

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 30th 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)

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| <p>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 <i>any</i> 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.</p> <p>2. That Members of the Public Protection Sub-Committee delegate to the Chair of the Sub-Committee and the Licensing Team Leader the</p> |
| <p>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.</p> <p>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 If no public objections are received within the consultation period, are later withdrawn, or are deemed to be insignificant as determined by the Chair of the Public Protection Sub-Committee and the Licensing Team Leader, then the Public Protection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.</p> |

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>
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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