

# Street Trading Policy

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## 1. Introduction

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This policy is a decision making framework for the consideration of applications for street trading consents. The aim of the policy is to create a street trading environment which is sensitive to the needs of the public, consumer choice, ensures safety and contributes to the character and ambience of the local environments. The council's power to regulate street trading is set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as "the Act".

Street trading can aid the local economy and contribute to the facilities offered to people who visit, live and work in Lichfield District and it supports the District Council's priority to encourage a vibrant and prosperous economy.

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## 2. About this policy

Lichfield District Council's original Street Trading Policy was published in April 2016. This updated policy has been created to reflect the feedback and experiences we have had since the original policy was published.

The purpose of this policy is to provide a set of criteria and guidance which will be used as the regulatory framework for street trading. This policy will inform applicants and organisers of the parameters by which the Council will make decisions and links to the Council's Events and Festivals Policy ([add link](#)). It will also give prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them.

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## 3. 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'.

Streets located on private land are included within the scope of this policy.

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

- A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;

- Anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
  - Trading in a trunk road picnic area provided by the secretary of state under section 112 of the Highways Act 1980.
  - Trading as a news vendor.
  - Trading carried on at a premises used as a petrol station.
  - Trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop.
  - Selling things, or offering or exposing them for sale as a roundsman.
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## 4. Types of street trading

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

Definitions:

### Prohibited streets

If a street is designated as a prohibited street then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example the street may not be wide enough to facilitate a trader or the council may wish to restrict trading in a particular location. The only prohibited street in Lichfield District is the whole extent of the A38.

### Licensed streets

A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required. There are no licensed streets within Lichfield District.

### Consent Streets

Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council. All streets within Lichfield District are designated as consent streets with the exception of the A38.

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## 5. Street trading within the Lichfield District

Lichfield District Council has designated all streets within the Lichfield District as consent streets, except the whole extent of the A38. This policy applies to all street trading which is undertaken within the Lichfield District.

Where an applicant wishes to trade on private land, a consent will not be granted by the Council unless the applicant provides written permission from the land owner showing they have permission to trade.

Traders trading during events held at the Cathedral will be considered to be street trading if they are either trading on the street named Cathedral Close or on the grassed area facing into the street but not where they are on the grassed area facing into the cathedral.

This policy does not apply to:

- Small scale trading from residential properties (for example, garage sales, garden produce, eggs from own private livestock).
- Sale of articles by a charity. Charity sales and collections in the street are regulated under Police, Factories, & c. (Miscellaneous Provisions) Act 1916 by the Council. Charities should contact the Council Licensing Team to apply for a permit.

Street trading consents are issued by Lichfield District Council. The consents come under the following classifications:

### Annual Street Trading

This is a consent that lasts 12 months and enables the trader to trade up to 7 days a week at a particular pitch within the district. Temporary trading is preferred within the Town Centre locations. Annual consents are limited to certain locations in the towns.

### Temporary Street Trading

This type of consent is for short periods of time for designated pitch in the district. No more than 30 consents will be issued per pitch, per year.

### Roaming Street Trading

This is where a trader operates on various streets within the district rather than a fixed location.

### Events Eligible for Subsidised Street Trading

All events that are agreed through the Events and Festival Policy (add link) will automatically receive a subsidy for street trading and traders will be charged a subsidised fee. For smaller events the event organiser can apply to the Council requesting their event to be considered for an event subsidy where street trading is taking part at the event and there are 10 or more consents that require issuing.

## 6. Why do we have street trading?

Street trading supports the District Council's priority to encourage a vibrant and prosperous economy. It provides valuable employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has a low start-up costs, minimal overheads and existing customer footfall.

Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit and vegetables, household goods and other services for local communities, those travelling to work, and the visitors to Lichfield District. The designation of all streets within Lichfield District <sup>1</sup> as consent streets has taken place to ensure:



- Public Safety
- Prevention of crime and disorder
- Prevention of public nuisance

<sup>1</sup>Except the A38

## 7 Key considerations when assessing an application

The following criteria apply to all types of street trading:

### Public safety

- The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction.
- Some locations may be considered unsuitable or may require an officer visit before a consent can be issued.
- 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.

### Prevention of crime and disorder

- The proposed activity should not present a risk of crime and disorder to the public.

### Prevention of nuisance

- Activities at the pitch must not cause a nuisance or annoyance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If at any time we receive complaints the nuisance is occurring, we are duty bound to investigate and, if complaints are found to be justified, we may decide to withdraw the consent.

### Suitability of the applicant

- Lichfield District Council will consider any unspent the convictions the applicant may have.
- The council will reserve the right to request a basic disclosure check where the Council deems there is a risk to children and/ or vulnerable people. Examples of circumstances where basic disclosure may be required are ice cream sellers.
- When determining whether an applicant is suitable, we will look at the reliability of the applicant in paying fees and charges based on previous history.
- An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the council's requirements and street trading conditions have been followed, including deadlines.

### Suitability of the trading stall

- The vehicle, trailer or stall (now referred to as a 'stall' within this policy) to be used should be of a high quality design, build, add to the quality of the street scene and be adequate for the purpose intended.
- The stall must meet with all of the consent conditions.

- The stall may be inspected by an officer from Lichfield District Council prior to consent being issued.
- Only stalls approved by an authorised officer of Lichfield District Council can be used.
- The stall will comply in all respects with any legal requirements relating to the activity proposed.
- The stall must be removed each evening, unless it is permitted by the consent.
- Colours should be chosen which are suitable for the surroundings.
- The stall shall be of such a design that it facilitates timely and efficient removal.
- The stall shall be of robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- Stalls and ancillary equipment and stock must be contained within the pitch.
- Prior to any consent being issued or in cases where a consented trader wished to change the stall, prior approval must always be sought from the Council. Proposals must include all display equipment and any attached, projecting or free standing elements.
- The design and appearance of the stall must be agreed by an officer from the Council before consent will be granted.

### Generators

- Generators shall be positioned so as to reduce the length of cabling required to an absolute minimum and to minimise nuisance to local residents or businesses from noise or fumes. Where required, silenced generators or acoustically insulated generators should be sourced.

### Advertising

- Advertising should 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 is prohibited for certain sites (for example. Lichfield City Centre).

### Barriers

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

### Hours of trading

Trading hours will be set on the basis of promoting the following purposes:

1. Preventing crime, disorder and antisocial behaviour.
2. Avoiding nuisance.
3. Protecting public safety.
4. Preventing obstruction of the highway.
5. Having regard to location and operating hours of business activity.

### Selling the right goods

With the exception of events and festivals, the council will not normally grant a consent for the sale of goods which replicate or conflict with those provided by nearby shops. If a street trader has used a location regularly and a shop selling similar goods begins trading in the area, the Council may choose to



continue to grant consents to that street trader. The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent.

Anyone wanting to have a stall must clearly state the nature of the proposed goods. The goods must not:

- Cause a nuisance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.

### Site assessment

In determining whether street trading in a particular area is appropriate the council will have regard to:

- Any effect on road 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.
- The safe access and egress of customers and staff from the pitch and immediate vicinity.

### 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.

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## 8 Annual street trading

An annual consent can last up to 12 months. This consent enables the consent holder to trade up to 7 days a week at a particular pitch within the district. Annual street trading consents run from the 1<sup>st</sup> April until 31<sup>st</sup> March the following year. Consents can be applied for part way through the year, but they will only run until 31<sup>st</sup> March.

### Filling vacancies and allocation of pitches

The council will keep a waiting list for annual pitches that are currently occupied. Traders can express an



interest in a pitch. The details will be held on a list. The list will be kept in chronological order. Traders will be contacted in chronological order and the first suitable trader will be invited to make an application once a pitch becomes available.

If a trader makes an application, but is unable to trade when a pitch becomes available, the pitch will be offered to the next appropriate trader on the list.

Where there is no one on the on the waiting list for a pitch the council will from time to time advertise the vacancy for the annual street trading pitch on the council's website and select the most suitable applicant from those applications.

### Surrendering an annual consent

Where the trader at an annual pitch wishes to surrender their consent they must give the council 21 days written notice. Notice must be sent to [street-trading@lichfielddc.gov.uk](mailto:street-trading@lichfielddc.gov.uk)

### Payment of fees for annual pitches

Annual fees are published on Lichfield District Council's website. The annual fee is based on a daily fee 5 days worked per week, 50 weeks of the year. For annual pitches an initial payment equivalent to 40 trading days will be due before a consent is granted. The remaining fee will be spread over the following 10 month period, with monthly payments equivalent to 21 trading days due. The monthly payments will start one month after consent is granted. The consent will run from the 1<sup>st</sup> April until 31<sup>st</sup> March the following year. If an applicant makes an application during this period the consent for an annual pitch will cease on 31<sup>st</sup> March in the year that it was applied.

### 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 done to assist the trader, 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 renewal not being granted or a delay in you being able to trade.**

## 9 Temporary street trading

Temporary street trading pitches can be in any appropriate location on a consent street. Each application will be assessed on its own merits. Use of the same pitch cannot be guaranteed. The application details and deadlines are set out in the Street Trading procedure.

### Payment of fees for temporary pitches

Current fees are set out on Lichfield District Council's website. For temporary pitches the applicant will



need to pay when booking. The trader will incur the one day fee and then a lower daily fee for any additional days to be added to the same consent. The additional days must be at the same pitch or a pitch that has been previously authorised for use by this trader. The additional days must also be within the same financial year as the 1<sup>st</sup> day of trading. To take advantage of the additional day fee rate full payment must be made in advance and in one transaction.

## 10 Roaming street trading

Consents for roaming street trading will be granted on condition that they allow no more than 30 minutes trading in any 100m part of any one street on any one day and don't return within 2 hours. This reflects the peripatetic nature of their operation. Trading in one place for longer than this will require a temporary or annual street trading consent. The trader must clearly identify the times and dates they wish to trade and in which locations. It is up to the consent holder to ensure that they comply with laws relating to the highway. The Council will generally restrict or amend your consent where the type of goods conflict with other goods for sale in the vicinity. Consents can run for up to 12 months. Applications must be made at least 10 working days before the consent is due to start.

### Payment of fees for roaming pitches

Please see Lichfield District Council's website for the current fee. Full payment must be made in advance of a consent being granted and in one transaction.

## 11 Events Eligible for subsidised street trading

All events that are agreed through the Events and Festivals Policy (add link) will automatically receive a subsidy for street trading and traders will be charged a subsidised fee. For smaller events the event organiser can apply to the Council requesting their event to be considered for an event subsidy where street trading is taking part at the event and there are 10 or more consents that require issuing.

To be eligible to receive a subsidised street trading rate the event should include some sort of entertainment, theme, attraction or promotion to encourage visitors to the event and surrounding area. An event that is just a market will not be eligible for the subsidy.

If an event is approved for a subsidised street trading rate the event organiser will be sent a street trading event application link so that they can invite applications to be made by street traders wanting to trade at the event. To be eligible for the subsidised street trading rate, the event organiser must have a strong track record of event /street trading compliance and have no outstanding fees. Consents will be issued by the Council to individual traders on successful application to the council. The application details and deadlines are set out in the Street Trading procedure.

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 special event organizer will be required to allow for the traders in the location and trading hours as set out in their consent.

### Applying for a street trading event subsidy

Applicants should complete the online event organiser's subsidy application. All questions must be answered in full. Only fully completed applications can be considered. Any events already agreed through the events policy will automatically have the subsidy applied.

Applicants wishing to serve and/or sell alcohol will need to apply for a Temporary Event Notice (TEN). A TEN must be sent to the licensing team (and the police) at least 10 working days in advance of a planned event.

Applications should be made via the council's on-line form and the required documentation uploaded as required. The application details and deadlines are set out in the Street Trading procedure

We strongly recommend that all street trading organisers contact the licensing team whilst they are in the planning stages of their event. Applications may have restrictions put on them by the Council such as the number of certain type of trader e.g. food, or the number of total stalls that can be accommodated at the event.

## 12. Letting of pitches

### Sub-letting pitches

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

### Re-letting pitches

Street traders must make full use of their consent. The local authority 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.

## 13. Temporary relocation

When a pitch becomes unsuitable, the council will relocate consent holders where suitable alternative street trading pitches exist. The council may consult with the highway authority to identify suitable alternative pitches for the purpose of relocating the displaced street trader.

## 14. Fees and charges

Lichfield District Council set fees and charges for street trading. Fees and charges are reviewed annually.

Where a consent is surrendered or revoked, the council will remit or refund, as they consider appropriate, the whole or part of any fee paid for a grant or renewal of the consent.

Please visit [www.lichfielddc.gov.uk/streettrading](http://www.lichfielddc.gov.uk/streettrading) to find out what the current fees and charges are for street trading.

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## 15. Applications

All applications will be considered on their individual merits 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 charges.
- The location is unsuitable
- The stall will be in proximity of a shop selling similar goods.
- The activities are likely to cause a nuisance or annoyance to neighbouring properties.
- The applicant is unsuitable.
- An applicant has failed to appropriately use previous consents.
- The stall is unsuitable.
- It causes or contributes to crime and disorder.

This list is not exhaustive.

### 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

### Making an application

All applications must be made on the council's prescribed 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](http://www.lichfielddc.gov.uk/streettrading), if you are unable to apply online please call 01543 308725 to request a hard copy.

The application must be accompanied by the following documents:

- Public Liability Insurance certificate
- A description of the stall or a photograph if available.
- Basic Disclosure and Barring Service (DBS) check or access to the DBS update service for you or any assistants if requested by the licensing team.
- Proof that the applicant, and any assistants are entitled to work in the UK if requested.

Once the application is complete and has been accepted, the council will either:

- Grant the consent as applied for.
- Grant the consent with conditions or a variation to the application.
- Refuse the consent.

Where a consent is refused the council will notify the trader in writing detailing the reason for refusal.

### Receipt of application and fees

An application will be treated as being received only when the relevant application and all the necessary supporting evidence has been received and the relevant fee has been paid. The application must be completed in full. Incomplete applications will be rejected. Failure to follow the application process may result in the consent being refused or delayed. Applicants are encouraged to submit their applications in plenty of time of the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

### Consultation

Before a street trading consent is granted the council may decide it is appropriate to consult with various people or groups. The council will consider relevant representations.

The licensing team may consult the following people before issuing a consent:

- Staffordshire Police
- Highways Authority
- Relevant services at Lichfield District Council e.g. food team, waste team etc.
- Fire and Rescue Service.
- Trading Standards
- Any other person or body deemed necessary.

Information obtained from these people/ bodies will be considered during the application process and will help determine whether a consent should be granted.

## 16. Insurance

The council will accept no liability for the street trading activities undertaken by the consent holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade.

The insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached or its sum altered as to provide less than the minimum value.

If the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide the council evidence that public liability insurance is continuous for the period of the consent.

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## 17. Food stalls

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the council may contact their local council to ensure adequate compliance with food law. Other low risk food businesses (the decision of what is classed as a low risk business will be determined by the Food Safety Team), may be considered safe to trade whilst awaiting inspection by their local authority or in other circumstances. All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Where a rating drops below a 4 whilst a consent is in place, consent may be withdrawn. Applicants and consent holders should notify Lichfield District Council of any changes to 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.

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## 18. Disclosure and barring service check (DBS)

The council may ask you to apply for a basic disclosure to ensure that you are a suitable applicant. For information on how to apply for a basic DBS check please visit <https://www.gov.uk/government/publications/basic-checks>. If you are asked to provide a disclosure and barring service check as part of your application any assistants working during the duration of the consent will also need to provide a check.

We will not accept DBS checks that are more than 3 months old at the time of the application. Applicants that regularly apply may want to consider the DBS update service, further information is available at [www.gov.uk](http://www.gov.uk).

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## 19. Removal of waste

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 collection of waste created by their activities. It is an offence to dispose of trade waste in domestic refuse bins.

Special event organisers with 16 or more consents issued for an event must provide sufficient waste disposal facilities.

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## 20. Revoking consents

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 Regulatory and Licensing 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.

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## 21. Refusing applications

The council may refuse to grant a consent. Where a consent is refused the council will advise the applicant in writing and notify them of the reason for the refusal. There is no right of appeal against a decision to refuse a consent. The Head of Regulatory Services, Housing and Wellbeing may, however, allow an appeal to the Regulatory and Licensing Committee if it is felt appropriate. Details on how to appeal will be given to applicants when a decision to refuse the consent has been made.

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## 22. Conditions, complaints and enforcement

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

## Complaints

Complaints will be fully investigated in accordance with the Council's Complaints Policy and consent holders will be expected to liaise with the council to resolve them, Substantiated complaints may result in a consent being revoked and refusal to grant further consents on application.

## Offences

Decisions regarding enforcement action will be made in accordance with the Council's enforcement policy.

A person commits an offence if they:

- a) Engage in street trading in a prohibited street.
- b) Engage in street trading in a consent street without first obtaining authorisation (including making payment) from the council.
- c) 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.

## 23. Definitions

### Roundsman

A roundsman is a person who followed the round of his/her customers to take orders and deliver the pre-ordered goods of these customers.

### News vendor

News vendor is a reference to trading where:

- a) The only articles sold or exposed or offered for sale are newspapers or periodicals; and
- b) They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
  - (i) exceed one metre in length or width or two metres in height;
  - (ii) occupy a ground area exceeding 0.25 square metres; or
  - (iii) stand on the carriageway of a street.