

DRAFT REVISED STREET TRADING POLICY

Relevant Portfolio Holder	Councillor P. Whittaker
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Council's current street trading policy has been in place since July 2011. It is believed that given the length of time since the policy was adopted, it is appropriate to carry out a review of the street trading policy and to carry out consultation on a draft revised policy.

2. RECOMMENDATIONS

That Members RESOLVE to approve the draft revised street trading policy at Appendix 2 for the purpose of consultation with relevant parties.

3. KEY ISSUES

Financial Implications

- 3.1 The costs associated with carrying out the consultation on the draft policy would be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 ("the Act") as amended allows local authorities to adopt provisions concerning the control of street trading. Under the Act there is no legal requirement for the Council to have a policy on how it proposes to control street trading under the Act.
- 3.3 However it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its functions are carried out. It is also considered best practise to review any such policy adopted from time to time.

Service / Operational Implications

- 3.4 Council's usually control street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications that the street trading creates. Controlling street trading also allows Councils to manage the impact street trading has on the local economy.
- 3.5 The control of street trading can also be of benefit to traders who can obtain greater security over their "pitch" if they are the only person who has the Council's consent to trade there.
- 3.6 Officers believe that it is important that where a Council decides to exercise control over street trading, the Council should adopt a street trading policy, which sets out clearly how applications for street trading consents will be dealt with and what principles will be applied when determining applications made for street trading consents. It is also believed that such a policy should be reviewed from time to time to ensure it is still appropriate and in line with the Council's aims and objectives in controlling street trading.
- 3.7 A copy of the Council's current street trading policy and standard conditions can be seen at **Appendix 1**. The policy and standard conditions have been in place since July 2011. It has therefore been more than five years since these have been formally reviewed. Therefore officers believe the policy and conditions should now be subject to review.
- 3.8 A draft revised street trading policy has been produced and is attached at **Appendix 2**. The draft revised street trading policy is a more comprehensive and detailed document than the current street trading policy and incorporates the standard conditions. The draft revised policy aims to provide as much information and guidance as possible to assist applicants, consent holders, officers and Members with a view to achieving a transparent and consistent approach to how the Council's street trading functions are carried out.
- 3.9 The draft revised policy begins by giving an introduction to the District. This is followed by a section explaining what the policy is and what objectives it seeks to achieve.
- 3.10 The draft revised policy then sets out the legislative framework within which the Council controls street trading, and explains that streets in the District have been designated as "consent streets" and those that are designated as "prohibited streets."

- 3.11 The draft revised policy goes on to explain the requirements involved in making an application for a street trading consent. This includes reference to the documentation that must be submitted with an application.
- 3.12 The draft revised policy sets out the way in which applications will be consulted upon and determined.
- 3.13 The application will be notified to a number of relevant stakeholders and other interested parties so that they have the opportunity to pass comment on the application and lodge any objections during a period of 28 days following on from the date that the application is made.
- 3.14 In addition however a further requirement is proposed in respect of applications for new consents, where the trading is proposed to take place from a fixed location. The applicant in these circumstances would be expected to display a public notice at the site of the proposed trading for at least 21 consecutive days from the date the application is made.
- 3.15 The draft policy explains that where representations or objections are received, officers will, in the first instance, explore the possibility that a compromise solution can be reached between the applicant and the person or persons making the objection or representation. If this is not possible, the draft policy explains that the applicant has the right for their application to be referred to a Licensing Sub-Committee for determination.
- 3.16 The draft policy goes on to set out the key considerations that will be taken into account by a Licensing Sub-Committee when determining an application for a street trading consent. The options available to a Licensing Sub-Committee are also set out within the draft policy.
- 3.17 The draft policy also seeks to set out the Council's approach to enforcement and complaints in respect of street trading activity. This is done in the interests of fairness and transparency and with a view to promoting consistency.
- 3.18 The draft revised policy is based on a template policy that officers are hoping to be able to implement across Worcestershire as part of the on-going effort to try harmonise as many licensing policies and procedures as possible across the county.
- 3.19 This report has been submitted to seek approval of the draft revised policy so that it can be consulted upon with the public and relevant stakeholders.

3.20 It is proposed use a consultation questionnaire to elicit views on the following matters set out in the draft policy:-

- The objectives of the policy
- The application procedures
- The key considerations
- The standard conditions
- Any other observations

3.21 The results of the consultation exercise would be brought back to the Licensing Committee for consideration before any decision is taken whether to adopt a revised street trading policy.

4. RISK MANAGEMENT

4.1 In order to minimise the risk of legal challenge to any policy subsequently adopted, proper and effective consultation on the draft revised street trading policy is being recommended.

5. APPENDICES

Appendix 1 – Existing Street Trading Policy and Conditions

Appendix 2 – Draft Revised Street Trading Policy

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