	Farm/residential gate sales - It is not deemed proportionate to require this micro level of low risk trading to be consented
3 – Local exemptions	Community events such as school fetes to be exempted
15 - Disclosure and Barring Service	Clarity provided in the circumstances when criminal record checks and declarations and disclosures are required. This is designed to ensure consistent and proportionate standards.
Appendix - Standard Conditions	<p>Revised standard conditions are attached at Appendix A.</p> <p>The investigation and resolution of complaints and taking formal enforcement action are both costly and time-consuming functions of the Licensing Authority.</p> <p>Standard Conditions of operation are designed to be a preventative enforcement mechanism, whereby operation in compliance with conditions should reduce the likelihood of complaints and the subsequent need for investigation and enforcement action.</p> <p>The Act provides no right of appeal where a consent is revoked, which means clear, robust and specific conditions are an important mechanism for providing a framework of operation within which a consent holder can take confidence in how they operate and grow their business.</p>

3.4 Trading at an approved Event

Each trader operating at an event is currently issued with a street trading consent. This includes checks made of their Public Liability Insurance and food hygiene rating.

3.5 Trading on our parks or public open spaces

To remove some overlap with booking conditions. Responsibility for issuing street trading consents for parks bookings was handed over to the parks team in 2020. Recent legal advice has confirmed that street trading consents are required unless the area is exempted under street trading legislation.

<p>Alternative Options</p>	<ul style="list-style-type: none"> • Unadopting the relevant legislation so there is no control over street trading within the district. Whilst this would remove regulation it would also remove any control of standards and would allow any trader to trade on land where the prior permission of the landowner is not required or they have the consent of the landowner. • Excluding some streets that are currently consented. To achieve this would require the council to go through the requisite legal process. This would mean that unless designated as prohibited anyone could trade in these areas. For areas where the prior consent of the landowner is required this could be potentially regulated through robust booking procedures but would mean anyone could trade on streets where permission is not required • Excluding council owned land from streets that are currently consented. To achieve this would require the council to go through the requisite legal process. It would mean that the issuing of street trading consents is no longer
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	<p>required but it is likely that the parks booking conditions would still require Public Liability Insurance from traders and a minimum food hygiene rating. There is the risk with this approach that other land owners within the district may view this as the council placing different obligations on itself to those required of others.</p> <ul style="list-style-type: none"> • Excluding all land owned by key partners as a consent street. This could include land owned by the city council, the Cathedral, Town and Parish councils, schools and religious organisations. Whilst freeing up regulation, this could result in different standards being applied across large events such as the August Food festival and the risks associated with that. Event organisers could circumvent standards by placing those traders that aren't compliant on to private land negating the benefits of having any standards at all. To address this partners could be asked to sign up to minimum standards. There is also the risk that other private landowners may view this as the council and key partners having different obligations placed on them. • Adopting an approach where a street trading consent is given to event organisers and they then take responsibility for ensuring that the traders at the event operate legally and safely. Whilst this is an approach that has been adopted by other authorities, there is no legal basis for it and the council has received legal advice to this effect. The Local Authority would be knowingly acting outside of its legal authority with the associated risks this brings. • Removing the requirements for individual traders to each have their own Public Liability Insurance and allow this to be covered by an overall event organiser policy. This is theoretically possible as long as it is clear through consenting agreements that the organiser is responsible for all activities at their event including the activities of third party traders. Practically they are unlikely to be able to obtain this level of insurance at an affordable rate. When this has been suggested by organisers previously it has been found on examination that their policies specifically require their third party traders to have their own insurance. • In the main the de-regulation options will mean the Council has less ability to protect public safety and prevent adverse impacts on premises based businesses and residents in the District. A major incident could significantly damage the reputation of the District.
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<p>Consultation</p>	<ol style="list-style-type: none"> 1. The revised policy will be consulted upon with the views of councillors, members of the public, interested parties and regulatory agencies invited. 2. If significant changes are proposed to the policy following consultation these will be brought back for consideration by the Committee.
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<p>Financial Implications</p>	<ol style="list-style-type: none"> 1. There are no direct financial implications from the changes proposed in this policy review. Fees and charges are set separately to the review of the Policy. With the exception of events the aim is that fees charged will ensure viable and sustainable service, funded by fee-payers, as intended by statutory provisions.
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<p>Approved by Section 151 Officer</p>	<p>Yes/no*</p>
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<p>Legal Implications</p>	<ol style="list-style-type: none"> 1. Legal advice will be obtained on the policy during the consultation process to ensure the policy is legally sound.
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<p>Approved by Monitoring Officer</p>	<p>Yes/no*</p>
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<p>Contribution to the</p>	<ol style="list-style-type: none"> 1. A key theme of Lichfield District Council's Strategic P 2020-2024 is that we will
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Delivery of the Strategic Plan	<p>work collaboratively to shape our place and develop prosperity across Lichfield District.</p> <ol style="list-style-type: none"> The revised policy is drafted to enhance the ambience and safety of local environments, recognising the positive impact that street trading can have on the local economy and the character of the area.
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Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> An equality impact assessment will be undertaken once the final draft is finalised.
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Crime & Safety Issues	<ol style="list-style-type: none"> The purpose of regulating street trading activities is to reduce/mitigate risk and protect the public. Specifically, protect the public from street trading activities being unsafe or being conducted in association with crime. The application of the provisions of this draft Street Trading policy would significantly promote only lawful trading and traders, from being authorised to operate in Lichfield District.
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Environmental Impact	<ol style="list-style-type: none"> The environmental impact of street trading will be assessed, managed and mitigated through the robust application consultation procedure, involving all relevant and interested regulatory agencies, as described in the draft policy. The promotion of the Council's broader environmental aspirations for events are covered by the Event Policy.
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GDPR / Privacy Impact Assessment	<ol style="list-style-type: none"> No direct impact.
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	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Traders at community events and others excluded from the scope of this policy won't be regulated which may give rise to unacceptable public safety risks.	Likelihood – Green Severity – Yellow Risk - Green	This level of risk will be accepted but kept under review. Given the size and nature of these type of events the overall risk from these types of events and activities is low. It is likely that some of these activities will remain in scope of the frameworks they are already regulated within. E.g. Schools and farms will be covered by Health and Safety legislation.	Likelihood – Green Severity – Yellow Risk - Green

	<p>Background documents</p> <p>Any previous reports or decisions linked to this item</p>
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	<p>Relevant web links</p> <p>Any links for background information which may be useful to understand the context of the report</p>
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STREET TRADING POLICY - February 2022

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1. Introduction, Purpose and Policy

1.1 Introduction

Lichfield District Council, hereafter referred to as ‘the Council’, is the Licensing Authority responsible for considering and determining applications for consent to engage in street trading activities under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, hereafter referred to as “the Act”.

This policy sets out the decision-making framework and criteria the Council will apply when determining applications. It also gives prospective traders an early indication as to whether their application is likely to be granted or refused and provides applicants with details of what is expected.

1.2 Purpose of the policy

- To provide a framework that clearly defines where street trading activities in Lichfield District are regulated and consent must be obtained,
- To set out circumstances where activities involving the sale of items in public places fall outside/within the scope of the policy, and
- To provide a procedural framework for council officers and elected members.

1.3 Aims of the policy

- To reflect the range of street trading options and the diverse trading locations across the district.
- To protect public health and ensure public safety (including road safety) of the people using or impacted by trading;
- To create a street trading environment which complements premises-based trading;
- To ensure activities involving street trading are sensitive to the needs of residents and do not cause unreasonable nuisance or annoyance;
- To enhance the ambience and safety of local environments, recognising the positive impact that street trading can have on the local economy and the character of the area.
- To complement and support other Council policies including those relating to events and festivals;

This policy acknowledges how street trading supports the Council’s priority to encourage a vibrant and prosperous economy – including successful Events and Festivals.

The Council recognises that, as well as being a seedbed of entrepreneurship – allowing new entrants to test their business skills and ideas in an environment with low start-up costs, minimal overheads and existing footfall – trading activities are often at the heart of events that bring local communities, charities, and fund raisers together through festivals, fetes and other special events. It also recognises that the traditional nature of our streets and trading is shifting, and that there is a genuine role for street trading in our local economy.

The Council therefore wishes to create a street trading environment that is sensitive to the needs of the public and businesses, which enhances quality consumer choice and contributes to the character and ambience of our local environment, whilst ensuring public safety and preventing crime, disorder, unfair competition and nuisance.

1.4 This policy

The Council’s original Street Trading Policy was last amended in December 2020 and at that time it was recognised a more substantive review needed to take place. This updated policy is subject to a full review and consultation with traders, event organisers and key stakeholders.

The policy will be reviewed again in April 2023 and then every 5 years; it is a living document, which means it will be kept under continuous scrutiny and where any significant amendments are considered necessary, these will be made by the Council after appropriate consultations have taken place.

Minor amendments that do not impact on the aim and objectives of the policy, for example due to changes in legislation etc. will be made in line with the Council's Scheme of Delegation. An Equality Assessment on this policy has been undertaken.

2. What is Street Trading?

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) enables a Local Authority to regulate those who sell goods to the public without the use of fixed business premises. The Council has adopted Schedule 4 of the Act for the whole of its area and all streets in the District are designated as 'consent streets', except for the A38, which is a prohibited street.

2.1 Definition of Street Trading

Street trading is defined in paragraph 1 of Schedule 4 of the Act as:

'the selling or exposing or offering for sale of any article (including living thing) in a street'.

The Act defines the term 'street' as including:

'any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980'.¹

The definition of street trading is broad and gives the Council the power to regulate all types of trading from all public places for the protection of the public. Any person street trading ²without a valid Consent commits a criminal offence.

2.2 Public Access Without Payment

To ensure the accurate interpretation of the legislation, the Council has also sought legal clarification regarding the specific interpretation of 'public access without payment'.

Where the trading site falls within an area to which the public may only access by the payment of a fee, or the purchase of a ticket, the trading is not within the scope of the Act³. An example of this would be a country fair in a showground, where payment for access is made at the entrance and the public must pay the fee to access the area, irrespective of whether they make a purchase. Payment must be for access and not for any other benefit or purpose, e.g. charitable donations.

In December 2016 the definition was considered again and was defined as unobstructed public access to the land. Public access therefore applies to the wider area in which the stall is located and not the specific piece of land upon which the stall sits.

3. Exemptions

Two types of exemption apply to the activity of Street Trading –

¹ From the above definition, any person offering purely a service – e.g. a shoeshine (where there is no tangible good such as a picture or sketch) – does not fall within the scope of the street trading legislation.

² The courts have held that the definition of a 'street' is not dependent upon the area of land in question being in public ownership and private land also falls under / within the definition of a street, where the public has free access to the area. Therefore, privately owned roads and property fall within the scope of this policy.

³ The definition has been tested through the courts and in the case of West Berkshire DC v Paine [2009] Lord Justice Scott Baker referred to the "wide definition" of a street and saw "no reason to narrow it down by introducing the concept of public place from other legislation".

1. Legal exemptions, provided by legislation, and
2. Local exemptions formally approved by the Council through this Street Trading Policy.

All traders who believe their activities are exempt are strongly encouraged to verify this with the Licensing Team.

3.1 Legal Exemptions

The Act in paragraph 1(2) of schedule 4 states the following types of trade are not street trading:

- a. a person trading as a Pedlar in accordance with the terms of a valid Pedlar's Certificate (issued by the Police);
- b. a market trader operating at a market venue or a fair which acquired this status by virtue of a grant, enactment, or order.
- c. a news vendor selling only newspapers and periodicals.
- d. trade which is carried on at premises used as a petrol station
- e. shops do not require a Consent even if they operate outside or directly adjacent to the commercial premises providing the items displayed for sale form part of the same business as the trade conducted inside i.e. where it is essentially an extension of the shop etc. e.g. where a grocer has a table of goods on display outside the shop. Again, this does not negate the need to comply with other legislation such as the requirement not to cause an obstruction of the highway
- f. trade carried out by 'roundsmen' (a 'roundsman' is defined as one who visits a 'round' of customers delivering only the orders of those customers". e.g. milkmen);
- g. items exchanged for a charitable collection e.g. selling poppies in aid of the Royal British Legion, which are regulated by way of a Street Collection Permit under the Charities Act 1992.
- h. Sale of articles by a charity, or for charitable purposes, are regulated under Police, Factories, & c. (Miscellaneous Provisions) Act 1916 by the Council. Charities should contact the Council to check which scheme of regulation the activity falls under.

3.2 Local Exemptions

Having considered the character of the localities within Lichfield District, the Council regards the following activities as not requiring a Consent under the Local Government (Miscellaneous Provisions) Act 1982:

- a. Small scale sales of goods from farms and residential properties sold at/immediately outside the premises where they were produced will generally be exempt. This is intended to exempt someone who, for example, is selling on a small-scale items such as eggs, honey, plants, one off garage sales etc.
- b. A person trading at a community event held for non-commercial purposes, such as a fete or school fund raising activity, may be exempt from requiring a street trading consent, however, any stalls 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 trader will not benefit from the exemption;

4. Designation of Streets in Lichfield

For the purpose of street trading, streets may be designated as either 'prohibited', 'licensed' or 'consent streets'.

4.1 Prohibited Streets

Where a street is designated as 'prohibited' it means the Council has determined that specific circumstances exist, for which there are no exceptions, as to why no application to trade from the street can be made. There could be several reasons for wishing to designate a street as prohibited, for example the street may not be wide enough to facilitate a trader or the area may be dangerous – e.g., a layby on a main road offering no safe parking provision for customers.

The whole extent of the A38 is prohibited. Any unauthorised trading from a prohibited street is a criminal offence.

4.2 Licensed Streets

There are no licensed streets within Lichfield.

4.3 Consent Streets

The designation of 'consent street' means that a consent may be applied for. However, the effect of this designation is that trading in any street is an offence (subject to legal and other exemptions) without first obtaining a Street Trading Consent (a Consent) from the Council.

The Council has designated all streets within Lichfield District, other than the whole extent of the A38, as consent streets, and this policy applies to all street trading undertaken within the Lichfield District.

4.4 Trading from Private Property

The fact a person has a lease, licence or other contractual arrangement (i.e., a right to occupy the land, or has some other form of consent e.g., planning consent or a licence under the Licensing Act 2003) will not override the requirement to obtain a consent where the trading constitutes street trading under the terms of the Act.

Holding a consent for street trading will also not remove the obligation on the trader to comply with any other legal requirements e.g. holding a current food business registration, nor override the duty to comply with the general law concerning the traders' responsibilities e.g. highways, planning, licensing, health and safety, nuisance, waste disposal requirements and trespass i.e. where trading takes place from privately owned land, written permission to occupy the land must be obtained before making an application.

5. The Application Process

5.1 Who Can Apply?

To apply for consent a person must be:

- An individual or business
- 17 years of age or over
- Legally entitled to live and work in the UK

All applications will be considered on their individual merit, taking into account all relevant matters.

Consents will not normally be granted where:

- Enforcement action is pending or has previously been undertaken against the applicant.
- The holder is currently in arrears with any fees and charges.
- The location is considered unsuitable
- The stall will be within an unreasonable proximity of a shop selling similar goods. Unreasonable proximity constitutes being within a 100m radius and being within direct sight.
- The activities cause or are likely to cause a nuisance or annoyance to neighbouring properties
- The applicant is unsuitable. For an applicant to be suitable they must meet the assessment criteria outlined in section 5.2.
- An applicant has failed to appropriately use previous consents
- The stall is unsuitable. For a stall to be suitable it must meet the assessment criteria outlined in section 5.2.
- It causes or is likely to cause crime and disorder.

5.2 Making an Application

Exemptions and additional requirements apply to special events and events approved under the events and festival policy. A separate application form is made available for each event.

All applications must be made on the Council's application form. The application must be completed in full with all the required information before it will be considered. Applicants can apply online by visiting www.lichfielddc.gov.uk/streettrading

Applicants are encouraged to submit their applications as early as possible to ensure that if there are any problems they can be rectified or discussed before they intend to trade. Individual traders are advised to allow a minimum of 7 working days for their application to be determined. Those applying as part of an event are advised to allow a minimum of 20 working days for their application to be determined. Applications made outside these timescales may not be processed.

To apply for a street trading consent, you will need to submit the following:

- Complete and valid online application form;
- Proof of the your right to work in the UK – please click here to access the list of Acceptable Documents [\(add link\)](#);
- Photograph(s) of your stall set up as it will be for trading;
- If applying to trade in a fixed location (or a number of fixed locations – multi-site consent) you will need to provide a detailed location site plan showing the exact location you wish to trade from at each site. Please be sure to mark the plan to show where the stall will be sited as the plans will form part of the consent;
- Annual Consent: Confirmation of the *days* and times you wish to trade each week;
- Temporary Consent: Confirmation of the *dates* and times you wish to trade;
- If selling any consumable item (food or drink) you will need to provide evidence of a current Food Hygiene Rating of 4 or 5. The food rating must relate to the current business address and be registered with the correct Local Authority;
- Proof of public liability insurance cover of at least £5m;
- A full list of the commodities/items you wish to sell;
- Application fee
- Basic Disclosure Check if required (see sec 15) - <https://www.gov.uk/request-copy-criminal-record> - must be no more than 1 calendar month old at the time of application;
- Proof of waste disposal arrangements to prevent fly tipping, dumping in litter bins, oil being poured down public drains etc.
- Written consent of the landowner if applying to trade from privately owned land.

5.3 Determining Applications

All applications will be subject to consultation with relevant agencies and authorities.

These could be but not limited to:

- Environmental Health Team
- Highways Authority
- Staffordshire Fire and Rescue Service
- Planning Team
- Staffordshire Police
- Trading Standards
- Parish Council's
- Street Scene Team
- Relevant Ward Councillors

Each consultee authority or agency will be requested to consider the application from their area of expertise. If objections are received, they will be taken into consideration by the licensing officer when deciding to grant or refuse a consent.

An outline of any objections received will be shared with the applicant within 7 days. The applicant will then be given the opportunity to make submissions regarding any objection prior to any final decision.

If no objections are received and the licensing officer is satisfied the application meets the requirements of this policy, the consent will be granted and will be active from the date issued. Each consent may be granted for a maximum period of twelve months.

6. Departure from the Policy

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy. Each application will be considered on its own merits based on the aims detailed and, where the Council considers it appropriate and necessary to depart substantially from this Policy, clear and compelling reasons for doing so will be given.

6.1 Key Assessment Criteria

The following criteria apply to all types of street trading.

Exemptions apply to special events and events approved under the events and festival policy where it is expected the event organiser will ensure the suitability of the applicant, site, trading unit, generators, barriers and the location of traders at the event. Additional expectations on event organisers are set out in the events policy and guidance.

6.2 Safeguarding

The Council is committed to promoting public safety and recognises its responsibilities for safeguarding children and adults at risk of abuse and neglect. This includes members of the public who use or may be impacted by street trading activities and the safety of the employees within the street trading businesses.

This policy is designed to ensure the individuals issued with trading consents are fit to hold a trading consent, but also extends to any person employed, by the consent holder, to work in the unit for more than just 'one off' holiday cover (i.e., cover on more than four weeks per year in total).

6.3 Applicant Suitability

When determining whether an applicant is suitable, the Council will consider:

- Any relevant criminal convictions
- The reliability of the applicant in paying fees and charges based on previous history;
- Compliance history;
- Any reasonable complaints; and
- Compliance with the street trading conditions.

6.4 Site Suitability

In determining whether street trading in an area is appropriate, the council will have regard to the following:

- Any effect on road safety and/or community safety, either arising from the siting of the pitch or from customers visiting or leaving;
- Any loss of amenity caused by noise, traffic, smell etc;
- Existing traffic orders e.g. waiting restrictions;
- Any potential obstruction of pedestrian, vehicular or disabled access;

- Any obstruction to the safe passage of pedestrians and wheelchair users;
- Any obstruction to an adjacent business
- The safe access and egress of customers and staff from the pitch and immediate vicinity.

The proposed location of the activity should also not present a significant risk to the public in terms of highway safety and obstruction.

- Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.
- The proposed activity should not present a risk of crime and disorder to the public.
- Controls must be in place to ensure that the pitch does not cause nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur. This include neighbouring properties and businesses.
- If at any time the council receives complaints that nuisance is occurring, it will investigate and, if complaints are found to be justified, it may decide to withdraw the consent.

6.5 Trading Unit Suitability

The design, appearance and aesthetic suitability of each trading stall / vehicle will be considered in relation to the trading location applied for and once consented, any substantial changes to the stall must be agreed with the Council.

The Council values individuality and recognises that unique units can bring an attractive quality. However only trading stalls / units largely compliant with the specifications of this section are likely to be approved.

In design and build, the unit should be harmonious with the character of the locality, add to the quality of the street scene, and comply with the legal requirements for the activity proposed.

The design specifications apply to all annual, seasonal and multi-site consents:

One-off traders are exempt.

- The Council does not prescribe a design or style, but does require a high quality, standard and aesthetic appearance trading unit
- The unit shall comprise robust construction and materials, such that the daily removal will not result in the rapid deterioration in appearance of the unit
- The design must be commercially and aesthetically attractive, i.e. reflective of the quality and planning requirements of the facades of the surrounding retail area, where applicable
- The quality and appearance of the unit must be maintained at the standard approved in the original consent.
- The unit must meet with all the consent conditions including removal after trading, unless specifically permitted to remain.
- The unit will be inspected by an officer from the Council prior to consent being issued.
- Goods, ancillary equipment and stock must be contained within the unit when trading.

The proposed unit design must be agreed by the Council, therefore the Council strongly advises against making any significant financial investment in a trading unit or stock until the necessary consent has been approved.

In such circumstances, measurements and images provided with an application should accurately reflect the size, type, quality and overall appearance of the unit the applicant intends to purchase.

6.6 Generators

Generators must be positioned to reduce the length of cabling required to an absolute minimum and to minimise annoyance and/or nuisance to local residents or businesses from noise or fumes.

Where required, silenced generators or acoustically insulated generators must be sourced.

Where an application proposes the use of a generator, applicants should note the Environmental Protection Team will consider the proposal and may object to the grant of the consent where any use of a generator is considered inappropriate or unreasonable, based on the type of generator, location, environment, or days and times applied for.

6.7 Advertising

Advertising may only relate to goods offered for sale on that pitch.

Third party advertisements are prohibited.

It is not permitted to illuminate any advertisement on the outside of the stall kiosk without express consent of the Council.

The use of 'A' boards will be permitted if considered necessary to alert customers to the trader location and taking account of the Council's 'A' board policy.

6.8 Barriers

Barriers will only be allowed on a consent pitch where they have been specifically included within the stall's approval.

6.9 Hours of Trading

Trading hours will be considered in line with promoting the following purposes:

1. Preventing crime, disorder and antisocial behaviour;
2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate;
3. Protecting public safety;
4. Preventing obstruction of the highway.

6.10 Goods Offered for Sale

The Council has a responsibility to local businesses and will therefore not normally grant a Consent for the sale of goods which conflict with those provided by nearby shops. Businesses contribute to the locality through providing employment, paying business rates, and enhancing the amenity and permanent economic environment. Therefore, the Council does not want to grant an unfair economic advantage to the holder of a Consent.

Ordinarily the Council will not grant a consent to trade where an existing provision is available within a reasonable radius as the type of goods proposed. Reasonable radius constitutes being within a 100m radius and being within direct sight. This does not apply to one off large scale events and will not be applied retrospectively to existing annual or seasonal consent holders.

Commodities will be considered on a pitch-by-pitch basis having regard to local needs, product diversity and the suitability of the proposed location in terms of space and balance.

The nature of the proposed goods must be specified on an application, however the goods must not:

- a) Cause a nuisance or annoyance to nearby properties/ people.
- b) Cause or contribute to crime and disorder.

6.11 Stock Management

Siting of stock and trading area goods or equipment may not be displayed outside the authorised area of the unit of e.g., via build-outs, externally hung on the unit, sited on the public realm around

the unit, or by any other means. All produce / stock must be located and displayed within the unit.

Goods may not be displayed directly on the ground and must be presented from a product specific display unit (e.g., tiered shelving for flowers).

6.12 Other Criteria

The consent holder will at no time have the exclusive right to trade from the street or any part of it.

Street trading can take place in the area outlined in the consent and on days and hours detailed in the consent.

The consent holder may only trade in goods that are outlined on the consent.

A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the police.

Auction sales shall not be permitted as part of the consent.

All street trading units will be equipped with safe and adequate lighting for the operation during the hours of darkness.

Failure to comply with any of these requirements may result in refusal to issue consents or withdrawal of consent.

7. Types of Consent

Street trading consents are issued by the Council and fall under the following classifications, and each is explained in the following section:

- Annual Consent – 12 months
- Mobile Consent – maximum time of 20 mins or until queue is served, e.g. mobile ice cream sellers.
- Seasonal Consent – up to six months
- Multi-Site Consent – up to 5 specific sites per week or a specified schedule of times and locations. A multi-site consent would enable traders of hot food (such as a fish and chip mobile vendor) to remain on site in local villages for a number of hours each day/evening to cook and serve their food.
- Special Event Trading Consent – only available in association with an event approved as a special event or under the events and festivals policy.
- Temporary Consent – up to 30 individual days trading per annum.

7.1 Annual Consents

An annual consent enables the consent holder to trade on the days and times specified in the consent from a specified pitch within the District and runs for 12 months from the day of issue.

It is for the applicant to consider the location they are interested in trading from, having had regard to the criteria in this policy, and apply to trade from the site.

7.2 Annual Consent Renewal

Consent holders will be reminded that their consent is due to expire at least 28 days before the expiry date. This is to assist the trader and the Council accepts no liability if the trader does not receive the reminder. It is the trader's responsibility to ensure that they have the correct consent and to ensure that they submit their application prior to the expiry of their consent.

Consent holders may submit their application to renew up to one month in advance of their current annual consent running out. Applications for renewal must be received 14 days before the consent is due for renewal. Failure to do so may result in a delay in processing the application and the loss of days trading.

7.3 Mobile Street Trading

Mobile street trading is specifically suited to such traders as ice cream vans, where the trader is not limited by times or days, but by geographical area. A mobile consent would authorise the consent holder to trade across the whole of the district, with the exclusion of areas like the city centre, which will be specified on the consent.

7.4 Seasonal Street Trading

A seasonal consent allows the trader to trade on a full-time basis, for the days and times specified in the consent for one to six months.

Seasonal may include the festive season, consents may be mobile or stationary and may be in any appropriate location on a consent street.

7.5 Multi-site Street Trading

A multi-site consent provides an opportunity to bring an otherwise unavailable service to smaller settlements in the District.

In locations, where local provision for that type of takeaway hot food is not available, a multi-site consent enables a trader to secure a trading arrangement and develop a customer base on a maximum of one occasion per week, permitting trading for a maximum of 3 hours or until they have served all queueing customers.

Trading locations are subject to there being no existing provision within a reasonable distance at days/times specified on the application.

7.6 Special Event Trading Consent

Where trading occurs within the footprint of an approved special event a daily (per day) consent may be applied for.

The consent permits trading exclusively at the location, on the dates and times of the event.

At a special event the person is not operating independently but under the direction and supervision of the event organiser, who has committed to undertaking their own checks – e.g. Right to work and Fire regulation checks.

7.7 Temporary Street Trading

A temporary consent, permitting the consent holder to trade for up to a maximum of 30 days per annum. The days need not be consecutive, however, the dates and times must be specified on application and included on the operating schedule forming part of the consent.

8. Events Eligible for Subsidised Street Trading

All events that are agreed through the [Events and Festivals Policy](#) will automatically receive a subsidy for street trading and traders will be charged a reduced fee.

For smaller events that fall outside the scope of the Events and Festivals Policy, the organiser may apply to the Council requesting their event to be considered for a street trading subsidy.

To be eligible to receive a subsidised street trading rate the event should include a theme, attraction or promotion to encourage visitors to the event and surrounding area.

If an event is approved for subsidised street trading fees the event organiser will be provided with a link to the Council's online application and will be responsible for co-ordinating the applications of street traders wanting to trade at the event. Consents will be issued by the Council to individual

traders on successful application to the council.

Where an event is agreed after street trading consents have already been issued for the same location, the street trading consents will be honoured, and the event organizer will be required to allow for the traders in the location and trading hours as set out in their consent.

8.1 Applying for a Street Trading Event Subsidy

Applicants must complete the online [event organiser's subsidy application](#).

Applications must be submitted as early in the year as possible but no later than 30 working days before the date of the event and be made via the Council's on-line form and the required documentation uploaded as required.

9. Vacant Existing Pitches for Annual Consents

When existing pitches in the Lichfield District become vacant the Council will advertise the vacancy and closing date for expressions of interest on the Council's website.

Applications will be assessed against the criteria detailed in this policy and, where a suitable proposal is received, the successful applicant will be selected and invited to apply for an annual street trading consent.

Should the selected person be unable to take up the pitch, the opportunity may be offered to the next appropriate person.

Where no suitable applications are received the Council may decide not to issue a consent.

10. Letting of Pitches

10.1 Sub-letting Pitches

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.

10.2 Re-letting Pitches

Street traders must make full use of their consent. The Council will assess whether a consent holder has made a full use of their consent.

Street traders shall notify the Licensing Team in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Licensing Team of the date upon which they intend to resume trading.

In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/ periods are applied for.

11. Fees and Charges

The Council sets fees and charges for street trading. Fees and charges are reviewed annually. Different fees may be set for the same type of consent to reflect factors that result in different costs to the Council for that consent/s.

The fees set by the Council for consents to trade will be set on a cost recovery basis.

An application is invalid unless accompanied by the appropriate fee.

Street trading fees are published on the [council's website](#).

Where a consent is surrendered or revoked, the council will consider all applications for the refund of part of the fee, which must be received in writing.

The decision will depend upon the remaining period of the licence and costs incurred prior to the surrender or revocation.

12. Invalid Applications

Invalid or incomplete applications will be rejected.

13. Consultation

Other than an application to trade at an approved event, all applications will be subject to a 28-day consultation in line with this policy.

Where the application is for a temporary consent, authorising up to 30 calendar days per annum, the trader will be permitted to trade during the consultation period.

The Environmental Health Team will be consulted in relation to health & safety, food safety, pollution and noise. The Planning Team will be consulted in relation to the aesthetic appearance of the trading unit and its suitability in relation to complementing the area and facades of surrounding premises.

Depending upon the location(s) applied for, the Council may include other relevant parties, but in accordance with the Council's policy, street trading applications are subject to a full consultation with some or all the following responsible authorities or agencies:

- Environmental Health Team
- Highways Authority
- Staffordshire Fire and Rescue Service
- Planning Team
- Staffordshire Police
- Trading Standards
- Lichfield City Council
- Street Scene Team
- Relevant Ward Councillors

Although the consultation period is 28 days, where responses have been received from all consultees before the end of the consultation period the Licensing Team will update you with the outcome of the consultation. If no objections are received the consent will be issued within 5 working days.

Once the consultation is complete, where no objections are received, the trader will be issued future consents without the need for further consultation provided no subsequent concerns are raised.

Where the application is for an annual consent, the consent will be granted on completion of the consultation period.

Should a consent holder wish to vary the consent substantially – e.g., type of provision offered or location – the relevant authorities will be reconsulted and an administration fee will apply.

14. Food Hygiene Rating – Food Traders

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme; however, proof of their exemption must be provided by the applicant. This may be an email from their local authority confirming that the

business is registered and that a hygiene rating is not required. The council may contact their local council for information on the applicant's compliance history.

Other low risk food businesses may be approved to trade whilst awaiting inspection by their local authority or in other circumstances. The final decision of what is classed as a low-risk business will be determined by the Food Safety Team.

All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Applicants and consent holders are required, by the conditions of consent, to notify the Council of any reduction in their national food hygiene rating.

If food safety is found to be below the specified standard, consent will be withdrawn until the issues are resolved.

15. Disclosure and Barring Service – Basic Disclosure (DBS)

The Council reserves the right to request a basic disclosure criminal record check or a subject access check from the police for a new application or existing consent for the applicant and each permanent/regular employee (paid or unpaid). (A regular employee is an individual providing more than just holiday cover maximum of four weeks per year) Unless specific concerns are raised about an individual these will only be routinely requested for mobile street trading applications.

In respect of all applications, a disclosure form must be completed by the individual of any convictions, cautions or fixed penalty notices they have received and if they are currently under investigation for any criminal matter (if they are aware).

In respect of any renewal applications a declaration must be made of any new convictions, cautions or fixed penalty notices they have received and if they are currently under investigation for any criminal matter (if they are aware).

At the time of application, the applicant must also provide details of all regular employees (paid or unpaid) associated with the street trading consent.

16. Refusal

Decisions will be made in accordance with the aims of the policy in relation to the protection of the safety of the public and safeguarding and having regard to unspent convictions under the Rehabilitation of Offenders Act.

Any convictions / cautions, which are not spent and relate to sexual or violent behaviour (including domestic violence), drugs, firearm offences, theft/fraud, dishonesty or any offences involving harm to children or vulnerable persons will be refused or the application may be referred to the Licensing Committee for further consideration depending on the circumstances.

Where serious allegations or cautions/convictions come to light during the period of holding the consent, the consent will be suspended, pending the outcome of investigations and, if convicted, revoked.

Only DBS certificates dated less than one month old at the time of the application will be accepted. Applicants that regularly apply may want to consider the DBS update service, further information is available at www.gov.uk.

17. Removal of Waste

Commercial waste must be stored within the stall / trailer.

Food stalls should make provision for the collection, removal and lawful disposal of customer waste as well as their trade waste and removing it from site in accordance with the trader's commercial waste contract.

The need for a waste container will be considered on a case-by-case basis acknowledging that there may be instances where the provision of a waste container will be required.

Traders shall ensure that they comply with the law in relation to the disposal of waste. All businesses must put in formal arrangements for the disposal of waste created by their activities. It is an offence to dispose of trade waste in domestic refuse bins.

18. Revocation

There is no legal right of appeal against a decision to revoke a consent. Where a consent is revoked the council will advise the applicant verbally (where possible) and confirm the reasons for this in writing within 10 working days.

The Head of Regulatory Services, Housing and Wellbeing may allow an appeal to the Licensing and Consents Appeals Committee if it is felt appropriate. Details on how to appeal will be given to applicants when a decision to revoke the consent has been made.

19. Conditions, Complaints and Enforcement

19.1 Conditions

General conditions will be attached to every consent.

Conditions on a Consent are important in setting the parameters within which a trader may lawfully operate.

Consent conditions must:

- be appropriate for the promotion of the policy objectives;
- be precise and enforceable;
- be unambiguous and clear in what they intend to achieve;
- not duplicate other statutory requirements;
- be tailored to the individual type, location and characteristics of the trading unit and location;
- be proportionate, justifiable and be capable of being met;
- not seek to manage the behaviour of customers once they are beyond the direct management of the consent holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- be written in a clear and prescriptive format.

Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, the revocation of a consent, and/or refusal to grant further consents on application.

19.2 Complaints

Complaints in relation to the administration of the policy will be fully investigated in accordance with the Council's Complaints Policy.

Substantiated complaints relating to the operation of the street trading consent may result in a consent being revoked and refusal to grant further consents on application.

19.3 Enforcement

Enforcement will be considered in line with our [enforcement policy](#).

19.4 Offences

A person commits an offence if they:

- Engage in street trading in a prohibited street.
- Engage in street trading in a consent street without first obtaining a street trading consent from the council.
- Contravene a condition imposed on a consent.

Any person guilty of such an offence will be liable, on conviction at a magistrates' court to a fine of up to £1,000.