

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 15th 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 30th 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agree that the draft policy, as outlined in the report to sub-committee on 30th June 2022, attached as Appendix 1, be withdrawn.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 30th 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 4th 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 30th 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 30th 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 30th June 2022

Appendix 2 – Summary of Consultation Responses

Appendix 3 – Response from Keystone Law Solicitors