

# Public Document Pack



**TRAFFORD  
COUNCIL**

## **AGENDA PAPERS FOR PUBLIC PROTECTION SUB-COMMITTEE**

**Date: Thursday, 15 September 2022**

**Time: 6.30 pm**

**Place: Committee Rooms 2 & 3 Trafford Town Hall, Talbot Road, Stretford,  
Manchester, M32 0TH**

Please note: To view the meeting please paste the following into your browser's address bar: <https://www.youtube.com/channel/UCjwbIOW5x0NSe38sgFU8bKg>

A G E N D A	PART I	Pages
<b>1. ATTENDANCES</b>	To note attendances, including Officers and any apologies for absence.	
<b>2. MINUTES</b>	To receive and if so determined, to approve as a correct record the Minutes of the meeting held on 18 <sup>th</sup> August 2022.	1 - 2
<b>3. TRAFFORD'S PENALTY POINT SYSTEM FOR PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS/VEHICLE OWNERS AND OPERATORS - REVISED POINTS</b>	To consider a report of the Head of Regulatory Services.	3 - 10
<b>4. STREET TRADING POLICY AND FEES - CONSULTATION OUTCOME</b>	To consider a report of the Head of Regulatory Services.	11 - 74
<b>5. URGENT BUSINESS (IF ANY)</b>	Any other item or items (not likely to disclose "exempt information") which, by reason of special circumstances (to be specified), the Chairman of the meeting is of the opinion should be considered at this meeting as a matter of	

## **Public Protection Sub-Committee - Thursday, 15 September 2022**

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urgency.

### **6. EXCLUSION RESOLUTION (REMAINING ITEMS)**

Motion (Which may be amended as Members think fit):

That the public be excluded from this meeting during consideration of the remaining items on the agenda, because of the likelihood of disclosure of “exempt information” which falls within one or more descriptive category or categories of the Local Government Act 1972, Schedule 12A, as amended by The Local Government (Access to Information) (Variation) Order 2006, and specified on the agenda item or report relating to each such item respectively.

### **7. PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER - PART II ACCUMULATION OF 150 PENALTY POINTS IN A THREE YEAR PERIOD**

To consider a report of the Head of Regulatory Services.      Para. 1      75 - 82

### **8. PRIVATE HIRE DRIVER-ACCUMULATION OF 150 PENALTY POINTS IN A THREE YEAR PERIOD      PART II**

To consider a report of the Head of Regulatory Services.      Para. 1      83 - 106

### **9. URGENT BUSINESS (IF ANY)      PART II**

#### **SARA TODD**

Chief Executive

#### Membership of the Committee

Councillors D. Jarman (Chair), S. Thomas (Vice-Chair), J.M. Axford, B. Brotherton, D. Butt, J. Holden, J.D. Newgrosh, S. Taylor and B.G. Winstanley.

#### Further Information

For help, advice and information about this meeting please contact:

Natalie Owen, Governance Officer

Tel: 0161 912 4221

Email: [natalie.owen@trafford.gov.uk](mailto:natalie.owen@trafford.gov.uk)

This agenda was issued on **Wednesday, 7 September 2022** by the Legal and Democratic Services Section, Trafford Council, Trafford Town Hall; Talbot Road, Stretford, Manchester, M32 0TH.

# Agenda Item 2

## PUBLIC PROTECTION SUB-COMMITTEE

18 AUGUST 2022

### PRESENT

Councillor D. Jarman (in the Chair).

Councillors S. Thomas (Vice-Chair), J.M. Axford, B. Brotherton, D. Butt, J. Holden, J.D. Newgrosh and B.G. Winstanley

### In attendance

R. Smithson	Corporate and Commercial Lawyer,
J. Boyle	Licensing Team Leader,
N. Owen	Governance Officer.

### APOLOGIES

An apology for absence was received from Councillor S. Taylor

### 12. MINUTES

RESOLVED: That the minutes of the meeting held on 21<sup>st</sup> July 2022 be approved as a correct record and signed by the Chair.

### 13. EXCLUSION RESOLUTION (REMAINING ITEMS)

RESOLVED: That the public be excluded from this meeting during consideration of the following items on the agenda because of the likelihood of disclosure of “exempt information” which falls within one or more descriptive category or categories of the Local Government Act 1972, 12A, as specified.

### 14. NEW APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Head of Regulatory Services submitted a report requesting members to consider an application for the grant of a Hackney Carriage and Private Hire driver's licence.

The applicant attended the meeting to enable members to give the matter their full consideration.

The applicant gave his version of the offence and answered questions from members of the Sub-Committee.

The Sub-Committee considered the report and the evidence given at the meeting and concluded that the applicant was not a fit and proper person to hold a Hackney Carriage and Private Hire driver's licence.

RESOLVED: That Mr. A. M's application for a Hackney Carriage and Private Hire driver's licence be refused.

**Public Protection Sub-Committee**  
**18 August 2022**

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**15. APPLICATION FOR THE GRANT OF A NEW PRIVATE HIRE DRIVER'S LICENCE**

The Head of Regulatory Services submitted a report requesting members to consider an application for the grant of a Private Hire driver's licence.

The applicant attended the meeting to enable members to give the matter their full consideration.

The applicant gave his version of the offence and answered questions from members of the Sub-Committee.

The Sub-Committee considered the report and the evidence given at the meeting and concluded that the applicant was not a fit and proper person to hold a Private Hire driver's licence.

**RESOLVED:** That Mr. W. A's application for a Private Hire driver's licence be refused.

The meeting commenced at 6.34 pm and finished at 8.16 pm

# Agenda Item 3

## TRAFFORD COUNCIL

**Report to:** Public Protection Sub-Committee  
**Date:** 15<sup>th</sup> September 2022  
**Report for:** Decision  
**Report of:** Head of Public Protection

### Report Title

**TRAFFORD'S PENALTY POINT SYSTEM FOR PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS/VEHICLE OWNERS AND OPERATORS – REVISED POINTS**

### Summary

Trafford Council has operated a penalty point system since 1992. The system was devised to give officers and the Sub-committee additional options where a licence holder breached conditions but it was not considered appropriate to revoke the licence.

This report is to ask the Sub-committee to consider the proposed penalty points' policy which has been revised to reflect the new driver/vehicle and operator conditions which were adopted by the Council on the 13<sup>th</sup> October 2021.

### Recommendation(s)

The Sub-Committee is being asked to consider the report and reaffirm the procedure for issuing penalty points and approve the revised penalty points.

### Contact person for access to background papers and further information:

Name: Joanne Boyle  
Extension: joanne.boyle@trafford.gov.uk

## **1. BACKGROUND**

- 1.1 The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a licence holder will be assessed in terms of the ‘fit and proper person’ test. The points system is predominantly an internal management tool for ensuring that licence holders who repeatedly contravene regulation and/or policy are assessed.
- 1.2 The aim is to encourage licence holders to comply with all legislation, licence conditions and behave in an acceptable manner at all times, thereby improving the professionalism and reputation of the licensed vehicle trade. The points system operates in addition to all existing enforcement options open to the Authority.
- 1.3 Points issued to a licence holder are confirmed in writing within 10 working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- 1.4 When issued, the penalty points remain “live” for a period of three years from the date they were imposed so that only points accumulated in a rolling thirty-six month period will be taken into account.
- 1.5 If a licence holder accumulates 150 or more points within a three years period from the date they were imposed, they are required to attend a Sub-committee hearing which will decide if the driver remains ‘fit and proper’ to continue to hold a hackney carriage or private hire driver’s /vehicle or operator’s licence.
- 1.6 Where the licence holder is brought before the Sub-committee the options available to it will include suspension or revocation of the licence, where appropriate. If the Sub-committee does not feel that the matter warrants suspension or revocation of the licence, other options may include, but are not limited to, extending the period for which the points are to remain “live” or to issue a written warning to the licence holder as to their future conduct.
- 1.7 The length of the period of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of policy and the compliance history of the licence holder.
- 1.8 More than one accumulation of penalty points in excess of the 150 point threshold in any three year period will normally result in the Sub-committee revoking a licence where they believe the person not to be ‘fit and proper’.
- 1.9 Once the matter has been dealt with:
  - Points are removed if a suspension or revocation is imposed;
  - If a written warning is given the points remain live for the remainder of the three year period from the date the points were given;
  - If the live period is extended the points remain live for the time determined by the Sub-committee.

- 1.10 If a licence holder receives a Penalty Points Notice which he feels was not warranted, he may appeal. In such a case, the licence holder may, within 21 days of the date of receipt of the points, write to the Licensing Authority stating why he considers the points are not appropriate. The matter will then be put to a senior officer for a decision.
- 1.11 A licence holder retains the statutory right of appeal to the magistrates' court when a licence is revoked.
- 1.12 Following a revocation due to the accumulation of penalty points, should the driver wish to make an application for a new drivers licence, the application would be referred to the Public Protection Sub-committee for consideration. The Public Protection Sub-Committee would usually refuse to grant an application for a minimum of 12 months following revocation of a licence.

## **2. RECOMMENDATION**

- 2.1 The Sub-committee is being asked to consider the report and reaffirm the procedure for issuing points and approve the revised penalty points.

ATTACHED

APPENDIX A – PENALTY POINTS

## APPENDIX A – PENALTY POINTS

<b>Penalty Points – Operators</b>		
	<b>Breach</b>	<b>Points</b>
	Failure to provide 6 months complaints report	<b>100</b>
	Failure to keep accurate records of all individuals working for the business	<b>100</b>
	Failure to comply with any conditions relating to the premises and equipment used by the operator in accordance with section 2 of the conditions	<b>75</b>
	Failure to keep accurate records of hiring in accordance with the conditions	<b>75</b>
	Failure to keep accurate driver and vehicle records in accordance with the conditions	<b>75</b>
	Failure to ensure that drivers and vehicles are not operated when their licence or insurance has expired	<b>75</b>
	Failure to notify the Authority of any complaints of a serious nature in accordance with the conditions	<b>75</b>
	Failure to obtain a standard DBS certificate before employing any individual in the business	<b>75</b>
	Failure to check DBS compliance with the Authority's Suitability Policy before employing an individual	<b>75</b>
	Failure to renew DBS certificates every three years	<b>75</b>
	Failure to assist and Authorised Officer or Police officer in the investigation involving current or former drivers and vehicles	<b>75</b>
	Failure to provide records upon the request of an Authorised Officer or police officer	<b>50</b>
	Failure to notify the Authority of any general unresolved complaints against a driver in accordance with the conditions	<b>50</b>
	Failure to provide contact at the operator in relation to enforcement /compliance matters	<b>50</b>
	Failure to notify the Authority of offences against the operator in accordance with the conditions	<b>50</b>
	Use of the words 'Taxi' or 'Cab' or the words 'For Hire' in breach of the licence conditions	<b>50</b>
	Failure to notify change of address	<b>50</b>
	Failure to provide any of the operator policies in accordance with the conditions of licence	<b>50</b>
	Failure of the operator or their staff to attend the Authority's licensing training	<b>50</b>
	Failure to notify the hirer when the booking will be sub-contracted to another operator	<b>25</b>
	Failure to provide documentary evidence of staff training in accordance with the conditions of licence	<b>25</b>
	Failure to inform the hirer when the vehicle dispatched is not licensed by Trafford Authority	<b>25</b>

# Penalty Points - Drivers

	Breach	Points
	Failure to comply with the statutory duties of S165 of the Equality Act 2010 concerning providing reasonable assistance to a passenger who is a wheelchair user	150
	Conveying a greater number of passengers than permitted	100
	Refusal to carry a guide, hearing or other assistance animal in a licensed vehicle without a valid exemption certificate	150
	Charging an additional cost for the carrying of an assistance animal in a licensed vehicle	150
	Private Hire Driver standing or plying for hire	150
	Use of mobile phone or other electronic device whilst driving	100
	Smoking or use of an e-cigarette in vehicle	75
	Eating or drinking whilst driving	75
	Failure to notify convictions, cautions etc.	75
	Failure to notify arrest as per conditions	75
	Failure to notify fixed penalty(ies)	75
	Failure to notify of change of medical condition	75
	Smoking in a licensed vehicle at any time	75
	Failure to ensure the safety of passengers	75
	Failure to ensure vehicle is used lawfully and in accordance with the policies and conditions of the Authority	75
	Failure to give information or assistance to an authorised officer or police officer	75
	Failure to wear driver's badge as per condition	50
	Failure to behave in a civil, professional and responsible manner to an authorised officer or police officer	75
	Failure to behave in a civil, professional and responsible manner to passengers, members of the public and other private hire or hackney carriage drivers.	50
	Failure to drive with due care to passengers and other road users	50
	Failure to take the shortest route without reasonable cause	50
	Failure to report any incident of concern to the operator	50
	Concealing or defacing a vehicle licence plate and/or signage	50
	Conveying another person without the consent of the hirer	50
	Cancelling or concealing the taxi meter before passenger has seen the fare	50
	Charging more than the agreed fare	50
	Failure to report an accident as per conditions	50
	Failure to comply with a requirement of an authorised officer or police officer	50
	Failure to present vehicle for inspection by an authorised officer at a required time/location	50
	Failure to notify change of address as per conditions	25
	Failure to return driver's badge	25
	Failure to attend on time for a pre-arranged booking without reasonable cause	25
	Parking/stopping/waiting or picking up or dropping passengers on zig zags of a pedestrian crossing or school crossing	50
	Failure to park considerately and legally	25
	Failure to adhere to the Authority's standards on appearance, personal hygiene and dress code	25
	Sounding horn to attract customer attention	25

## **Penalty Points - Vehicles**

<b>Breach</b>	<b>Points</b>
Failure to maintain the vehicle in good mechanical and structural condition at all times	<b>75</b>
Varying the mechanical and structural specification of the vehicle without the Authority's consent	<b>75</b>
Failure to notify the Authority of convictions etc. in accordance with the conditions	<b>75</b>
Failure to display the plate in accordance with the conditions	<b>50</b>
Failure to maintain the vehicle plate	<b>50</b>
Failure to keep the vehicle wind and watertight	<b>50</b>
Failure to provide the necessary windows and window openings	<b>50</b>
Failure to maintain the interior of the vehicle to a suitable and comfortable standard	<b>50</b>
Failure to provide two doors for the use of passengers	<b>50</b>
Failure to notify the Authority of accident damage in accordance with the conditions	<b>50</b>
Failure to display the mandatory bonnet sign and/or rear door signs in accordance with the conditions	<b>50</b>
Failure to comply with conditions in respect of the use and maintenance of the taxi meter	<b>50</b>
Failure to comply with the Authority's Compellable Area policy	<b>50</b>
Failure to provide the insurance certificate upon request	<b>50</b>
Failure to notify transfer of ownership	<b>50</b>
Defective tyres (each)	<b>75</b>
Failure to keep the vehicle clean	<b>25</b>
Failure to provide facilities for the safe conveyance of luggage	<b>25</b>
Displaying an advertisement/sign/notice without the consent of the Authority	<b>25</b>
Failure to display a Fare Table in accordance with the conditions	<b>25</b>
Failure to deposit a copy of the vehicle licence with the operator	<b>25</b>
Failure to notify change of address	<b>25</b>
Failure to notify who is driving the vehicle	<b>25</b>
Failure to display compliance card	<b>25</b>
Failure to display interior badge	<b>25</b>
Failure to display No Smoking signs	<b>25</b>
Defective lights	<b>25</b>

The Penalty Points System may be used in respect of the abuse of taxi ranks in the Borough. 25 penalty points may be awarded against the driver of any Hackney Carriage which is parked at a rank in excess of the permitted number.

The penalty points system may be used to deal with cases of gross misconduct by drivers, vehicle proprietors and operators. The system may also be used to deal with such other matters of a substantial nature as the Sub-Committee feels are detrimental to the reputation of the Trafford Hackney Carriage/Private Hire Service.

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# Agenda Item 4

## TRAFFORD COUNCIL

**Report to:** Public Protection Sub-Committee  
**Date:** 15<sup>th</sup> September 2022  
**Report for:** Decision  
**Report of:** Head of Regulatory Services

### Report Title

**Street Trading Policy and Fees - Consultation Outcome**

### Summary

Members agreed at the Public Protection Sub-committee meeting on 30<sup>th</sup> June 2022 that a 28 day consultation should take place to introduce a street trading policy including conditions and fees in relation to street trading consents. This policy was to include provision that a street trading consent be obtained where a trader sells, exposes or offers for sale any article in any non-prohibited street within the Borough to which the public have access without payment. This would therefore have introduced the requirement for a consent where the trading takes place on private land.

Members also agreed at that meeting to delegate to the Chair of the Sub-Committee and the Licensing Team Leader the consideration of the responses to the consultation and to bring back any significant responses to the Public Protection Sub-Committee for consideration and to determine whether any further action would be required.

A large number of responses to the consultation have been received, which have brought to light a number of issues which need to be brought to the attention of the Sub-committee for consideration and to determine further action as outlined in this report.

### Recommendation(s)

1. That Members agree that the draft policy, as outlined in the report to sub-committee on 30<sup>th</sup> June 2022, attached as Appendix 1, be withdrawn.
2. That Members agree to a full review of the street trading process, including seeking the views of internal and external partners.

**3. That Members agree to a further report being brought to the Public Protection Sub-committee following the review with a revised proposed policy for full consultation.**

Contact person for access to background papers and further information:

Name: Clare Whittle – Regulatory Services Manager (Trading Standards and Licensing)

Extension: 3817

Background Papers:

Relationship to Policy Framework/Corporate Priorities	<i>This review aims to support and safeguard the sustainability of street trading in Trafford to ensure that Street Trading procedures are consistent, appropriate and fair and in line with best practice nationally. It accords with the Council's policy and budget framework and supports the development of an effective and efficient council.</i>
Financial	<i>There are no apparent financial implications arising from this report.</i>
Legal Implications:	<i>The Council has a duty to provide for the issuing of street trading consents under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1982. There is no legal requirement for the Council to adopt a policy or to consult on the policy, however it is considered best practice and the policy document serves to outline for street traders the Council's approach to, and its standards for those engaged in, street trading. When determining the fees to be charged for street trading the LG(MP)Act 1982 requires the local authority to give notice of those charges.</i>
Equality/Diversity Implications	<i>There are no identified equality / diversity implications arising from this report.</i>
Sustainability Implications	<i>As part of the policy, conditions are applied to the consent. These conditions can be updated to reflect any relevant sustainability issues.</i>
Staffing/E-Government/Asset Management Implications	<i>None</i>
Risk Management Implications	<i>There are no identified risk management implications arising from this report.</i>
Health and Safety Implications	<i>None</i>

## **1.0 Background**

- 1.1 Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982 and in 1984 Trafford Council resolved to adopt Schedule 4 to the Act to control street trading within the Borough. Under the Act, streets may be designated as prohibited, licence or consent streets. A number of streets were designated as "prohibited streets" meaning all street trading is prohibited within those streets. All other streets within the borough were designated as "consent" streets meaning that consent of the Council must be sought, and for which a fee is payable. There are no licence streets in Trafford.
- 1.2 Trafford Council have conditions which are attached to a street trading consent and guidance notes to assist in the application process however there is no Street Trading Policy currently in place in Trafford and a charge is not currently made for trading on private land where the public have access without payment. This effectively allows traders to trade on the same street with some paying for premium pitches whilst those who have situated their vehicle on private land able to trade alongside them without paying the fee.
- 1.3 A report was brought to the Public Protection Sub-Committee on 30<sup>th</sup> June 2022 and the Sub-committee agreed that a 28 day consultation should take place to introduce a street trading policy which included conditions and fees in relation to street trading consents. The policy included that a street trading consent be obtained where a trader sells, exposes or offers for sale any article in any non-prohibited street within the Borough to which the public have access without payment and therefore introduced the requirement for a consent where the trading was to take place on private land.
- 1.3 Members also agreed at that meeting to delegate to the Chair of the Sub-Committee and the Licensing Team Leader the consideration of the responses to the consultation. Where the Chair and Team Leader determined that any of the consultation responses were significant, these would be brought back to the Public Protection Sub-Committee for consideration and to determine whether any further action was required.
- 1.4 A copy of the report and appendices from that meeting are attached as Appendix 1.
- 1.5 The consultation ended on 4<sup>th</sup> August 2022 and a total of 184 responses have been received.

## **2.0 Consultation Responses**

- 2.1 Although there is no legal requirement for the Council to adopt a policy or to consult on such a policy, it was considered best practice as an opportunity to give those affected time to read the policy and consider steps they would have needed to take to comply. It also gave an opportunity for comments to be made on how the policy could be improved. The policy document served

to outline for street traders the Council's approach to, and its standards for those engaged in, street trading thus ensuring an equal and proportionate approach across the Borough and consistency with other local authorities locally and nationally.

- 2.2 A summary of the responses is attached to the report as Appendix 2. As can be seen from the summary of responses, they are all very similar but outline significant issues which need to be brought to the attention of the sub-committee for consideration and to determine further action.
- 2.3 A copy of the most detailed response from Keystone Law Solicitors is attached as Appendix 3. The main concerns are as follows:
  - 2.3.1 Under the new policy and proposals, in order to continue to trade on private land, traders would need to apply for a licence and pay the appropriate fee. However, nearly all trading on private land at MUFC takes place on land abutting Sir Matt Busby Way. Sir Matt Busby Way is a prohibited street and under the proposed policy we could not issue a consent for trading on private land in this location. The consequence of this would be that those trading on private land in this area would be prohibited from doing so and subject to enforcement action by the council.
  - 2.3.2 Whilst no fee increase was proposed under the Policy, no explanation was given as to how the fees had been calculated. For example, it was not clear why the costs for trading in the vicinity of MUFC are higher than in any other location in Trafford, or why costs for food licences are higher than for merchandise traders. As previously outlined to the Sub-committee, the fees for the premium areas were introduced in 2008 but it has not been possible to identify the rationale for the setting of these fees.

### **3.0 Proposals**

- 3.1 In light of the consultation responses received and the impact of the proposals on those currently trading on private land to which the public have access but which are adjacent to prohibited streets, we are proposing to withdraw the draft policy outlined in the report to the sub-committee on 30<sup>th</sup> June 2022 which was the subject of the consultation.
- 3.2 A full review of the street trading process will then be undertaken, including:
  - Review of the designation of streets as prohibited or consent streets
  - Review of fees
  - Review of premium and non-premium food and souvenir pitches around the MUFC area
  - Review of in Sale Town Centre area and associated fees.
- 3.3 As part of this review, we will seek the views of Highways, Greater Manchester Police and any other internal and external partners on whom the proposed changes will impact. The responses to the recent consultation will also be taken into account.

- 3.4 A further report will then be brought before the Sub-committee with a revised policy, requesting permission to formally consult on the revised policy, including any changes to designation of consent/prohibited streets, changes to fees and charges and any other changes which it may entail.

#### **4.0 Recommendation**

- 4.1 It is recommended that:
1. Members agree that the draft policy outlined in the report to the Public Protection Sub-committee on 30<sup>th</sup> June 2022, attached as Appendix 1, be withdrawn.
  2. Members agree to a full review of the street trading process including seeking the views of internal and external partners.
  3. Members agree to a further report being brought to sub-committee following the review with a revised policy for full consultation.

#### **Appendices Attached:**

Appendix 1 – Report and Appendices from 30<sup>th</sup> June 2022

Appendix 2 – Summary of Consultation Responses

Appendix 3 – Response from Keystone Law Solicitors

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## **TRAFFORD COUNCIL**

**Report to:** The Public Protection Sub-Committee  
**Date:** 30<sup>th</sup> June 2022  
**Report for:** Decision  
**Report of:** Head of Regulatory Services

### **Report Title**

**Street Trading Policy and Fees**

### **Summary**

**Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4.**  
A local authority can charge a fee for a street trading consent to allow the sale of any article in a consented street.  
Trafford Council prohibits street trading on certain streets and requires street trading consents to be obtained for the sale of articles from public land.  
The legislation also allows consent to be obtained for the sale of articles from private land to which the public have access without payment. Trafford Council does not currently require a consent to be obtained in respect of private land.  
There is currently no policy in place for street trading in Trafford – there are guidance notes to assist applicants and conditions which are attached to the consent.  
This report summarises the current position of street trading within Trafford, makes recommendations for a consent to be obtained for the sale of articles from private land where the public have access without payment, introduces a policy for street trading and outlines the fees applicable along with the consultation process.

### **Recommendation(s)**

- 1. That Members agree to a 28 day consultation to introduce a Street Trading Policy including conditions and fees in relation to Street Trading Consents. This policy to include ensuring that a street trading consent is obtained where a trader sells, exposes or offers for sale any article in *any* non-prohibited street within the Borough to which the public have access without payment. This will also introduce the requirement for a consent where the trading takes place on private land.**
- 2. That Members of the Public Protection Sub-Committee delegate to the Chair of the Sub-Committee and the Licensing Team Leader the**

**consideration of the responses to the consultation. If the Chair and Team Leader determine that any of the consultation responses are significant, these will be brought back to the Public Protection Sub-Committee for consideration and to determine whether any further action is required.**

- 3. If no public objections are received within the consultation period, are later withdrawn, or are deemed to be insignificant as determined by the Chair of the Public Protection Sub-Committee and the Licensing Team Leader, then the Public Protection Sub-Committee agrees to implement the policy set out in Appendix 1 and the fees as set out in Appendix 2 on a date decided by the Licensing Team Leader in consultation with the Chair of the Sub-Committee.**

Contact person for access to background papers and further information:

Name: Clare Whittle – Regulatory Services Manager (Trading Standards and Licensing)

Extension: 3817

Background Papers:

Relationship to Policy Framework/Corporate Priorities	<i>This review aims to support and safeguard the sustainability of street trading in Trafford to ensure that Street Trading procedures are consistent, appropriate and fair and in line with best practice nationally. It accords with the Council's policy and budget framework and supports the development of an effective and efficient council.</i>
Financial	<i>Charging the current street trading consent fee for those selling from private land but where the public have access without payment keeps Trafford in line with other Local Authorities nationally. This will fund an officer who will ensure full cost recovery from street trading consents by marketing and managing the process.</i>
Legal Implications:	<i>The Council has a duty to provide for the issuing of street trading consents under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1982. There is no legal requirement for the Council to adopt a policy or to consult on the policy, however it is considered best practice and the policy document serves to outline for street traders the Council's approach to, and its standards for those engaged in, street trading. When determining the fees to be charged for street trading the LG(MP)Act 1982 requires the local authority to give notice of those charges.</i>
Equality/Diversity Implications	<i>There are no identified equality / diversity implications arising from this report.</i>
Sustainability Implications	<i>As part of the policy, conditions are applied to the consent. These conditions can be updated to reflect any relevant sustainability issues.</i>
Staffing/E-Government/Asset Management Implications	<i>None</i>
Risk Management Implications	<i>Failure to reflect the requirements of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, in the policy for street trading could result in the council not complying with the legislation. Having a clear policy helps to ensure that decisions comply with the legislation and are made fairly and consistently.</i>
Health and Safety Implications	<i>None</i>

## **1.0 Background**

- 1.1 Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982 and in 1984 Trafford Council resolved to adopt Schedule 4 to the Act to control street trading within the Borough. Under the Act, streets may be designated as prohibited, licence or consent streets. A number of streets were designated as "prohibited streets" meaning all street trading is prohibited within that street. All other streets within the borough were designated as "consent" streets meaning that consent of the Council must be sought, and for which a fee is payable. There are no licence streets in Trafford.

- 1.2 The Act defines street trading as selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway, beach or other areas to which the public have access without payment. This includes freely accessible private as well as public land.
- 1.3 There are a number of offences relating to street trading, including engaging in street trading in a street which has been designated as prohibited, and engaging in street trading in a consent street without the authorisation of the council.
- 1.4 For the purposes of the Act, the following matters are not deemed to be street trading:
- Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871. Pedlars are itinerant traders who travel and trade on foot. Certificated Pedlars are free to trade without consent and may even trade in prohibited streets;
  - Anything done in a market or fair; (the exemption applicable to markets applies only to those chartered or statutory markets and where a market has been established under Part III of the Food Act 1984 or other statutory provision). For temporary markets, fairs or events operating on Council land, relevant fees will need to have been paid by the organiser of the market or fair before permission to trade is granted by Trafford Council.
  - Trading in a trunk road picnic area as defined in Section 112 of the Highways Act 1980;
  - Trading as a news vendor (newspapers and periodicals), trading which is carried on at premises used as petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
  - Selling things as a roundsman e.g. milkman; and
  - Trading in a location where members of the public cannot freely gain access;
- 1.5 Trafford Council have conditions which are attached to a street trading consent and guidance notes to assist in the application process.
- 1.6 Following a review of street trading activity in the Borough, and in particular around the Manchester United Football Club stadium on match days, in order to address health & safety and traffic issues and the cost to the Council of continuing to deliver the service, proposals to change several aspects of the way street trading is operated and managed were consulted on and agreed by Committee in 2008. The report, areas and decision in relation to this are attached as Appendix 3. As a result of these proposals:

- All trading around the Manchester United Football Club stadium on match days and other event days is by Licensed Pitch Consents only. Trading by Street Trading Consent is no longer permitted. This includes a premium trading zone and fee structure mechanism, based on footfall patterns to Manchester United Football Club stadium.
- Prices for existing Food Licensed Pitches and Merchandise Licensed Pitches were increased to reflect cost recovery of fees and charges.
- Licensed Pitch Certificates are issued to coincide with the football season i.e. valid from 1st August current year until 31st July following year instead of the financial year arrangement for other street trading fees.

Licensed Pitches (food and non-food) are also issued in Sale Town Centre.

- 1.7 There is no Street Trading Policy currently in place in Trafford and a charge is not currently made for trading on private land where the public have access without payment. This effectively allows traders to be on the same street paying for premium pitches with those who have situated their vehicle on private land able to trade alongside them without paying anything.
- 1.8 Street Trading is a service area that currently sits within the enforcement team despite it having a large administrative function. There has been successful engagement and enforcement from the team over the years.
- 1.9 There are a number of premium and non-premium food and souvenir pitches around the MUFC area and in Sale Town Centre. Some of these are currently empty.  
There are currently 32 other street trading consents issued for mobile and static sellers, 31 of which are trading around the borough including burger vans, ice cream vans, and Christmas trees.

## **2.0 Proposals**

- 2.1 Carry out a 28 day consultation on the Street Trading Policy attached at Appendix 1 and the fees proposed at Appendix 2 which will ensure that a street trading consent is required where a trader sells, exposes or offers for sale any article in any non-prohibited street within the Borough to which the public have access without payment (i.e. the introduction of fees for private land).
- 2.2 Although there is no legal requirement for the Council to adopt a policy or to consult on a policy, it is considered best practice and gives those affected time to read the policy and consider steps they may need to take to comply. It also gives opportunity for comments to be made on how the policy could be improved. The policy document serves to outline for street traders the Council's approach to, and its standards for those engaged in, street trading thus ensuring a level playing field across the Borough and consistency with other local authorities locally and nationally.

### **3.0 Fees and Charges**

- 3.1 Paragraph 9 of Schedule 4 of the Act states a district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

Further, a council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this subparagraph, may determine fees differing according to:

- (a) the duration of the licence or consent;
- (b) the street in which it authorises trading; and
- (c) the descriptions of articles in which the holder is authorised to trade.

- 3.2 The fees and charges currently being charged are set out in Appendix 2. No changes are proposed to those fees and charges, however the Policy will require these fees to be paid for a consent to sell articles from private land providing the public have access without payment. No charge is currently made for these.

### **4.0 Consultation**

- 4.1 Paragraph 9 of the Act requires the Council, before determining charges to be made for a street trading consent or varying the amount of such charges, to give notice of the proposed charges to licence-holders and also publish a notice of the proposed charges in a local newspaper circulating in their area.

The notice must be published for a reasonable period. Although there is no requirement to give notice as the fees are not increasing and there is no requirement to consult on the policy, it is considered best practice to do so, in order to give notice to those who will be affected by the new policy. The notice will be published for 28 days (the same as required under the Local Government (Miscellaneous Provisions) Act 1976 for vehicle and operator fees).

- 4.2 The Council then has a duty to consider any representations received during this period and it is proposed that this be delegated to the Chair of the Sub-Committee and the Licensing Team Leader. If the Chair and Team Leader determine that any of the consultation responses are significant, these will be brought back to the Public Protection Sub-Committee for consideration and to determine whether any further action is required.

- 4.3 Correspondence will be sent to all current consent holders, and those traders who we are aware of trading on private land who will be caught by the proposals, outlining the proposals and ask them to put any comments in writing to the Council for them to be considered before the consultation period ends.

- 4.4 The Council will keep the fees under review every year using an annual time analysis exercise for a period of 4 weeks within the licensing team and making any amendments to the fees as it considers appropriate.

4.5 The consultation notice is attached at Appendix 4.

## **5.0 Recommendation**

5.1

1. That Members agree to a 28 day consultation to introduce a Street Trading Policy including conditions and fees in relation to Street Trading Consents. This policy to include ensuring that a street trading consent is obtained where a trader sells, exposes or offers for sale any article in any non-prohibited street within the Borough to which the public have access without payment. This will introduce the requirement for a consent where the trading takes place on private land.

2. That Members of the Public Protection Sub-Committee delegate to the Chair of the Sub-Committee and the Licensing Team Leader the consideration of the responses to the consultation. If the Chair and Team Leader determine that any of the consultation responses are significant, these will be brought back to the Public Protection Sub-Committee for consideration and to determine whether any further action is required.

3. If no public objections are received within the consultation period, are later withdrawn, or are deemed to be insignificant as determined by the Chair of the Public Protection Sub-Committee and the Licensing Team Leader, then the Public Protection Sub-Committee agrees to implement the policy set out in Appendix 1 and the fees as set out in Appendix 2 on a date decided by the Licensing Team Leader in consultation with the Chair of the Sub-Committee.

### **Appendices Attached:**

Appendix 1 – Street Trading Policy

Appendix 2 - Street Trading Fees

Appendix 3 - Report, areas and decision for licensed pitches from 2008

Appendix 4 – Consultation Notice

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# **TRAFFORD COUNCIL STREET TRADING POLICY 2022**

Author: Clare Whittle

Version: 1.0

Approved and adopted on:

## **DEFINITIONS**

“Appointed Nominee” means a duly Authorised Officer in the Place Directorate

“Authorised Officer” means an Officer authorised on behalf of the Council

“Council” means Trafford Council

“Consent” means a consent to trade on a street granted by the Council

“Consent Holder” means the person or company to whom the consent to trade has been granted by the Council

“Consent Street” means a street in which street trading is prohibited without the consent of the Council

“Prohibited Street” means a street in which street trading is prohibited.

“Street” includes: (i) Any road, footway, beach or other area to which the public have access without payment. (ii) A service area as defined in Section 329 of the Highways Act 1980.

“Street Trading” means the selling or offering or exposing for sale of any article (including a living thing) in any street.

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982

## **SECTION A - POLICY AND DECISION MAKING**

### **1.0 INTRODUCTION**

1.1. Trafford Council have adopted Schedule 4 to the Local Government (Miscellaneous Provisions) Act whereby all streets within the Council boundary, which includes any area to which the public have access without payment, have all been determined as being either 'consent' or 'prohibited' streets.

1.2 This means that anyone who wishes to trade on the streets in Trafford must do so with a valid street trading consent. Prohibited streets, where trading on the streets is not permitted, are listed in Appendix 1.

1.3 As the statutory definition of "street" includes any land to which the public have access without payment, private land to which the public has free access is also included and a valid street trading consent will be required.

1.4 The Act allows the council to set different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according to:

- (a) the duration of the licence or consent;
- (b) the street in which it authorises trading; and
- (c) the descriptions of articles in which the holder is authorised to trade.

1.5 As a consequence of the provisions outlined in 1.4 above, Trafford Council, in addition to street trading consents, also issue licensed pitch consents. The fees for these consents are outlined at Appendix 2.

1.6 There are a number of statutory exceptions from these controls. The following activities are therefore not regarded as street trading for the purposes of Trafford's street trading conditions:

- a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- b) Anything done in a market or fair; (the exemption applicable to markets applies only to those chartered or statutory markets and where a market has been established under Part III of the Food Act 1984 or other statutory provision). For temporary markets, fairs or events operating on Council land, relevant fees will need to have been paid by the organiser of the market or fair before permission to trade is granted by Trafford Council.
- c) Trading in a trunk road picnic area as defined in Section 112 of the Highways Act 1980;
- d) Trading as a news vendor (newspapers and periodicals), trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- e) Selling things as a roundsman e.g. milkman; and
- f) Trading in a location where members of the public cannot freely gain access;

1.7 The Act provides that the Council may grant an application to a person aged 17 years or over for a street trading consent if they see fit.

1.8 The Act also provides that, on the grant of a consent the Council may attach conditions to that consent in order to ensure that trading is carried out in an appropriate manner.

1.9 The conditions detailed in Appendix 3 set out the normal requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this document. However each application or enforcement action will be considered on its own merits.

1.10 If trading in a park owned by the Council, then the applicant or holder must obtain permission from the appropriate department for the parks – contact the Green Space team at [greenspaceapplications@trafford.gov.uk](mailto:greenspaceapplications@trafford.gov.uk)

In the future, a tendering process may be introduced for securing a site/pitch on any of Trafford's Greenspace, including Parks. Should this be introduced, we will inform all current vendors within the parks of our intentions and as far as is possible, advertise our intentions to other operators.

1.11 The purpose of this policy is to outline how the Council regulates street trading and considers applications for street trading consents.

1.12 The Council will formally review this street trading policy periodically and where revisions are made, the Council will publish a statement of such revisions on the Council's website.

## **2.0 DELEGATED AUTHORITY/APPROVAL OF APPLICATIONS**

2.1 In accordance with the Council's constitution, the Director of Place, or their appointed nominee, has the authority to grant street trading consents which meet the following criteria:

- a) the applicant must be over 17 years of age and entitled to work in the UK;
- b) the application must be submitted to the Licensing Section on the prescribed form with all the required documentation, photographs etc;
- c) the applicant must submit insurance covering the vehicle for Street Trading;
- d) the application must be accompanied by the relevant fee;
- e) evidence of gas safety certificate (where applicable);
- f) evidence of food hygiene rating (where applicable);
- g) written confirmation from the landowner of permission to use private land. You may also require planning permission, as the current planning permission may not cover the supply of goods covered by a street trading consent.

2.2 Where an application is approved, the Council will issue a street trading consent to which conditions detailed in Appendix 3 will be attached. Additional conditions may be attached if any special circumstances as determined by the Licensing Team Leader apply to the consent being granted by the Council.

2.3 The conditions attached to the consent form part of the approval to carry out street trading in Trafford. These conditions must be complied with at all times and failure to do so may result in the consent being either revoked or not renewed.

2.4 A street trading consent will be issued for a maximum period of 12 months and will commence on the date stated on the consent.

2.5 The consent will expire on the date identified on the street trading consent when the street trading consent is issued.

## **3.0 SITE ASSESSMENT**

3.1 Schedule 4, Paragraph 7(5) of The Act allows conditions to be attached to street trading consents to prevent obstruction of the street or danger to persons using it, or to prevent nuisance or annoyance (whether to persons using the street or otherwise). In deciding whether to attach such conditions the Council will take into consideration the following factors:

3.1.1 Public Safety - The location of the proposed street trading activity should not present a significant risk to the public in terms of road safety, obstruction and fire hazard. The term 'public' refers to customers of the street trading activity and other members of the public using the street.

3.1.2 Public Order - The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from Greater Manchester Police will be taken into consideration.

**3.1.3 Avoidance of Nuisance** - The street trading activity should not present a significant risk of nuisance from noise, smells, fumes, rubbish, litter or the harbourage of vermin to households or businesses in the vicinity of the proposed street trading site. Observations from Officers of the Council will be taken into consideration.

**3.1.4 Needs of the Area** - The provision of other trading outlets will be taken into consideration in relation to;

- a) The presence of like outlets already existing in the immediate locality of the proposed street trading site;
- b) The general needs of a locality, should no comparable outlets exist. Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to the above points

**3.1.5 Compliance with Legal Requirements** - The proposed street trading activity should be carried out in full compliance with any relevant legislation.

## **4.0 ENFORCEMENT**

**4.1** The Council will actively enforce the provisions of street trading legislation within its area, including routine checks and monitoring of the streets, within the boundary, to ensure compliance with the street trading conditions. All enforcement activities will be carried out in accordance with the Council's Enforcement and Prosecution Policy.

## **5.0 REFUSAL, SUSPENSION OR REVOCATION OF A CONSENT**

**5.1** If the holder fails to comply with any of the street trading conditions detailed in Appendix 3, it may be revoked and the holder may be liable to prosecution.

**5.2** If the Director of the Place Directorate or his appointed nominee decides to refuse or revoke a street trading consent, the applicant will be notified within 10 working days of that decision giving reasons for the refusal and any plate issued must be returned to the Council.

## **6.0 COMPLAINTS PROCEDURE**

**6.1** The Council has a corporate complaints procedure copies of which are available on the Council's website <http://www.trafford.gov.uk/about-your-council/complaints/complaints.aspx>

## **7.0 GENERAL INFORMATION**

**7.1** The Council will not grant a street trading consent to a person under 17 Years of age.

**7.2** Consent holders will allow Authorised Officers and police officers access to the vehicle, trailer, stall or other trading unit at all reasonable times.

**7.3** The conditions attached to all street trading consents stipulate that a holder may not assign, sub-let, or part with interest or possession of a street trading consent.

7.4 The Council may from time to time vary the street trading conditions.

7.5 Any person or their representatives operating under a street trading consent must abide by the street trading conditions.

## **SECTION B - PROCESS FOR SUBMISSION, CONSIDERATION AND ISSUE OF APPLICATIONS**

### **1.0 PROCEDURE FOR DETERMINING STREET TRADING CONSENT APPLICATIONS**

1.1 We will grant an application unless there are grounds for refusal. Grounds for refusal are given in appendix 4.

### **2.0 SUBMISSION OF APPLICATIONS**

2.1 An application for a street trading consent must be made to the Council in writing using the appropriate application form. The following documents must be submitted with the completed application form

- Proof of National Insurance Number
- Proof of Public Liability Insurance up to £5 million
- 1 Form of identification dated within last 3 months only – i.e. gas/electric/water or council tax invoice (no mobile phone bills or arrears letters accepted)
- 1 Current colour passport style photograph of applicant
- 1 Colour photograph of catering unit/vehicle to be used
- Details of any employees (inc. National Insurance Numbers)
- A copy of your National Food Hygiene Rating Scheme (FHRS) certificate (all traders must be registered, prior to any trading) (where applicable)
- A copy of your current Gas Safety certificate to show that any gas appliances, flues, pipework and safety devices have been inspected and tested by a competent person within the last twelve months (where applicable)
- If your prospective pitch is on private land we will require written confirmation that you have the permission of the landowner. Please note that you may also require planning permission, as the current planning permission may not cover the supply of goods covered by a street trading consent.

2.2 Failure to submit all of the above documentation will prevent the application being processed.

2.3 The holder must present his vehicle, stall, trailer or other trading unit used for street trading for inspection by an Authorised Officer at a time and place designated by that Officer.

### **3.0 ISSUE OF STREET TRADING CONSENTS**

3.1 Temporary street trading consents can only be granted in respect of particular types of operations in conjunction with specific events taking place in Trafford. The application should be made by the event organiser,

but if this is not possible, by the individual applicant. The fee for temporary street trading consents will be determined on application and will take into consideration matters such as size of unit, items being sold, footfall for the event, location and type of event.

#### **4.0 FEES, CHARGES AND REFUNDS**

4.1 Full details of street trading fees, charges and refunds are detailed in Appendix 2.

#### **5.0 CONSULTATION ON APPLICATIONS MADE**

5.1 Before a street trading consent is granted, the Council may carry out a process of consultation with various persons and groups including GMP, GMFRS, Environmental Health, Planning and Community Safety. In particular, the Highway Authority will be consulted when appropriate.

#### **6.0 OBJECTIONS TO APPLICATIONS**

6.1 Objections or complaints received to the Council regarding a street trading consent will be duly considered by The Director of Place or his Appointed Nominee and if upheld may result in the revocation or refusal of the consent

## **Appendix 1**

### **Prohibited Streets**

#### **STREET TRADING CONSENTS – PROHIBITED STREETS**

Trafford Council prohibits street trading in the following designated areas of the Borough. Any person contravening this requirement may be prosecuted.

#### **A560**

(Altrincham Only)

Kingsway (Old Market Place to Post Office Street)  
Shaftesbury Avenue  
Stamford Street

#### **A56 – ALTRINCHAM**

Church Street  
Dunham Road  
Manchester Road  
Old Market Place

#### **ALTRINCHAM**

Ashley Road (from Railway Street to Hale Road)	A538
Ashley Road (Hale Road to Stamford Road)	A538
Barrington Road	B5164
Brewery Street	
Brook Lane (Foxhall Road to Moss Lane)	C160
Brooks Drive (Shaftesbury Ave for distance of 100 metres)	
Central Way	
Cross Street	
Delamer Road (Bowdon Boundary to The Downs)	C159
Greenwood Street	
George Street	
Goose Green	
Grosvenor Road	C160
Hale Road	A538
High Street (from Market Street to its Easterly End)	
The Access Road (between High Street and Post Office Street, which is adjacent to the easterly boundary of the Multi-storey Car Park)	
Kingsway	C158
Market Street	C157
Moss Lane	C160
Navigation Road	C156
Oxford Road	B5165
Park Road (A56 through to Stockport Road)	
Police Street	
Post Office Street	
Pot Street	
Railway Street	
Regent Road (from Market Street to Stamford New Road)	
Shaws Road	

Sinderland Road (A56 to Dunham Massey Boundary)	C102
Stamford Street	
Stamford New Road	A538
Stockport Road (Woodlands Road to Baguley Roundabout)	B5165
The Downs (Delamer Road to Railway Street)	C159
The Causeway	
Thorley Lane (Stockport Road to Delahays Road)	B5165
Wellington Road	C157
Woodlands Parkway (Wellington Road to Foxhill Road)	C160
Woodlands Road	
** In addition to the above, all streets within the following boundaries are "prohibited" streets:-	designated
Altrincham	Market Street, Kingsway, Stamford Street, Stamford New Road, Goose Green Conservation Area (with the exception of any street or part of street owned or maintainable by the British Railway Board), Regent Road from Stamford New Road to Market Street (as delineated upon drawing no: E/6182/6/2). Lloyd Street between Railway Street and Denmark Street and Moss Lane from Stamford New Road to a point east of the Railway Bridge.

Copies of the above mentioned drawing may be inspected at Trafford Council, Engineering and Planning Department, Trafford Town Hall, Talbot Road, Stretford, Manchester M32 0TH.

### **HALE**

Ashley Road (Stamford Road to Victoria Road)	B5163
Ashley Road (Victoria Road to Park Road)	B5357
Broomfield Lane (Victoria Road to Hale Road)	B5163
Delahays Road	A5144
Hale Road	A538
Heather Road (South Downs Road to Ashley Road)	B5162
South Downs Road (Bowdon Boundary to Heather Road)	B5162
Victoria Road (Broomfield Lane to Ashley Road)	B5163
Victoria Road (Hale Road to Broomfield Lane)	C162

### **WARBURTON**

Bent Lane	A6144
Dunham Road	B5160
Paddock Lane (from Bent Lane to Warburton Lane)	A6144
Paddock Lane (Townfield Lane to Bent Lane)	C101
Warburton Lane	A6144
Townfield Lane (Bent Lane to Toll Gate)	B5159

### **SALE**

Ashfield Road	C153
Ashton lane (A56 to Carrington Lane)	B5166
Benbow Street	
Brooklands Road (Marsland Road to Baguley Boundary)	C152
Carrington Lane (Harboro Road to Ashton Lane)	B5166
Carrington Lane (Junction of Harboro Road to Carrington Boundary)	A6144
Chapel Road (Tatton Place to School Road)	C153
Claremont Road (School Road to Ashfield Road)	
Cranleigh Drive	B5166
Cross Street	A56
Curzon Road	

Dane Road (A56 to Old Hall Road)	B5379
Eden Place	
Friars Road (from Sibson Road North to its Cul-de-Sac End)	
Hayfield Street	B5166
Hereford Street	
Harboro Road (Harboro Way to Carrington Lane)	A6144
Harboro Way	
Hope Road (Northenden Road to Marsland Road)	C154
John Street	
Marsland Road Gyratory System, Sale Moor which includes:-	
Baguley Road and part of Northenden Road	A6144
Northenden Road (School Road to Sale T.C. Gyratory System)	B5166
Old Hall Road (Northenden Road to Dane Road)	A6144
Oaklands Drive	B5166
Orchard Place	
Partington Place	
School Road	B5166
Sibson Road	B5166
Springfield Road	B5166
Tatton Place (Tatton Road to Chapel Road)	C153
Tatton Road (School Road to Ashfield Road)	C153
Washway Road	A56
Wilson Street	
Wynnstay Road	

\*\* In addition to the above, all streets within the following boundaries are designated "prohibited" streets:-

Washway Road from Sibson Road to School Road, Cross Street from School Road to Ashfield Road, Tatton Road from Ashfield Road to School Road, Springfield Road from School Road to Sibson Road, Sibson Road (as delineated upon drawing no: E/6183/5).

Copies of the above mentioned drawing may be inspected at Trafford Council, Engineering and Planning Department, Trafford Town Hall, Talbot Road, Stretford, Manchester M32 0TH.

### **URMSTON**

Crofts Bank Road	B5214
Davyhulme Road	B5214/A5158
Flixton Road (Bowfell Road to Station Road)	
Greenfield Avenue	
Guildford Road (from Lostock Road to junction of Westminster Road)	
Hayeswater Road (inc. Hayeswater Circle)	B5158
Hilton Avenue	
Kingsway Park (from Queensway junction to Lostock Road junction)	
Lostock Road (from Lostock Circle to junction of Conway Road)	
Moorfield Walk	
Moorside Road (from Denstone Road to Crofts Bank Road)	B5158
Moorside Road (Bowfell Road to Hayeswater Road)	B5158
Moss Vale Road	
Park Avenue	
Park Road	
Primrose Avenue	
Queensway	
Railway Road (Crofts Bank Road to Greenfield Avenue)	
Station Road	B5214

## Winifred Avenue

\*\* In addition to the above, all streets within the following boundaries are designated "prohibited" streets:-

Golden Hill Park, Moorside Road from Denstone Road to Crofts Bank Road, Crofts Bank Road from Moorside Road to Primrose Avenue, Primrose Avenue to Railway Road, Railway Road from Greenfield Avenue to Crofts Bank Road, Flixton Road from Crofts Bank Road to Park Road, Park Road (as delineated upon drawing no: E/6183/4).

Copies of the above mentioned drawing may be inspected at Trafford Council, Engineering and Planning Department, Trafford Town Hall, Talbot Road, Stretford, Manchester M32 0TH.

## **BOWDON**

Bow Green Road	B5161
Cavendish Road (from The Firs to Delamer Road)	C159
Charcoal Road	B5160
Delamer Road	C159
Dunham Road	A56
Devisdale Road	
Langham Road (Church Brow to Bow Green Road)	B5160
Langham Road (Bow Green Road to Stamford Road)	B5161
Park Road	B5160
South Downs Road	B5162
St Margarets Road	
The Firs	C159

## **PARTINGTON**

Manchester Road	A6144
Manchester Road By-Pass	A6144
Warburton Lane	A6144

## **DUNHAM MASSEY**

Charcoal Road	B5160
Dunham Road	B5760
Moss Lane (from Sinderland Lane, Covershaw Bridge Towards Partington)	C102
Paddock Lane (Dunham Road to Station Road)	B5160
Station Road (Woodhouse Lane to Paddock Lane)	B5160
Woodhouse Lane (Charcoal Road to Station Road)	B5160

## **CARRINGTON**

Carrington Lane	A6144
Flixton Road (Carrington Road to Carrington Lane)	B5158
Manchester Road	A6144

## **STRETFORD**

Adlington Drive	
Avondale Road	
Barlow Road	
Brian Statham Way (previously Warwick Road)	
Buckingham Road	
Chester Road	A56
Chester Road Lay-by (between Chorley Street & Sir Matt Busby Way)	B5218
Chorlton Road	B5218

Chorley Street (from its junction with Ravenswood Road to its junction with the access road to the multi-storey car park)

Clyne Street	
Colley Street	
Cornbrook Street	B5223
East Union Street	
Edge Lane	
Elton Street	A5145
Great Stone Road (between Chester Road & The Quadrant)	
Haydock Close	
Hornby Road	
King Street	
Kingsway	A5145
Montague Road	
Moss Vale Crescent	
Moss Vale Road	
Park Road	A5181
Partridge Street	
Railway Road	
Ravenswood Road (northwest of its junction with Chester Rd to its junction with Chester Road)	
Stretford Road	A5067
Sir Matt Busby Way	
Talbot Road	A5067
Tenby Avenue	
Thornbury Road	
Urmston Lane (Sandy Lane to Barton Road)	B5215
Warwick Road (for its full length and width)	

### **TRAFFORD PARK**

Ashburton Road	B5214
Barton Road	B5214
Barton Road (A56 to Park Road)	A5081
Barton Dock Road	B5211
Boyer Street	B5217
Centenary Way	
Dumplington Circle	B5214/B5211
Eighth Street	
Elevator Road (its whole length)	
Eleventh Street	
Europa Way	
First Avenue	
Fifth Avenue	
Fifth Street	
Fourth Avenue	
Fraser Place (from its junction with Europa Circle for the whole of its adopted length (to a point on the west side 83m metres south of its junction with Europa Circle and on its east side 105 metres south of its junction with Europa Circle)	
John Gilbert Way (its whole length)	
Longbridge Road	
Mosley Road	A5181
Parkway – Trafford Park	A5081
Praed Road	
Redclyffe Road (Barton Dock Road to Barton Swing Bridge)	B5211
Second Avenue	

Sir Alex Ferguson Way (previously Waters Reach)	
Sir Matt Busby Way	
Sixth Street	
Trafford Road	A5063
Trafford Wharf Road (between Water's Reach and Gyratory System)	A5081
Trafford Wharf Road (between Waterside and Water's Reach)	
Trafford Wharf Road (from a point 12 metres east of its junction with Elevator Road to its westerly junction with Waterside)	
Telegraph Road	
Tenax Road	
Tenth Street	
Third Avenue	
Trafford Boulevard	
United Road	
Victoria Place	
Village Circle (The whole of Village Circle, including its central island, perimeter and verges)	
Village Way (formerly Ashburton Road East)	A5081
Waterside (from its junction with Trafford Wharf Road to its junction with Sir Alex Ferguson Way (both legs)	
Westinghouse Road (between Europa Circle and Mosley Road)	
Wharf End	
Wharfside Way (between John Gilbert Way and White City Circle)	
Wharfside Way (from its easterly junction with John Gilbert Way to Village Circle)	

## **Appendix 2**

### **FEES, CHARGES AND REFUNDS**

#### **Street trading consents (Non MUFC)**

<b>Item</b>	<b>Fee</b>
Consent Certificate – purchased April to June	£1061.55
Consent Certificate – purchased July to September	£906.35
Consent Certificate – purchased October to December	£757.05
Consent Certificate – purchased January to March	£488.25
One Day Event Licence	Price On Application

#### **Licensed pitch consent – MUFC**

<b>Item</b>	<b>Fee</b>
Food – Premium zone	£3,315.20
Food – Non-premium zone	£2,395.70
Merchandise – Premium zone	£1,725.40
Merchandise – Non-premium zone	£1,465.20

#### **Sale Town Centre**

<b>Item</b>	<b>Fee</b>
Licensed Pitch consent	£1,805.90
Licensed Pitch consent(Non-Food)	£1,294.30

#### **Other charges**

Duplicate consent	£65.05
Cancellation Fee	£206.15

The holder may at any time surrender his/her consent to the Council subject to a cancellation fee and it shall then cease to be valid. Refunds or adjustments to accounts can only take effect from the 1st of the month following the date the consent is received in the offices of Licensing, Trafford Council, Trafford Town Hall, Talbot Road, Stretford, Manchester M32 0TH.

## **APPENDIX 3**

### **STREET TRADING CONDITIONS**

- 1) The holder of a street trading consent may employ any other person to assist him/her in his/her trading without a further consent being required.
- 2) The consent certificate referred to in Condition (13) of the consent will remain the property of the Council, and must be returned by the holder on the expiration of the consent. A new certificate will be issued on the renewal of a consent.
- 3) Failure on the part of the holder (or any other person he/she employs to assist him/her in trading) to comply with any of the Conditions imposed by the consent may lead to the revocation of the consent or to the Council refusing to renew the consent on its expiration.
- 4) Notwithstanding the issue of the consent, the holder is not authorised to trade at any time in contravention of any other statutory enactments or order or Local Acts or Byelaws.
- 5) The Council has designated streets in the Borough as "prohibited" (see attached list) and subject to the exclusion of all streets owned or maintainable by the British Railway Board, the Council have designated all other streets as "consent" streets which are streets in which street trading is prohibited without the consent of the Council. The term "street" includes any road, footway or other area to which the public have access without payment. The holder of a consent may require the permission of the landowner or other person to trade on any private land which constitutes a street for these purposes. In particular, the grant of a consent does not confer the right to trade on any land owned or controlled by the Council without specific permission of the Council.
- 6) The Council may at any time vary the conditions of a street trading consent.
- 7) A street trading consent is not transferable. The holder may at any time surrender his/her consent to the Council subject to a cancellation fee and it shall then cease to be valid. Refunds or adjustments to accounts can only take effect from the 1st of the month following the date the consent is received in the offices of Licensing, Trafford Council, Trafford Town Hall, Talbot Road, Stretford, Manchester M32 0TH.
- 8) The consent holder shall comply with all legislation relevant to the conduct of the business in which he/she is engaged and ensure that any vehicle used by him/her is in a roadworthy condition and is taxed, MOT'd and has the relevant vehicle insurance.
- 9) The consent holder shall provide adequate receptacles for rubbish and shall after trading has ceased, remove all rubbish and litter from the site.

### **ADDITIONAL CONDITIONS FOR CONSENT TO TRADE FROM A STATIONARY VAN OR OTHER VEHICLE**

The holder of this consent must comply with the following conditions:

- 10) To sell only those goods authorised and listed on the application.
- 11) To prevent obstruction of any street or danger to persons using it.
- 12) To prevent nuisance or annoyance (whether to persons using the street or otherwise).
- 13) To affix in a prominent position inside the vehicle used for street trading the consent certificate issued by the Council. To ensure that the certificate referred to above is maintained and kept in such condition that the information contained on the certificate is clearly visible to public view at all times.

- 14) To affix in a prominent position clearly visible to public view and authorised officers your National Food Hygiene Rating Certificate and sticker.
- 15) To present the vehicle for inspection when required to do so by an authorised officer of the Council at the time and place as designated by the authorised officer.
- 16) To ensure that any other person employed by him/her to assist him/her in trading also complies with the aforesaid conditions.
- 17) Not to trade in any Council car park to which the public have access without payment.
- 18) No article to be stored whether for sale or not on or in the vicinity of your trading location, this includes generators and any associated trailing cables. Generator and lighting at units, or other noise must be kept to a minimum level, and should not create a nuisance or pollution. No unit used for street trading shall emit any fumes during the trading period to the annoyance of persons using the street or occupying premises in the street. Also, to prevent nuisance or annoyance (whether to persons/vehicles using the street or otherwise).
- 19) The consent holder shall after trading has ceased, remove the catering unit/trailer/vehicle/stall from the trading position and not leave anything on the Public Highway.

#### **ADDITIONAL CONDITIONS FOR CONSENT TO TRADE WITHOUT A VEHICLE**

The holder of this consent must comply with the following conditions:

- 1) To sell only those goods authorised and listed on the application.
- 2) To prevent obstruction of any street or danger to persons using it.
- 3) To prevent nuisance or annoyance (whether to persons using the street or otherwise).
- 4) To carry at all times when trading the consent certificate issued by the Council and to produce this on request to any authorised officer of the Council or Police Constable.
- 5) To ensure that any other person employed by him/her to assist him/her in trading also complies with the aforesaid conditions.
- 6) Not to trade in any Council car park to which the public have access without payment.
- 7) No article to be stored whether for sale or not on or in the vicinity of your trading location, this includes generators and any associated trailing cables. Generator and lighting at units, or other noise must be kept to a minimum level, and should not create a nuisance or pollution. No unit used for street trading shall emit any fumes during the trading period to the annoyance of persons using the street or occupying premises in the street. Also, to prevent nuisance or annoyance (whether to persons/vehicles using the street or otherwise).

## **Appendix 4**

### **Reasons an application may be refused**

- the applicant is not eligible
- the application is to trade in a place that would breach the law
- the applicant wishes to trade in a street that is not designated to allow street trading, or the article, thing or service goes against any term of the designation
- the location is unsuitable
- the space or area proposed is not suitable for the applicant or would interfere with people and vehicles
- there are already enough street traders in the street or adjoining the street proposed selling services, articles or things the applicant proposes to trade
- the types of services; articles or things proposed to be traded would affect the area proposed
- the applicant has provided false information
- the applicant is unsuitable to hold a licence
- the applicant has failed to carry out requirements of a previous street trading licence
- the applicant has had a previous street trading licence revoked through failure to pay fees
- the applicant has failed to provide further information requested

## **Street trading consents (Non MUFC)**

<b>Item</b>	<b>Fee</b>
Consent Certificate – purchased April to June	£1061.55
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## **Licensed pitch consent – MUFC**

<b>Item</b>	<b>Fee</b>
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## **Other charges**

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# TRAFFORD BOROUGH COUNCIL

**Report to:** Council  
**Date:** 17<sup>th</sup> December 2008  
**Report for:** Decision  
**Report of:** Director of Environment Strategy

## Report Title

### **STREET TRADING – REGULATIONS, FEES AND CHARGES CONSIDERATION OF CONSULTATION RESPONSES**

**Consideration of responses that have been received by the Traffic and Transportation Unit following consultation on proposed amendments to fees and charges relating to Street Trading.**

## Summary

To inform Members of the responses received following a consultation exercise with regard to proposals to introduce new regulations, fees and charges to Street Trading.

## Recommendation(s)

Members are asked to agree the following:

1. That the responses received and summarised in Appendix B are noted.
2. That the introduction of the proposed regulations, fees and charges as detailed in this report are approved with the proposed fees to be introduced from 2<sup>nd</sup> February 2009.
3. That the effect of the introduction of the proposals be monitored and measures introduced to control unlicensed trading activity and reduce hawker and pedlar activity in the area.

## Contact person for access to background papers and further information:

Name: **Geoff Ball**

Extension: **4390**

Background Papers: Project file, including results of consultation.

## **1.0 BACKGROUND**

- 1.1 Following a review of street trading activity in the Borough, and in particular around the Manchester United Football Club stadium on match days in order to address Health & Safety and Traffic issues and the cost to the Council of continuing to deliver the service proposals to change several aspects of the way street trading is operated and managed were submitted to Members for consideration in January 2008. The proposals were as follows:-
- That from 1<sup>st</sup> August 2008 all trading around the Manchester United Football Club stadium on match days and other event days would be by Licensed Pitch Certificates only. Trading by Street Trading Consent Certificate would no longer be permitted.
  - That in 2008/9 Licensed Pitch Certificates would be issued to coincide with the football season i.e. valid from 1<sup>st</sup> August 2008 until 31<sup>st</sup> July 2009 instead of the current financial year arrangement.
  - That the prices for existing Food Licensed Pitches and Merchandise Licensed Pitches would be increased to reflect the review of fees and charges (Appendix A).
- 1.2 A first consultation exercise was carried out during March 2008. However due to the number of concerns that had been raised by the street traders with regard to the proposed changes following this first consultation, and in particular with regard to what was perceived by the traders to have been an ineffective consultation it was decided to suspend the implementation of the proposed changes (originally proposed implementation date was August 1<sup>st</sup> 2008) pending the completion of a further consultation
- 1.3 As a result of the two consultations a total of 17 responses and a collective response, representing 48 trading pitch licence holders, were received. A summary of the comments received can be seen Appendix B.
- 1.4 Many of the comments relate to the increase in fees and charges. However, this is the first formal review to have been undertaken for a number of years and was prompted by increased cost pressures associated with match day operations. Only minimal inflationary rises have been implemented in the intervening period.
- 1.5 However, following a number of meetings with the traders and having taken on board some of the concerns with regard to the scale of the proposed increases, this report now proposes a reduction to the original increase proposed in January 2008.
- 1.6 Concerns were also raised with regard to the fairness of a blanket charging system. Many traders felt that as those pitches located in prime positions were considerably more profitable than those located further away from the ground, they should bear a higher proportion of the proposed increases. The majority of traders on standard size pitches are located outside of the premium zone and proposed fees for these licensed pitches are now less than currently charged. These considerations are reflected in the proposals contained in this report.

## **2.0 CONCLUSIONS**

- 2.1 Following discussions with traders and consideration of feedback received through the consultation process, it is proposed that the Council proceeds with the introduction of new regulations, fees and charges as follows:-

- All trading around the Manchester United Football Club stadium on match days and other event days will be by Licensed Pitch Certificates only. Prohibition of trading will be extended to control trading activity as previously proposed.
- Licensed Pitch Certificates will be issued to coincide with the football season i.e. valid from 1<sup>st</sup> August 2008 until 31<sup>st</sup> July 2009 as previously proposed.
- The introduction of a premium trading zone and fee structure mechanism, based on footfall patterns to Manchester United Football Club stadium.
- Discontinuing the existing two tier system in the MUFC area which fixes the fee payable on the basis of whether the pitch is large (premium fee currently payable) or small (standard fee currently payable).
- The introduction of pre and mid-season meetings with the Council and street traders.
- The retention of existing payment methods with the introduction of a 5% discount for payment in full on application.
- The price increase for Food Licensed Pitches and Merchandise Licensed Pitches, as previously approved by Members and attached in Appendix A, will now be reduced. The proposal equates to an average 5% increase on 2007/8 fees and charges as follows:

2008/9

Food:

Premium = £2,500

Non-premium = £1,800

Merchandise:

Premium = £1,300

Non-premium = £1,100

The mechanism for further annual increase of charges will take account of RPI, currently at 5%, and will be discussed with traders prior to implementation.

Financial Implications:	Income targets will be adjusted to reflect costs. The impact on demand will be monitored through the monthly process.
Gershon Efficiency Savings:	None known
Legal Implications:	The proposed Traffic Regulation Orders are being progressed in accordance with the Road Traffic Regulation Act 1984 and the Traffic Signs Regulations & General Directions 2002 and if implemented will be enforced by the Council's Parking Services.
Human Resources Implications:	None
Asset Management Implications:	None
E-Government Implications:	None
Risk Management Implications:	Risk of challenge though judicial review.
Health and Safety Implications:	None

### Consultation

In addition to the statutory advertising the proposals have been the subject of direct consultation with all affected traders and with local Ward Councillors via letters, meetings and the provision of feedback forms (March - October 2008).

### **Reasons for Recommendation**

To introduce new fees and changes to the current licensing arrangements for street trading and to control the operation and management of street trading activity around the Manchester United Football Club stadium specifically within a defined trading zone.

**Finance Officer Clearance** (*type in initials*)...JS.....

**Legal Officer Clearance** (*type in initials*)...JL.....

**CORPORATE DIRECTOR'S SIGNATURE** (*electronic*).....

A handwritten signature consisting of two parts: 'John' on the left and 'Smith' on the right, written in black ink.

To confirm that the Financial and Legal Implications have been considered

## APPENDIX A

<b>STREET TRADING PROVISIONS OF LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT</b>	
	Fees and Charges
	2007/8
	£
<b>Licensed Pitch valid from 1-4-2007 until 31-3-2008</b>	
Food – Premium (large size)	2,150.00
Food – Standard (small size)	1,900.00
Non-Food	1,150.00

<b>STREET TRADING PROVISIONS OF LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT</b>	
	Fees and Charges (approved Jan 2008)
	2008/9
	£
<b>Licensed Pitch valid from 1-8-2008 until 31-7-2009</b>	
Food – Premium (large size)	3,500.00
Food – Standard (small size)	3,000.00
Non-Food	1,750.00

<b>STREET TRADING PROVISIONS OF LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT</b>	
	Fees and Charges (proposed)
	2008/9
	£
<b>Licensed Pitch valid from 1-8-2008 until 31-7-2009</b>	
Food – Premium (inside trading zone)	2,500.00
Food – Non-premium (outside trading zone)	1,800.00
Merchandise – Premium (inside trading zone)	1,300.00
Merchandise – Non-premium (outside trading zone)	1,100.00
Additional revenue from 2007/8	25,200.00
Actual additional revenue from 2007/8 (implement Feb 09)	4,200.00

## APPENDIX B

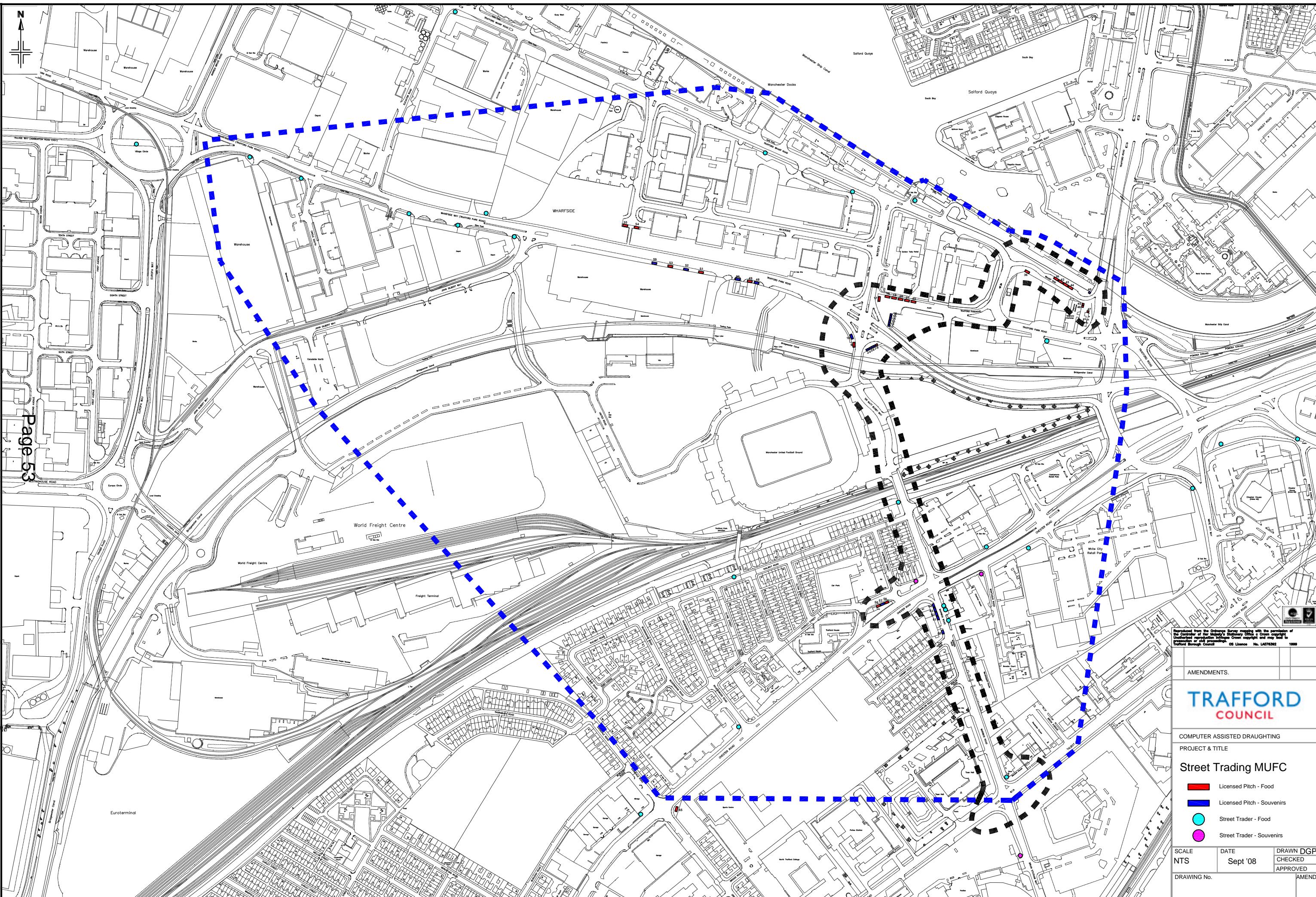
Consideration of objections received:

<b>Received From</b>	<b>Description of Objector's Comments and Points Raised</b>	<b>Council's Response</b>
3 Street Traders	Pitches closer to the stadium should pay more than those further away.	Implement premium zone and review prior to the start of each season.
5 Street Traders	Raises concern at the impact any increase will have on livelihood.	Reduce approved increase in Licensed Pitch fees.
3 Street Traders	Provide discount for payment of fee in full on application.	Implement a 5% discount for payment in full on application.
Collective response, representing 48 trading pitches	Allocation of a Licensed Pitch is preferable to trading by Street Trading Consent Certificate. However, it is believed that this will only work if the street trading prohibition is extended around the stadium.	Convert all Street Trading Consent Certificates into Licensed Pitch Certificates. Extend prohibition of trading to control trading activity.
	Object to proposed fee increase, based on charges at other grounds. They propose a retail prices index (RPI) increase of 5% to the existing fees as follows: <u>Food</u> Premium large - £2,257.50 Premium small - £1,995.00 Non-premium - £1,050.00 <u>Merchandise</u> Premium - £1,207.50 Non-premium - £1,050.00	Reduce approved increase in Licensed Pitch fees set out in section 2. The Council cannot agree that fees will only rise by RPI in years beyond 2010.
	Provide a reduction in fees for payment up-front at the start of each season.	Retain existing payment methods and allow a 5% discount for payment in full on application.
	A zone based fee structure would be a fair mechanism to adopt. The traders have agreed a premium zone (Appendix C).	Implement premium zone and review prior to the start of each season.
	Request that representatives of street traders have one meeting with the Council pre and mid-season each year.	Implement pre and mid-season meetings.

## **APPENDIX C**

All Licensed Pitches inside the indicated trading zone will be charged a premium pitch fee, with the Licensed Pitches outside the boundary on this zone will be charged a non-premium fee (see Section 2).

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# TRAFFORD BOROUGH COUNCIL

17<sup>TH</sup> DECEMBER 2008

## PRESENT:

The Worshipful the Mayor (Councillor Stephen Adshead), in the Chair.

D. Acton	D.A. Fishwick	B. Shaw
S.B. Anstee	R.O. Griffin	J.G. Smith
Mrs. C.E. Bailey	D.R. Higgins	E.W. Stennett
J.E. Baugh	J.C. Holden	K.G. Summerfield
Miss L.L. Blackburn	Mrs. B.M. Houraghan	N.A. Taylor
Mrs. H. Bowker	D.P. Jarman	S.R. Taylor
G. Brockbanks	E.J. Kelson	J. Tolhurst
B. Brotherton	P.A. Lane	Mrs. C. Turner
Mrs. K. Bullock	J.A. Lloyd	L.J. Walsh
D.E. Bunting	A.R. Mitchell	Mrs. E.V. Ward
D.H. Butt	P.J. Myers	K.I. Weston
C.J. Candish	Mrs. P.E. Pearson	M.P. Whetton
K.G. Carter	I.J. Platt	J.C. Wibberley
M.R. Colledge	Mrs. S. Poole	A.P. Williams
M. Cordingley	B.D. Rigby	Mrs. S.F.M. Williams
M.D. Cornes	T. Ross	M.D.P. Young
J.R. Coupe	B. Sharp	Mrs. P.B. Young

## In attendance:

Chief Executive	Mr. D. McNulty
Deputy Chief Executive	Dr. G. Pickering
Corporate Director Children and Young People's Service	Mr. C. Pratt
Director of Adult Social Services	Ms. A. Higgins
Director of Finance	Mr. I. Duncan
Director of Legal and Democratic Services	Mrs. B. Dunn
Head of Area Services	Mrs. S. Cubrilo
Project Director Long Term Accommodation	Mr. I. Persechino
Democratic Services Officer	Miss M. Cody
Senior Democratic Services Officer	Mr. I. Cockill

## PRAYERS

Prayers were offered by Parkash Singh from the Sikh Temple on Upper Chorlton Road, Manchester.

## APOLOGIES

Apologies for absence were received from Councillors J. Bennett, R. Bowker, Mrs. J.E. Brophy, Mrs. P.A. Dixon, N.W. Hooley, J.T. Lamb, E.H. Malik, J.J. Pearson, D.A. Quayle, J.R. Reilly, and Mrs. J.I. Reilly.

## 52. MINUTES

**Meeting of the Council  
17<sup>th</sup> December 2008**

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**RESOLVED:** That the Minutes of the Meeting of Council held on 8<sup>th</sup> October 2008 and the Minutes of the Extraordinary Meeting of the Council held on 19<sup>th</sup> November 2008, both be approved as a correct record and signed by the Chairman.

**Meeting of the Council**  
**17<sup>th</sup> December 2008**

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**53. FORMER COUNCILLOR HARRY FAULKNER AND MR. IAN DIXON**

It was with regret that the Mayor referred to the death on 23<sup>rd</sup> November of Harry Faulkner, Mayor of Trafford in 2001/02. Former Councillor Faulkner was a committed representative of Partington and the Bucklow Ward from 1992-2004 and would be remembered for his good humour.

The Mayor also invited the Council to remember Ian Dixon, husband of Councillor Mrs. Dixon, who had also passed away recently. As Consort during Councillor Mrs. Dixon's Mayoral Year in 2004/05, Mr. Dixon conducted himself with a great deal of honour and dignity. The Council's thoughts were of course with Councillor Mrs. Dixon.

The Leader of the Council and Councillor Acton conveyed their condolences and the Council stood in silence to pay its respects to two former ambassadors of the Borough.

**54. QUESTIONS BY MEMBERS**

The Mayor reported that no questions had been received under Procedure Rule 10.2.

**55. TRAFFORD HOUSING TRUST ANNUAL REPORT**

(Note: Councillor Lane, a Board Member of the Tenant Services Authority declared a personal interest in this item).

The Council received a presentation from Matthew Gardiner, Chief Executive of Trafford Housing Trust regarding the Trust's 2008 Annual Report, summarising improved levels of performance, activity and the challenges facing the Trust in the forthcoming year, given the current economic climate. Responding to Member's specific points, Mr. Gardiner acknowledged that enhancements could be made to the Assisted Gardening Service as part of the renewal contract for grounds maintenance and that the Trust would assess its links with Ward Councillors when dealing with cases of anti-social behaviour.

RESOLVED: That Trafford Housing Trust's 2008 Annual Report be noted.

**56. MEDIUM TERM FINANCIAL STRATEGY 2009-2012**

The Executive Member for Finance and the Director of Finance submitted a joint report detailing the outcome of the annual review of the Medium Term Financial Strategy, which had been recommended to the Council by the Executive on 15<sup>th</sup> December 2008.

RESOLVED: That the Medium Term Financial Strategy 2009-12, be approved.

**57. CAPITAL PROGRAMME 2008-11**

The Executive Member for Finance and the Director of Finance submitted a joint report on the findings of the Review Group set up to identify options for meeting the current shortfall in capital resources, which had been considered by the Executive on 15<sup>th</sup> December 2008.

**Meeting of the Council  
17<sup>th</sup> December 2008**

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**RESOLVED –**

- (1) That the Council notes that:
  - (i) the scheme changes detailed in Appendix A to the report will allow the embargo on new capital commitments to be lifted for all remaining schemes in 2008/09; and
  - (ii) no further changes are to be made to the capital programme at this stage but the position will be kept under regular review by the recently established Capital Review Panel to ensure that expenditure is kept within available resources.
- (2) That the creation of a facility of £6 million for counter-cyclical investment, as outlined in paragraph 4.2 of the report, be approved.

**58. STREET TRADING – REGULATIONS, FEES AND CHARGES: CONSIDERATION OF OBJECTIONS**

The Executive Member for Highways and Transportation submitted a report advising Members of the responses received following consultation on proposals to introduce new regulations, fees and charges for street trading, which had been recommended to the Council by the Executive on 26<sup>th</sup> November 2008.

**RESOLVED -**

- (1) That the responses received following the consultation exercise and summarised in Appendix B to the report, be noted.
- (2) That the proposed regulations, fees and charges, as detailed in the report, be approved for introduction with effect from 2<sup>nd</sup> February 2009.
- (3) That the effect of the introduction of the proposals be monitored and measures introduced to control unlicensed trading activity and reduce hawker and pedlar activity in the area.

**59. ANNUAL PERFORMANCE ASSESSMENT OF SOCIAL CARE SERVICES FOR ADULTS 2008**

The Council received a report of the Executive Member for Adult Social Care on the outcome of the Commission for Social Care Inspection's (CSCI) annual performance assessment of social care services for adults, which had been presented to the Executive on 15<sup>th</sup> December 2008.

**RESOLVED –**

- (1) That the Council notes that Trafford has been awarded the highest 'three star' rating for the second consecutive year and that the CSCI judged that the Council provides good outcomes for its service users and has excellent prospects for improvement.

**Meeting of the Council  
17<sup>th</sup> December 2008**

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- (2) That the Director of Adult Social Services and her team be congratulated for their continued success in achieving this three star rating.

**60. LONG TERM ACCOMMODATION PROJECT UPDATE**

The Deputy Leader of the Council submitted a report providing an update on the progress of the Long Term Accommodation Project and highlighting key decisions to be addressed by the Council before proceeding to formal advertisement.

**RESOLVED:** That the Council confirms:

- (i) the requirement for bidders proposing a new build to submit two mandatory bids, with the core bid identifying all costs including access to the civic and ceremonial parts of the building and a second bid excluding this requirement;
- (ii) that the preferred solution will be based on considerations of which approach meets the Council's requirements in the most economically advantageous manner (i.e. the most economically advantageous tender), whilst remaining affordable; and
- (iii) the requirement for the Project Director to work in conjunction with the Council's Director of Finance to identify a realistic financial envelope for the scheme.

**61. THE TRANSPORT INNOVATION FUND AND CONGESTION CHARGE PROPOSALS BY THE ASSOCIATION OF GREATER MANCHESTER AUTHORITIES AND THE GREATER MANCHESTER PASSENGER TRANSPORT AUTHORITY**

The Chief Executive submitted a report outlining the results of the consultations with residents and businesses in respect of the above proposals and of the referendum. The report sought the views of the Council with a view to informing the decision of the Executive as to how to guide the Leader of the Council on whether or not to support the implementation of the Transport Innovation Fund (TIF) and Congestion Charge proposals in Greater Manchester.

**RESOLVED –**

- (1) That the Executive be recommended to advise the Leader of the Council not to support the progression of the Transport Innovation Fund and Congestion Charge Proposals at the Association of Greater Manchester Authorities meeting being held on 19<sup>th</sup> December 2008.
- (2) That the Council's thanks be conveyed to the Head of Area Services and her team for the organisation of the public consultation exercise regarding the TIF proposals.

**62. SEASON'S GREETINGS**

The Mayor wished the Council a very happy Christmas and Members and officers shared his good wishes.

The meeting commenced at 5.35 p.m. and finished at 6.38 p.m.

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**TRAFFORD COUNCIL**  
**NOTICE OF STREET TRADING POLICY AND FEES**

Notice is hereby given that pursuant to Paragraph 9 of Schedule 4 of the Local Government Act (Miscellaneous Provisions) Act 1982; Trafford Council propose to extend the current fees applicable for street trading in order to sell articles from private land providing the public have access without payment. No charge is currently made for this. In addition the council proposes to introduce a policy for Street Trading.

The application of the fees below for the sale of articles from private land where the public have access without payment and the Street Trading Policy will come into effect on the 5<sup>th</sup> August 2022.

**Street trading licences (Non MUFC)**

<b>Item</b>	<b>Fee</b>
Consent Certificate – purchased April to June	£1061.55
Consent Certificate – purchased July to September	£906.35
Consent Certificate – purchased October to December	£757.05
Consent Certificate – purchased January to March	£488.25
One Day Event Licence	Price On Application

**Licensed pitch – MUFC**

<b>Item</b>	<b>Fee</b>
Food – Premium zone	£3,315.20
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**Sale Town Centre**

<b>Item</b>	<b>Fee</b>
Licensed Pitch	£1,805.90
Licensed Pitch (Non-Food)	£1,294.30

**Other charges**

Duplicate licence	£65.05
Cancellation Fee	£206.15

Any person wishing to object or make representations about these proposals should do so in writing to: Miss J Boyle, Licensing Team Leader, Trafford Council, Trafford Town Hall, Talbot Road, Stretford, M32 0TH or by email to: [licensing@trafford.gov.uk](mailto:licensing@trafford.gov.uk) by 5.00 pm on the 4<sup>th</sup> August 2022.

A copy of this Notice and a copy of the proposed policy shall for the period of 28 days from the date hereof be deposited at the offices of the Licensing Section at Trafford Town Hall and shall be open to public inspection without payment on Monday to Friday between the hours of 10.00am to 1.00pm and 2.00pm and 4.00pm.

A copy of the proposed policy and consultation can also be found on the council web pages here: <https://trafford.citizenspace.com/place/draft-street-trading-policy>

Nigel Smith  
Head of Regulatory Services  
Trafford Council  
Dated: 1<sup>st</sup> July 2022

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## SUMMARY OF RESPONSES TO CONSULTATION

NUMBER OF RESPONSES	SUMMARY OF RESPONSES
180 responses received objecting due to the impact on the MUST match day stall along the following lines:	<p>Dear Miss Boyle</p> <p>I am writing to object to the proposed changes to Trafford Street Trading Policy as I understand they will prevent the operation of the MUST match day stall which has operated serving its members and local community for around 20 years at 18 Sir Matt Busby Way and adjacent houses.</p> <p>MUST is a non-profit organisation which provides a service to its members and uses the stall as a match day contact point for supporters as well as raising funds for the organisation through sale of merchandise. It also operates as a match day donation point for cash and food items for local food bank charities and has raised more than £50,000 through stall and online donations over the last 2 years.</p> <p>It appears that these proposals would either prohibit the stall from operating altogether or, if consent was granted, would incur such high licence fees that it is not economically viable for MUST to operate.</p> <p>This would be a great loss to the organisation and members as well as the food bank charities that MUST supports. Therefore I would like to ask you to reconsider these proposals and ensure that MUST is able to continue to operate without incurring prohibitive fees.</p>
4 response received re fees and charges:	<p><b>1.</b> Please enter my objection to the proposed charges for trading from private land.</p> <p>I need more time to take legal advice.</p> <p>Please also tell me why the charges proposed are the same as those for licensed street trading pitches, when no extra services would be provided by Trafford Council.</p>

**2. We would like to raise certain issues re the sites and licences issued at Old Trafford.**

1, We are paying for "Policing" of the No trading zone and have been since 1996 as you can see (please see attached) the reason for a quite substantial and ongoing price increase, the increase has never been reversed. We do not feel we are getting any form of policing as other non-licensed traders seem to set up shop wherever they see fit, we even have catering units adding a side stall to sell souvenirs surely this in contravention of their licences! Can just imagine the furore should I decide to sell food from my souvenir outlets we even have people on foot pedlars selling their wares alongside and next to our licensed sites. I'm quite aware the Pedlars law states these people MUST travel from town to town on foot and trade DOOR to DOOR. why aren't you enforcing what we are paying for?

**The Pedlars Act 1871 requires pedlars to apply to the Chief Constable of their local police force for a pedlar's certificate.** Trading as a pedlar without a certificate is an offence. The Pedlars Act 1871 defines a pedlar as a person who trades by travelling on foot between town to town or visits another persons' house.

2, The cost of the licence fees. although the fees have remained Stagnant for this season You need to know you are fast approaching a tipping point where the stalls will become no longer viable at this point you will lose the existing traders, who by the way have carried out this trade licenced by you for generations to be replaced by people with less experience less knowledge and therefore less ability to make the sites profitable, at this point will you massively reduce the cost of the sites or will you suffer a constant turnover of new traders with high expectations only to find they can't fund the fees?

3, We are aware further to the outcome of the Hemmings V Westminster case other councils in the North west are offering the same facilities as yourselves with much less costs involved to the trader some as little as a few hundred pounds we would like to know how you justify the Massive price differential between this and the Thousands of pound you currently charge? <https://www.local.gov.uk/briefing-licensing-fees-hemming-westminster-and-aylesbury-vale>

4, Since you have changed from 10 monthly payments to only 3 charges you have placed an unnecessary burden on your customers our season starts in August your demands for payments in September and November is a sizable chunk of our turnover and leaves us very little to run our business, It was much easier with 10 monthly payments and we would prefer a return to this more workable system.

	<p>5, You have again charged a premium rate for the stalls located at the tram stop in my company's case pitch 5.. I have previously informed you of the issues we have attempting to make pitch 5 viable which include lack of footfall and policing of customers away from the sites by tram stewards after the match. We have retained this licence because we are hoping for a relocation these sites are far from premium and we would like to open discussions re relocation at your earliest convenience.</p>
	<p>3. With reference to Trafford council street trading policy and fees consultation, I trade from private land from a stall outside [REDACTED] where my family have traded for some years. According to the land owner , his property deeds entitle him to trade from anywhere in the boundaries of his allotted space. and he insists he cannot be charged to trade on his own land .On the subject of the proposed fees , I am at a loss to understand the amounts proposed when a similar consent at Anfield ( Liverpool and Goodison park ( Everton ) two comparable grounds in the Premier league are priced between £350/£400 a season,Another problem with these fees are the pedlars, who operate seemingly where and when they want , for a £14 license ! We only actually trade between 25/30 games a season and work to a tight budget with small profits, I hope you can give some consideration to these points going forward with future decisions,</p>

	<p><b>4.</b> We currently trade at Manchester united from Evens Halshaw land on Sir Matt Busby way. We received a letter from them stating that you now require fees to trade from private land.</p> <p>We oppose this in the strongest way and will be fighting with all the other traders from the same place of trading.</p> <p>You are going to run our lives into the ground and if so we will be talking this all the way to the highest court. You have no understanding about the lives you are going to ruin with these draconian tactics.</p> <p>Manchester united are a multi billion pound money machine yet you choose to pick on the vulnerable and drive us out of business.</p> <p>Let me tell you this, we are going to fight and whilst this is going from one court to the other it's going to take a long long time.</p> <p>You will be receiving a letter from me in the post tracked. Also one more thing whilst you're driving us to the floor we all hope you will be asking the street sellers of merchandise the ones that sell on foot for fees as they have no paying public passing.</p> <p>If you implement fees for static traders then you must implement fees for all.</p>
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## APPENDIX 2

1 response from Keystone Solicitors	Attached as Appendix 3
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Miss J Boyle  
Licensing Team Leader  
Trafford Council  
Trafford Town Hall  
Talbot Road  
Stretford  
M32 0TH

Our ref: ROW/KML1.1  
Direct Dial [REDACTED]  
[\[REDACTED\]keystonelaw.co.uk](http://[REDACTED]keystonelaw.co.uk)

BY EMAIL ONLY: [licensing@trafford.gov.uk](mailto:licensing@trafford.gov.uk)

1 August 2022

Dear Madam,

**Re: Street Trading Policy and Fees Consultation (2022)**  
**Objection on behalf of [REDACTED] Limited**

We are instructed by [REDACTED] in relation to the above consultation.

Our client operates of licensed merchandise pitches at MUFC and souvenir stalls on private land abutting Sir Matt Busby Way, which is owned by [REDACTED].

This response to the Council's consultation relates to the proposed licence fee and the Council's intention to require persons trading from private land to obtain a street trading licence. These proposals are set out in the Council's draft Street Trading Policy 2022 ("Policy").

For many years, Trafford Council has not required street traders on private land (accessible to the public without payment) to obtain a licence to trade there. The Council previously indicated that, in its view, trading from private land does not require a licence. As a result, many businesses have relied on the Council's position to operate from private land in the vicinity of MUFC.

The Council has now reversed its previously held position and the proposed Policy will require those trading on private land to obtain a licence (Policy - paragraph 1.3). The Policy states that the Council will enforce the legislation against those trading on private land, in accordance with its Enforcement and Prosecution Policy (Policy - paragraph 4.1).

Whilst we accept the Council's position (as stated in its letter dated 1 July 2022) that it has no legal duty to consult on proposed street trading fees<sup>1</sup>, it does have a legal duty to consider representations made about proposed fees during the notice period. Specifically in relation to fees, LG(MP) Act 1982 Schedule 4 requires the Council to (a) give notice of proposed fees to licence

<sup>1</sup> R (on the application of Harvey) v Leighton Linsdale Town Council [2019] EWHC 760 (Admin)

holders (b) publish notice in a local newspaper (c) provide a reasonable period for objections and (d) consider any representations made.

The Council has indicated that it does intend to consult on its proposed Policy, as this is “best practice”. In our view, due to the significant impact that the Policy would have on traders currently operating on private land, the Council is required to consult on these proposals. However, we consider that the Council has not clearly explained the impact of the proposals to those who will be affected by them.

In our client’s case, a consultation letter in our client’s possession suggests that, in order to continue to trade on private land, it would simply be necessary to apply for a licence and to pay the appropriate fee. However, the Council must be aware that nearly all trading on private land at MUFC takes place on land abutting Sir Matt Busby Way. Sir Matt Busby Way is a prohibited street and according to the Policy, the Council could not issue a consent for trading on private land in this location. The impact of this, is that those trading on private land abutting a prohibited street, would have to cease trading. Under LG(MP) Act 1982 Schedule 4, s.10 it would be an offence to engage in street trading in a prohibited street without permission and if the individual applied to the Council for permission, the Policy appears to state that the Council would not issue a licence in this location.

If it is not the intention of the Council to refuse to grant licences for pitches on private land abutting prohibited streets, the proposed Policy should make this clear. If it is the intention of the Council to prohibit such trading, which would extinguish our client’s business, the impact of the Policy should be properly explained to those who will be impacted by it. The Council has neglected therefore to inform those who would be affected by the Policy, what the impact of it will be on their business.

In relation to the proposed fees, whilst there is no fee increase proposed under the Policy, no explanation has been given as to how these fees have been calculated. For example, it is not clear why the costs for trading in the vicinity of MUFC are higher than in any other location in Trafford, or why costs for food licences are higher than for merchandise traders. Similarly, if the Council is intending to collect licence fees from traders on private land, then it is only reasonable that fees for existing traders should be reduced. We have also submitted a Freedom of Information request in relation to the calculation of the licence fees.

We consider that the Council’s consultation is flawed. We say this because:

1. The Council has not given notice of the proposed fees (and its proposed Policy) “to all licence holders”, which is a requirement of LG(MP) Act 1982, Schedule 4, s.9. Letters have been issued “To: Whoever it may concern”, not to specific licence holders and not all licence holders have been notified. This is a procedural breach which has denied licence holders the opportunity to object to the proposed fees.
2. Not all parties who would be impacted by the proposals in the Policy have been notified. For example, private landowners have not been notified, such as [REDACTED] which stands to lose significant amounts of rent if trading on its land is prohibited. Similarly, not



all traders on private land have been notified of the proposed fees or changes to be introduced by the Policy;

3. In our view, a consultation period of 5 weeks during July is not a "reasonable period" under LG(MP) Act 1982, Schedule 4, s.10 for licence holders to respond, particularly when the Council is aware that most traders at MUFC take their holidays during July when no matches take place at Old Trafford. Failure to consult adequately has denied licence holders the opportunity to object to the proposed fees and for traders and owners of private land to object to the proposed fees and the proposed Policy;
4. The adoption of the Policy appears to be a fait accompli, as the Council's letter indicates that it will reject public objections deemed to be "insignificant" (as determined by the Council) and will only consider significant consultation responses. We do not believe that this is an adequate or genuine consultation process;
5. The Council has stated that it intends to reject any insignificant objections, which would not be in compliance with the Council's duty to consider all representations in relation to fees, under LG(MP) Act 1982, Schedule 4, s.11.
6. The Council's consultation notices and letters have not properly explained the impact of the Policy (in that those currently trading on private land may have their businesses extinguished, as they will not be able to obtain a licence from the Council to continue trading adjacent to prohibited streets);

We have requested a telephone call to discuss the proposed Policy with you. However, we have not been able to speak to you and we must therefore assume that the Council is aware that the proposed Policy would extinguish our clients' business on private land.

We would ask the Council to urgently consider (a) whether it has correctly given notice of the proposed fees under LG(MP) Act 1982, Schedule 4, s.9 (b) whether it has appropriately consulted others, such as traders on private land and owners of private land, who would be impacted by the proposed Policy and (c) what its intention is in relation to trading on private land abutting prohibited streets, which has previously been permitted, but would now appear to be prohibited under the Policy.

Our client would welcome the opportunity to discuss these concerns with you or with the Chair of the Sub Committee. However, the Council is put on notice that, if the Council's proposed Policy is adopted, it may be necessary to seek a review of the Council's consultation process by way of a judicial review. Furthermore, we believe there may be an estoppel argument in relation to the Council's historical position in relation to trading on private land.

We hope that formal legal action will not be necessary and that a sensible solution to these concerns can be found.

[REDACTED] can be contacted by phone on [REDACTED] or by e-mail  
[\[REDACTED\]@keystonelaw.co.uk](mailto:[REDACTED]@keystonelaw.co.uk).



Yours faithfully,

*Keystone Law*

**Keystone Law Solicitors**



# Agenda Item 7

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 8

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