

Report



Cabinet Member for Licensing & Regulation

Part 1

Date: 22 January 2018

Item No: 02

Subject Amendment to the Street Trading Policy

Purpose To seek the approval of the Cabinet Member for an amendment to the Council Street Trading Policy.

Author Alastair Dearling

Ward All

Summary The Current Street Trading Policy was adopted in May 2013. It is now felt appropriate to review the Street Trading Policy and make a minor amendment to consider introducing a "Special Events" Policy for Street Traders; to remove 'cost' as a barrier to businesses organising special events in Newport.

Proposal Approve the revised Street Trading Policy.

Action by Head of Law and Regulation

Timetable Immediate

Signed

1. Background

The council introduced a revised Street Trading Policy in May 2013 and the policy has successfully guided applicants, officers and consultees when considering and determining street trading applications.

Currently the authority licences 26 static street traders (mainly mobile 'burger van' style businesses) and 8 mobile street traders' (mainly 'ice cream van' style businesses). The current policy manages the licensing of such businesses effectively.

In the last few years there has seen a significant growth in temporary special events in places like city centres and local communities. Such events include farmers markets, Christmas markets, food festivals and antique fairs. The businesses attending these events are still defined as 'street trading' under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and do not benefit from any exemption.

Successful markets and food festivals can provide a positive contribution to the character and vibrancy of city centres and local communities; attracting visitors and shoppers to the area; providing valuable and relatively low cost opportunities, at minimal risk, for local people to start up in business. Often the businesses who attend such events are small producers and only operate occasionally.

Generally, such events are run by an event organiser arranging a number of independent traders to attend the event.

In the last 12 months seven such events have taken place within Newport providing an income of £3,475 in licensing fees. Some events previously run within the city centre have been supported financially by Newport Business Improvement District. Feedback from street traders suggests it is simply not financially viable for them to independently operate such events regularly within Newport. It is noted that the council does have lower street trading fees compared to our neighbouring authorities.

2. Illustration

In order to illustrate the effect of the fees structure of the current and proposed policy an example of a one day special event with 10 independent traders is considered.

The current system would see the combined licence fees for the same event cost the organiser £450. (Each one day licence would cost £45).

This cost may be considered as prohibitive and a disincentive to organisers and traders. If these businesses refused to support Newport for such reasons, it could be argued the city has lost its opportunity to improve its atmosphere and vibrancy.

Under the new fees structure, the combined licence fees would amount to £153. This is based upon one £45 fee and nine £12 fees.

3. Proposal

As such a new paragraph regarding "Special Events" is proposed to be placed within the Policy, stipulating:

"For events such as Christmas markets, Farmers/ Continental markets, food festivals and antique fairs that last no more than 4 days, the council will accept one application from the person organising the event. The street trading application will require full details of each trader attending the event and the consent will be issued to the organiser of the event with each individual stall holder listed on the consent. The event organiser is responsible to ensure all traders are aware of all conditions attached to the consent are being complied with. The first trader (stall or unit) will be charged the full consent fee then an 85% discount will apply for subsequent traders (stall or unit). This policy is aimed at promoting events and encouraging traders to attend". (* The discount will only be approved by the Licensing*

Manger if the application is generally a “special event” rather than an applicant trying to circumvent the full licensing fees)

A copy of the existing policy is exhibited in Appendix A with the above paragraph inserted to **Section 6** of the policy.

A public consultation regarding the “Special Event” Policy took place between 29 May 2017 and 31 June 2017. All current street traders including those who held temporary Street Trading Licences were informed in writing regarding the consultation.

4. Financial Summary

There is a risk that the introduction of the “Special Event” Policy would reduce the income. If the number of licences remained static the council would face a reduction in licence income of approximately £2,000. However, it is hoped that the fees reduction would stimulate demand, and there would be an increase in the number of special events. This anticipated upturn in the number of special events would mitigate losses.

The work also aims to contribute in improving the city centre and local communities and as such could attract more restaurants and café style business to the city centre; this in turn, could also increase revenue via Licensing Act 2003 if business requires an alcohol licence.

5. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Setting unrealistic income targets for a new endeavour	H	L	The fees will regularly reviewed as with other licensing fees. Rather setting a new income target- use of any income from the scheme will placed in any shortfall caused by the current Public Protection income. The proposed income is also relative low compared top Public Protection targets.	Matthew Cridland and Alastair Dearling

* Taking account of proposed mitigation measures

6. Links to Council Policies and Priorities

The draft Corporate Plan is due to be put to council later in November 2017.

The outcome from the changes to the policy has clear links and contributions to the aims and objectives within the Corporate Plan.

Ensuring businesses operate in a welcoming and regulated environment helps the council deliver a thriving city (a key theme to the Corporate Plan)

Ensuring Newport’s citizens have better experiences when using their city centre or communities helps the council improve the lives of residents and helps enhance culture and creativity. (Key elements to the Council’s Mission within the Corporate Plan)

Ensuring that this work is planned correctly and need is balanced against resources available also demonstrates the service is acting on the 'Be Responsible' value outlined within the Corporate Plan.

The Wellbeing of Future Generations (Wales) Act, which is about improving the social, economic, environmental and cultural wellbeing of Wales, and places a duty on public bodies to improve wellbeing in accordance with the sustainable development principle. This work-stream will also assist the council promote economic growth and regeneration and the building of cohesive and sustainable communities.

7. Options Available

Option 1

To agree the revised Street Trading Policy

Option 2

Not to agree the revised Street Trading Policy

Option 3

To extend further consultation period

8. Preferred Option and Why

Option 1

To agree the revised Street Trading Policy; it is hoped the amendment will stimulate further special events and improve the experience of residents in Newport; and the risks to lost income will be minimised.

Comments of Chief Financial Officer

The proposed policy will potentially see a slight reduction in income if the number of licenses remains the same, though the report notes that increased demand may mitigate. The financial impact is marginal, at only £2k and the service area should be able to mitigate this small impact. It should be kept under review to assess the actual impact in, say 12 months after implementation.

Comments of Monitoring Officer

The proposed policy change is in accordance with the Council's statutory powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to set reasonable fees for the grant of street trading licences and consents. Paragraph 9(2) of Schedule 4 expressly provides for the Council to charge different levels of fees for different types of application having regard, in particular, to the duration and location of the trading. It is entirely reasonable for the Council to set a reduced composite fee for organised temporary markets, to encourage these types of special events, which improve footfall and contribute to a thriving City. Although this could potentially reduce fee income, it is hoped that the concessionary fees will encourage more events of this nature. In any event, the wider social and economic benefits will outweigh any direct loss of fee income.

Staffing Implications: Comments of Head of People and Business Change

There are no direct HR implications contained within this report.

The proposal is in line with the Council's well-being objectives, One Newport Public Service Board's (PSB's) draft Local Well-being Plan and the PSB's Single Integrated Plan.

Workshops undertaken with partners for the development of the local well-being plan identified events as making an important contribution to Newport's offer as a place to live, work, visit and invest.

Local issues

Not Applicable-city wide.

Scrutiny Committees

Not applicable

Equalities Impact Assessment

Not applicable

Children and Families (Wales) Measure

Not applicable

Wellbeing of Future Generations (Wales) Act 2015

The Wellbeing of Future Generations (Wales) Act, which is about improving the social, economic, environmental and cultural wellbeing of Wales, and places a duty on public bodies to improve wellbeing in accordance with the sustainable development principle. This work-stream will also assist the council promote economic growth and regeneration and the building of cohesive and sustainable communities.

Long term: The Council and partners such as Newport Now are keen to encourage events to the city centre, adding to its attractiveness and helping to ensure its current and future vitality.

Prevention: The policy seeks to prevent the costs of trading being prohibitive for stall holders and therefore a barrier to staging viable events

Integration: The proposal is in line with the Council's well-being objective "To promote economic growth and regeneration whilst protecting the environment" and contributes, in particular, to the step "Maintain our focus on regenerating the city centre to become one of the UK's top cities". The proposal is also in line with One Newport PSB's draft Local Well-being Plan, which sees events as a key part of developing the Newport offer, the PSB's Single Integrated Plan and the Council's Tourism Destination Management Plan

Involvement: A full public consultation took place between 29 May 2017 and 31 June 2017; all street traders were written to regarding the revised section of the policy.

Public engagement for the development of Newport's Well-being assessment showed a desire for further regeneration of the city centre; events can play a part in this. Workshops undertaken with partners for the development of One Newport PSB's local well-being plan also identified events as making an important contribution to the city as a place to live, work, visit and invest.

Crime and Disorder Act 1998

Not applicable

Consultation

A full public consultation took place between 29 May 2017 and 31 June 2017; all street traders were written to regarding the revised section of the policy.

Background Papers

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

www.legislation.gov.uk/ukpga/1982/30/schedule/4

Dated: 22 January 2018



NEWPORT CITY COUNCIL STREET TRADING POLICY 2013

Section 1

1. Introduction

This Policy has been adopted to control street trading and sets out the Council's standards for determining applications for, and enforcement of, street trading activities in Newport.

Newport City Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading for the whole of its area.

The Council has designated all of Newport City boundary as Consent Streets for street trading purposes..

2. Definitions of terms used in these Guidelines

Within the terms of the Council's Street Trading Consent Scheme the following definitions apply:

The Council Means Newport City Council

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

Street Includes:

- (a) Any road, footway, beach or other area to which the public have access without payment.
- (b) A service area as defined in section 329 of the Highways Act 1980,

And also includes any part of a street.

Prohibited Streets If a street is designated as a "**prohibited street**" then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example the street may not be wide enough to facilitate a trader or the council may wish to restrict trading at a particular location. It may be considered that the prohibited status might be the most appropriate designation for the majority of residential streets in the city however this would create difficulties as such a restriction would prevent, for example, ice cream vans from carrying out their business. Currently Newport City Council district has no prohibited streets.

Consent Streets If a street is designated as a "**consent street**" then street trading without a consent is a criminal offence. The council is of course always bound to act reasonably and consistent with its general obligations (e.g. those under the Human Rights Act), but subject to that the council enjoys a very wide discretion with regard to the granting or refusal of street trading consents and does not have to rely upon specific statutory grounds in order to refuse

an application for grant or renewal of a consent. There is no right of appeal against any council decision made in respect of a street trading consent. A street trading consent cannot be granted for a period of time exceeding twelve months and can be revoked at any time. When granting or renewing a consent the council may attach any reasonable condition, furthermore the council can at any time vary the conditions attached to a consent. Any such variations will be notified in writing to the named person on the application form for the consent and will take effect immediately or on the date of the notification letter.

Consent Holder	Means the person or company to whom the consent to trade has been granted by Newport City Council.
Static Street Trader	Means trader granted permission by to trade from a specified position.
Mobile Trader	Means a trader who moves from street to street
Authorised Officer	Means an officer employed by and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Relevant Authority/Means those bodies or persons specified in sections 4 and 8 of this policy.

3. Objectives

Newport City Council revised its street trading policy in 2013 to extend street trading controls across the whole of Newport: as such all streets are now designated as 'consent streets'. The purpose of this street trading policy is to provide a decision making framework for the consideration of applications for street trading consents and to create a street trading environment which is sensitive to the needs of the public, provides diversity and consumer choice, and enhances the character, ambience and safety of local environments. Street trading can be a valuable tool to aid the regeneration of Newport's retail centres. The council's ability to regulate street trading is set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as "the Act". This policy facilitates the administration of applications for street trading consents. Central to the council's policy are six objectives which are set out below:-

3.1 Public Safety

The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction. This would include the consideration of factors such as: - interference with sight lines for road users and access to pedestrian crossings.

3.2 Commercial Need

Consideration will be given to the number of other traders in the vicinity of the application site.

3.3 Prevention of Crime and Disorder

The proposed activity should not present a risk to public order. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

3.4 Prevention of Public Nuisance

Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.

3.5 Suitability of Trading Unit

The vehicle, trailer or stall to be used will be of a high quality design/ build and will add to the quality of the street scene. The unit will be inspected by an authorised officer of Newport City Council prior to any consent being issued. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed and in particular with the following legislation (and any subsequent revisions):-

- a) Food Premises (Registration) Regulations 1991
- b) Food Safety Act 1990
- c) Food Safety (General Food Hygiene) (Wales) Regulations 1995 (as amended)
- d) The Food Safety (Temperature Control) Regulations 1995
- e) Health and Safety at Work etc. Act 1974 and any regulations made under this Act.
- f) Environmental Protection Act 1990
- g) Licensing Act 2003

3.6 Suitability of Applicant

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:

- (a) Whether the applicant has been convicted of any relevant offence. we will ask for a basic CRB disclosure to be submitted with each application. Any convictions or proven criminal behaviour will be assessed against our convictions policy.
- (b) persistent refusal or neglect in paying fees due to the council for a street trading consent or for any other charges due for services rendered by the council to the applicant in his capacity as the holder of a street trading consent. Examples of such services include collection of refuse and cleansing of streets.
- (c) Previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent or licence.

The Council will apply this Policy to street trading activities in its area to ensure consistency of decision-making. However each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

4. Exempted Street Trading Activities

The following street trading activities are legally exempt from the requirement to obtain a prior consent from the Council:

- (a) A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;
- (b) Anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- (d) Trading as a news vendor;
- (e) Trading carried on at premises used as a petrol filling station;
- (f) Trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop;

(g) Selling things, or offering or exposing them for sale, as a roundsman*

* With regard to point (g) above it has been established in law that mobile ice cream sales normally **will not** be deemed to be exempt from street trading controls on the grounds that they are not roundsmen. "Rounds man" denotes a person who follows a set route to attend on specific /identifiable customers for the purposes of either taking orders or for the delivery of goods. A small minority of speculative sales to the public are considered to be analogous to a genuine rounds man making ancillary, immediate sales.

Sales patterns that are largely speculative and where only a very small minority of the trade is the fulfilment of direct orders or delivery of pre-ordered items would not be classed as a "rounds man" and would still require consent.

Wholesale delivery vans where transactions with business take place within the business premises and include the fulfilment of regular orders and the promotion of new products and where sales are concluded and receipts are generated within the business premises would not require consent.

5. Street Trading for which consent is not required

The following Street Trading activities have been deemed **not** to require the consent of the Council.

- Goods from working farms sold at the premises where they were produced.
- Offices and other business premises are allowed normally the same exemption as shops in terms of goods displayed outside of the premises because their position is analogous to shops, but the items displayed must still be, essentially, an extension of the business.
- Sales of articles by householders on land within the boundary of their home providing that this is not a commercial concern e.g. selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading.
- An event that is community-based and run, for non-commercial purposes, such as a fete or school fund raising activity, again, this is seen as non-commercial fund raising. Where **any** of the profit of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the trader will not benefit from the fee exemption (unless a fee is charged to those entering the event).
- Events run by charities or educational activities providing the profits from such events are wholly passed to the charity or educational organisation concerned because such activities are not commercial trading.
- Traders that are part of an established travelling fair.
- Car boot sales on private property.
- Buskers who, when performing also sell recording of their own performance.

6. "Special Events"

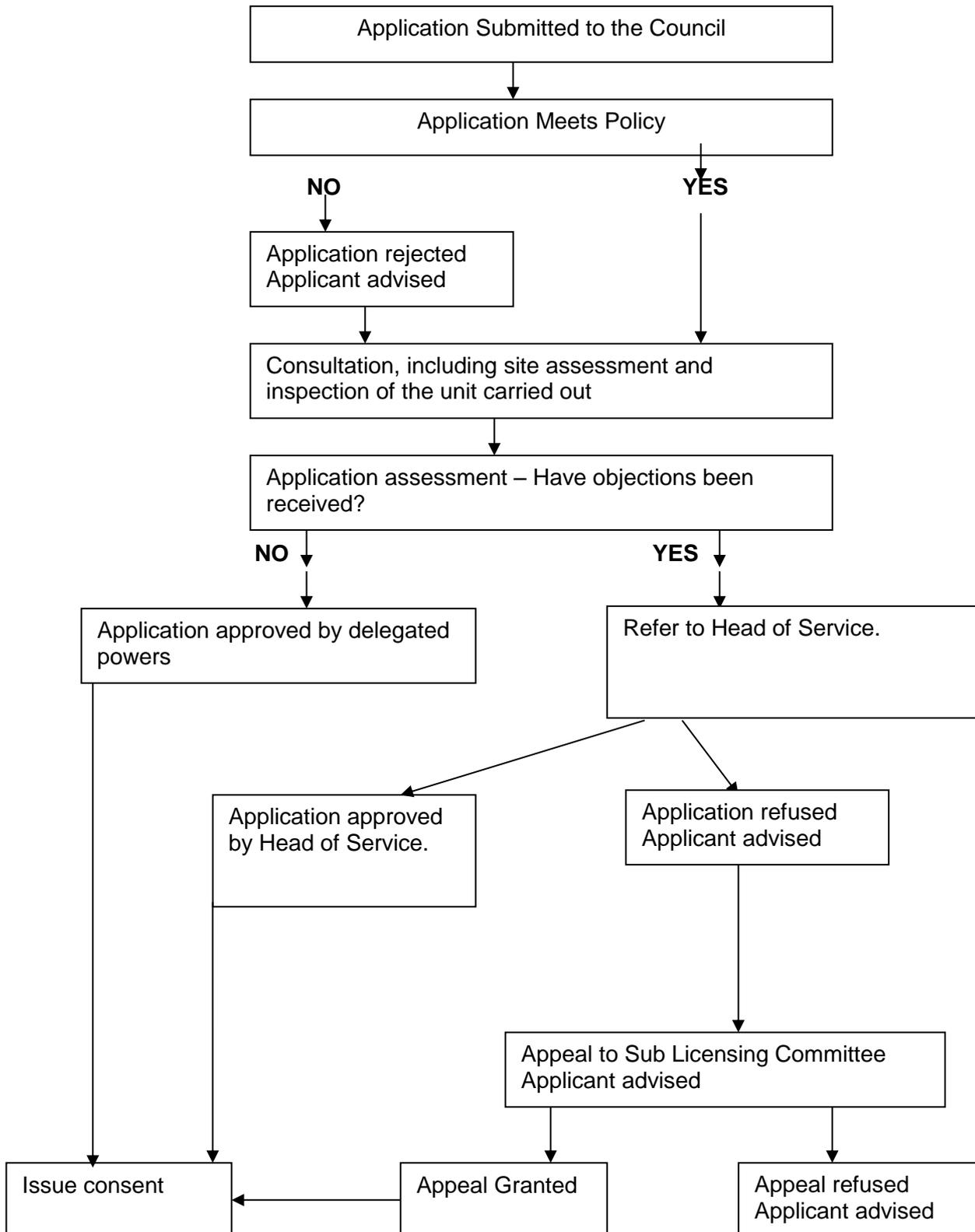
"For events such as Christmas markets, Farmers/ Continental markets, food festivals and antique fairs that last no more than 4 days, the council will accept one application from the person organising the event. The street trading application will require full details of each trader attending the event and the consent will be issued to the organiser of the event with each individual stall holder listed on the consent. The event organiser is responsible to ensure all traders are aware of all conditions attached to the consent are being complied with. The first trader (stall or unit) will be charged the full consent fee then an 85% discount will apply for subsequent traders (stall or unit). This policy is aimed at promoting events and encouraging traders to attend.*

(The discount will only be approved by the Licensing Manger if the application is generally a "special event" rather than an applicant trying to circumvent the full licensing fees)*

Section 2

Procedure for Determining Street Trading Consent Applications

The application and approval procedure comprises of the following stages:



Section 3

Submission of the Application

Application forms are available from the Licensing Offices at Newport City Council, Information Station, Queensway, Newport or can be downloaded from the city council website: www.newport.gov.uk

1. A completed and signed Street Trading Consent application form, from either the trader or a company/agent acting on behalf of a trader.
2. An initial application fee, which is non-refundable. Upon grant of the consent, before it is issued, the balance of the fee must be paid. A copy of the fees can be found in the Appendix to this Policy.
3. Where the proposed street trading activity is from a fixed position, a site plan (to scale) showing the precise trading position and its proximity to other similar retail outlets within a 250 metre radius.
4. Colour photographs of any stall, van, barrow, cart etc. that will be used for the street trading activity and if applicable make, model and registration number of vehicular units if request by Licensing Authority.
5. A copy of the approved notice (template available) to be displayed at or in the vicinity of the proposed or existing trading location. (Except for temporary application of less than 14 days)
6. An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
7. Written permission from a landowner if the street trading activity is to be carried out on land in private ownership. If the land is in the ownership of the Council, written permission from Property Services except for land that forms part of the highway, approval of which will be considered as part of the application process. .
8. Any permissions or consents already granted with regard to the proposed operation, e.g. late night refreshment premises licence, waste disposal agreement.

An applicant for the grant, variation or renewal of a Street Trading Consent should apply, either online to: www.newport.gov.uk/licensing or directly to:

Licensing Section
Newport City Council
PO BOX 883
NEWPORT
01633 656656
environment.licensing@newport.gov.uk

An applicant with any unspent criminal conviction or who is considered unsuitable for any other reason will be interviewed by the Licensing Sub-Committee.

An application for Street Trading Consent is not one that can be given tacit approval, as it is in the public interest that this authority must process an application before it can be granted. We aim to process applications within 28 days unless the application is for less than 14 days in this case the authority will aim to process the application within 5 working days. If you have not heard from us by that time please contact the authority.

A Street Trading Consent is not transferable. Any proposed change to the type of vehicle or stall to be used, the goods to be sold, the times and days of operation, or the exact location of the trading site, requires an application for variation of the street consent.

Section 4

Consultations on applications made

Before Street Trading Consent is granted or renewed the Council will carry out a consultation process with the following relevant authorities and interested parties:

- The Highways Authority for the Council
- Property Services, Council
- Trading Standards, Council
- Environmental Health, Council
- Planning Services, Council
- Gwent Police
- South Wales Fire and Rescue Service
- The land owner of the proposed street trading site
- Members of the public within 250 metres (will not be advised directly but through the provision on the site notices), unless the licence is for less than 14 days.

For new static applications (except temporary applications for less than 14 days) the applicant will advertise details of the proposed activities by posting the approved notice at or in the vicinity of the proposed site.

- The name of the applicant,
- type of vehicle or stall to be used and the goods to be sold,
- the times and days of operation,
- the exact location of the proposed site,
- How to make representations and the final date by which representations can be made.

Written observations from the above bodies, individuals and occupiers of properties within 250 metres of the proposed site will be taken into consideration when determining an application that has been made to the Council. Any observations in support of or against an application must be made under the objectives in highlighted in Section 1 (3) above and in line with this policy.

Section 6

Inspection of the Street Trading Unit

Where appropriate the vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consent and shall comply in all respects to the relevant legislation. In particular, food-vending units used shall comply with the following legislation where applicable:

- Food Safety Act 1990, as amended and regulations made there under;
- Regulations (EC) No. 178/2002,852/2004,853/2004, of the European Parliament and of the Council and the Food Hygiene (Wales) Regulations 2006; and
- Health and Safety at Work etc., Act 1974 and any regulations made under this Act.

Section 7

Determination of the Application

Officers on a delegated basis will determine each application on its merits but, in particular, will have regard to the following 6 objectives:

7.1 Public Safety

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. For e.g. conflict with traffic orders, raise concerns re levels of personal injury accidents, obstruct pedestrian or vehicular access/traffic flows, interfere with sight lines, or provide unsafe or insufficient parking. The term "public" refers to both customers frequenting the street trading activity, and other members of the public using the street.

7.2 Public Order and Anti-Social Behaviour

The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Council Community Safety Team and Gwent Police and will be taken into consideration under this heading.

7.3 Prevention of Nuisance

The street trading activity shall not present any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council Officers shall be taken into consideration under this heading.

7.4 Needs of the Area

The street trading activity shall not be in direct competition, in terms of goods primarily sold, with nearby retail shops, restaurants, hot food takeaways, other street traders or market places. Any street trading activity should not be located within 250 metres of such premises whilst they are in operation. This may be relaxed for one-off or short-term applications.

The number of traders in any one street will be restricted to avoid undue concentration of outlets and to ensure that excessive trading does not compromise the amenities of the area.

There will be a presumption that (Static) Street Trading consents will not normally be granted at any time on sites that are within residential areas or where there is likely to be an unacceptable impact on residential amenity.

Consents will only be granted if authorities or permissions required by any other legislation are already in place for the operation e.g. late night refreshment premises licence, food premises registration, waste disposal agreement. Applicants should also contact the planning department to ascertain if planning permission is required.

Any street trading activity should not be located within 250 metres of a school.

7.5 Suitability of Trading Unit

The vehicle, trailer or stall to be used will be of a high quality design/ build and will add to the quality of the street scene. The unit will be inspected by an authorised officer of Newport City Council prior to any consent being issued. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed and in particular with the following legislation (and any subsequent revisions):-

- a) Food Premises (Registration) Regulations 1991
- b) Food Safety Act 1990
- c) Food Safety (General Food Hygiene) (Wales) Regulations 1995 (as amended)
- d) The Food Safety (Temperature Control) Regulations 1995

- e) Health and Safety at Work etc. Act 1974 and any regulations made under this Act.
- f) Environmental Protection Act 1990
- g) Licensing Act 2003

7.6 Suitability of Applicant

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:

- (a) Whether the applicant has been convicted of any relevant** (we need to define this) offence: a basic CRB disclosure will need to be submitted with each application. Any convictions or proven criminal behaviour will be assessed against our convictions policy.
- (b) Persistent refusal or neglect in paying fees due to the council for a street trading consent or for any other charges due for services rendered by the council to the applicant in his capacity as the holder of a street trading consent. Examples of such services include collection of refuse and cleansing of streets.
- (c) Previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent or licence.

7.7 Permitted Trading Hours

The Council generally will only permit street trading between 6.00 am and 11.00 pm on any one day and between 8.00am and 10.00pm in residential areas. Street Trading outside these hours will be assessed in terms of the public order, public safety, crime and disorder and prevention avoidance of nuisance and the needs of the area criteria detailed above.

If trading includes the supply of hot food or drink after 11pm a late night refreshment premises licence will also be required, it should be noted these premises will not be permitted to sale alcohol.

The Council retains the right to specify permitted hours of trading that are less than those specified above, if local circumstances require it.

7.8 Consultee written observations

Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application made having regard to the 6 street trading objectives (See Section 1(3)).

Section 8

Objections to the Application

The application will normally be referred to the Head of Service for determination, if relevant written objections are received from any of the following not later than 14 days after publication of the approved notice or receipt of application details from the Council.

- The Highways Authority for Council
- Trading Standards, Council
- Environmental Health, Council
- Planning Services, Council
- Gwent Police
- South Wales Fire and Rescue Service
- The land owner of the proposed street trading site
- Council Members of the relevant Ward
- Occupiers of property within 250 metres of the proposed site.

Section 9

Consideration of Applications

The Head of Service or officers on a delegated basis may approve or refuse applications using the criteria contained in these guidelines.

On approving the application the Council will issue a Street Trading consent to which conditions will be attached, including specific terms such as days and hours when street trading is permitted, and goods that may be sold. The consent will also be subject to the Council's standard conditions, which are attached to all Street Trading Consents.

The conditions attached to the Consent form part of the approval to carry out street trading in and **MUST** be complied with at all times. Failure to do so could constitute an offence, and/or the Consent could be revoked or not renewed.

Section 10

Issue/Review of Street Trading Consents

Street Trading Consents will be issued for a maximum period of 12 months and will be renewable on the date specified in the Consent. Shorter term Consents may also be issued. These particular Consents will expire, unless renewed, on the date specified in the Consent.

In all cases when Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in this Policy.

If a bank dishonours a cheque, or any direct debit is unpaid, this will result in the revocation of the Street Trading Consent issued by the Council, unless payment of the outstanding fees is made in cash within 5 working days.

The Council may review consent where:

- A person or body listed in Section 8 makes representations that the consent holder is breaching the policy objectives. Or
- The consent holder is convicted of an offence or is considered unsuitable for any other reason.

The Head of Service will consider representations and if upheld may add conditions, suspend or revoke the consent.

Section 11

Refusal of Applications

Where the Head of Service refuses an application/renewal or revokes a consent, the applicant will be informed in writing of the reasons and the right of appeal (within 10 working days) to the Licensing Sub Committee.

Section 12

Appeals to the Licensing Sub- Committee

The Sub-Committee will consist of three elected members of the Licensing Committee. These meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

On receipt of the Notice of Appeal, arrangements will be made for the case to be heard by the Sub-Committee and the street trading consent holder/applicant and all parties making objections, will be notified in writing of the date, time and place where the application will be heard.

The person or body making an objection will be invited to attend the hearing and be allowed the opportunity to address the Committee and ask questions relating to the application. The applicant can be represented by a solicitor, or supported by a friend or colleague.

Letters of objection that have been received by the Council will be circulated to members of the Committee in advance. The letters of objection will also be sent to the applicant/consent holder but without any information that would identify the person submitting the objection.

The Sub Committee will always determine the appeal by:

1. Considering each case on its merits.
2. Using this Policy to assess applications where it is felt appropriate.
3. Dealing with the hearing in a balanced and impartial manner.
4. Ensuring that the rules of natural justice are applied in any hearings held.
5. Giving all parties sufficient opportunity to present their case, ask questions and present information for consideration in support of their application or objection.

Section 13

General Information on Street Trading Consents

13.1 Surrender or Revocation of Consent

The holder may surrender their Consent at any time, or the Council may revoke it at any time. In the event of revocation, the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

The holder must return the Street Trading Consent paper license to the Council with 5 working days on its surrender or revocation.

13.2 Reimbursement of Fees

Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any fee reimbursement will be strictly on the following basis:

1. From the date the Consent is surrendered to the Council, or
2. From the date that the Consent is revoked by the Council.

Any refunds of a fee paid in connection with the granting of Street Trading Consent will be subject to the non-refundable application fee. Refunds will be based on the number of complete months remaining

13.3 Persons under the age of 18 years.

The Council will not grant Street Trading Consent to persons under the age of 18 years.

13.4 Access by Council and Police Officers

Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times. Council officers will carry with them and produce on request official identification.

Section 14

Enforcement of Street Trading

Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Public Protection Enforcement Policy, copies of which are available on the Council's website. [Council Website](#)
Street trading consent does not:

- Permit trading outside the terms of the Consent.
- Indicate that planning permission is not required.
- Indicate that the unit is exempt from business rates
- Override parking restrictions or any other traffic regulations

Section 15

Complaints against the Service

Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Trading Services you should in the first instance contact the Head of Regeneration and Regulatory Services, Civic Centre Newport NP20 4UR
If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme. [Council Website](#)

Section 16

Policy Review

This Policy takes effect on

In accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the Council, prior to publishing this Policy, consulted fully with those bodies, businesses and groups specified. The Council will review the Policy whenever it is considered that relevant issues have arisen.

STREET TRADING CONSENT CONDITIONS

GENERAL CONDITIONS

The Consent Holder and any employee shall:

- Display the Consent Paper licence issued by the Council on the unit/vehicle in such a position that it is clearly visible.
- Notify the Council Licensing Section immediately of any convictions or proceedings arising out of the use or enjoyment of the Consent, or from any other offence committed.
- Observe and comply with any directions in relation to the use of the street or public place by an authorised officer of the Council.
- Indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent, as nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability.
- At all times maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
- Provide satisfactory written evidence to the Council that permission of the landowner or lessee has been obtained to carry out the street trading activity.
- Provide proof of any permission or consents required for the street trading activity e.g. late night refreshment premises licence, waste disposal agreement.

The Consent Holder **shall not** assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.

The Council **may** vary the Conditions attached to the Consent at any time.

SITE CONDITIONS

The Consent Holder when operating on a static site **shall**:

- Ensure that any advertising boards or notices are only placed in the immediate area of the street trading site and do not exceed 750mm x 450mm with at least 2m clear footway passage maintained or interfere with sight lines or obstruct vehicular access or egress. If the trader wishes to have larger signs they must obtain written permission from the Licensing Authority.
- keep the trading position and the immediate adjacent area in a clean and tidy condition during the permitted hours and also leave that area in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
- Provide and maintain at their own expense, adequate refuse receptacles for litter and ensure that they do not become overfilled.
- Remove litter and trade waste arising from the activities from the site and within 100 metres of the trading unit on a daily basis and dispose of it by means of a waste disposal agreement.
- Make such provision as necessary to prevent the deposit in any street or public place of solid or liquid refuse.

The Consent Holder when operating on a static site **shall not**:

- Discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
- Provide music, speech, chimes or any other broadcasts from the consent site, which is audible beyond 5 metres from the site.
- Place any advertising boards or notices on any street lighting column.
- Make any excavations or alterations, or place or fix equipment of any description in the surface of the street, or land in the ownership of the Council adjoining a street.
- Place on the street or in a public place, any furniture or equipment other than permitted by the Consent, and any items so placed, must be maintained in a clean and tidy condition and not placed so as to obstruct the entrance or exit from any premises.
- Permit noise from equipment used in connection with consented street trading activity to be audible inside any nearby residences.
- Cause nuisance from noise, light, smells or fumes to householders and businesses in the vicinity of the site.
- Operate after dusk unless the site is adequately lit to allow safe access and egress of customers and staff.

TRADING CONDITIONS

The Consent Holder **shall**:

- Generally remove from the site, at the cessation of trading each day, any static street trading units, vehicles or other equipment associated with the street trading activity.
- Pay all street trading fees when due.

The Consent Holder **shall not**:

- Carry out street trading activities other than those permitted by the Consent.
- Trade outside the time and days permitted by the Consent.
- trade in such a way that is likely to cause undue obstruction to any part of any street or public place; cause any injury to any person using the street or public place; cause damage to any property in the street or public place or cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity activity to be audible inside nearby residences.
- Permit any person to operate within the terms of the Consent, unless in the employ of the consent holder and acting under their instruction or supervision.

MOBILE TRADING

Consent is granted on the basis that a mobile trader must not trade from a site for more than 90 minutes and not return to the same site within 2 hours.

Mobile Units selling ice cream etc. may sound chimes in accordance with Code of Practice on Noise from Ice Cream Van Chimes etc. 1982, but **not** before 12.00 noon and after 7.00pm, on any day and not when the vehicle is stationary.

Mobile Units **shall not**:

- Be permitted to trade within 250 metres of the boundary of any school whilst in operation.
- Cause nuisance from noise, light, smells, litter or fumes to households and businesses whilst stationary.
- Provide music or any other broadcasts whilst stationary, which is audible beyond 5 metres from the site.
- Operate loudspeakers in a street between 9.00pm and 8.00am, and at any other time for advertising any entertainment, trade or business.

LEGAL PROVISIONS

Nothing contained in these conditions shall relieve or excuse the Consent Holder or their employees or agents from any legal duty or liability and at all times the Consent Holder shall comply with the relevant legislation in force.

Street Trading Fees 2016/17:

	Initial application fee	Mobile Trader	Static Street Trader
Daily	£0	£45	£45 *
Weekly	£0	£90	£90*
Monthly	£50	£120	£250
Quarterly	£150	£150	£350
Yearly	£150	£300	£800
City Centre	£150	-	£2500 (full year)

* Please see Section 6 of the Street trading Policy Re “Special events”.

Appendix B

Steve,

We are members of NABMA – the Association of Markets. Newport CC is also a member but likely a different department. In our request for clarity on what a market consists of and the appropriateness of Street Trading rules, it was confirmed from the legal point of view that:

1. A market is a set of more than 5 stalls on a regular basis
2. Street trading licences are applicable on designated streets – not , parks, fields, other areas at all. Graham Wilson of NABMA was going to be discussing this with the Authority I believe last month.

We do recognise that there are a number of important aspects for Newport in its first city position from England and is M4 corridor , not least as part of city region. We know that funds are very tight and that local authorities need to maximise income wherever possible.

Your proposal for revising the street trading policy (on designated/permissible streets) seems to be an interesting one and something which we would be able to afford, given our activity around the City. However, I have one or two suggestions:

1. I would suggest that the 'Special Events' terminology is more in tuned with perhaps Local Cultural events. This would then encourage local organisers, local producers and others to arrange interesting and cultural events at an affordable rate whilst the commercial round of markets (German Markets, Italian Markets etc. those that are on the international circuit) are provided with fair opportunity to trade at an affordable rate but that local remains the priority. I ask this because of the need for us to rethink post Brexit food consumption – and, believe it or not, there is a view at Welsh Government that there is already beginning to see a food shortage in certain areas. The promotion of local means that the City is looking at its food miles, its food waste and promoting what is local.

The majority of markets are 1 day rather than 4 days and to justify the local, perhaps you would insist that the granted 'license ' would be for one day. That way you are able to charge the going rate for the 4 day markets as they visit the city.

2. I would really like to see the addition of licenses for market organisers in your policy. This picks up on ancient law that states 5 plus stalls is a market. This is how Uplands market in Swansea operates. The licensed market organisers pay a % or flat sum. I believe at the moment Swansea charge £100 for its market organisers. We have had a good discussion about this. I would suggest a percentage rather than flat rate because the success of markets would then be reflected in increased revenue. Blaenau Gwent also operate to a percentage for its general market.
3. Could you please define what is 'occasional'. We operate in Friars Walk and Belle Vue on a monthly basis. This to me is more regular than occasional, however, it does fall within the 14 days maximum which appears to be the restriction of special events.
4. I would be happy to see that the markets are justified and appropriate for the areas. I have seen a few of the commercial markets and they do not generally complement the existing rate paying enterprises. It would be great to see how markets and the activities you operate contribute towards the corporate plan. I come from this sort of background so I am not phased by the need to think of sustainable development or economic development targets and requirements when planning activities. For example regular markets/food festivals and public events involving food and craft contribute to:

Rationale: Community Facilities and Infrastructure

- **Objective 1** sustainable use of land – development makes efficient use of natural resources and is located with minimal impact on the environment. Stalls and activities promote sustainable development by buying local – fair trade and ethical sourcing further contributes to this objective.
- **Objective 3** economic growth – a diverse economy that meets the needs of the people and wider in south east wales – job creation opportunities, small business and enterprise development around tourism, food production and craft.
- **Objective 5** – conservation of the built environment – development or use of land for markets does not adversely affect the Park and Pavillion but serves to attract more users as a vibrant recreational and cultural place in the City.
- **Objective 7** provision of appropriate new and/or enhanced existing community facilities and to safeguard well-used facilities (leisure and cultural needs of the community)
- **Objective 8** – culture and accessibility – ensure development proposals and uses are socially and physically accessible to all taking account of the needs of all individuals – people need not travel by car but walk to this location

SP12 Community Facilities

- Interest in food and plant production, growing and community allotments – the market promotes this through short supply chains and low food miles

SP18 Urban regeneration

- The use of the park to enhance its vitality, viability and quality of environment of the city centre
- Encouragement of community uses

SP19 Assessment of retail need

- Newport city centre – increases the offer locally – away from internet shopping (indoor market, friars walk also)

5. Specifically in relation to Belle Vue, I must reiterate how important we believe the nature of our activities is in regarded. Parc Pantry is a social enterprise. They requested that we support them in delivering various events on the premise because with are also a social enterprise – A community Interest Company with an asset lock on all profits. We offer a completely different approach to the markets by encouraging producers and crafters to work with us as new test traders, as older and more isolated people creating craft and selling small items and some of our crafters use the experience of making and selling to overcome health and wellbeing issues such as fibromyalgia, anxiety, depression, physical disability. I cannot emphasise this enough. It is not strictly pertinent to the street trading policy but I am trying to enable you to understand that there is a movement across Wales at the moment which is supported by academic evidence to suggest that there are wider benefits to craft making and selling – but it is never going to be Silicon Valley – there are, however, clear examples of people engaged in this small shop keeping approach who move out of poor health and wellbeing towards being more economically independent. I have further information on this should you require it.

Jan Walsh
Managing Director

