

Street Trading Policy 2020

Final Decision-Maker	Licensing Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

Executive Summary

The Street Trading Policy was last reviewed in 2014 and the report sets out the document which includes Councillors comments from the 18th June Licensing Committee. This will bring the policy up to date with our current practice and regulations.

Purpose of Report

To consider the amended Draft Street Trading Policy and confirm the new fee tariff and delegation. The recommended consultation period is 8 weeks.

This report makes the following recommendations to this Committee:

1. Agree for consultation purposes the revised draft Street Trading attached as Appendix 2 to this report.
2. Confirm the draft amended fee structure which introduces a non refundable consultation application fee.
3. To confirm delegated authority is given to the Head of Housing and Community services to make minor amendments to the policy and determine whether appeals go to Licensing Sub Committee.
4. Following the 8 week consultation period the policy together with a summary of key consultation comments is brought back to licensing committee for consideration.

Timetable

Meeting	Date
Licensing Committee	17 th September 2020
Licensing Committee	14 th January 2021

Street Trading Policy 2020

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> No implications have been identified 	Head of Service or Manager
Cross Cutting Objectives	<ul style="list-style-type: none"> No implications have been identified 	Head of Service or Manager
Risk Management	<ul style="list-style-type: none"> No implications have been identified 	Head of Service or Manager
Financial	<ul style="list-style-type: none"> There are no financial implications identified within this report. The Council recovers the costs associated with any application and has an agreed approach to determining the application fees. 	Section 151 Officer & Finance Team
Staffing	<ul style="list-style-type: none"> No implications have been identified 	Head of Service
Legal	<ul style="list-style-type: none"> The relevant legislation in relation to street trading is contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended). The policy provides a framework for consistent decision-making. 	Legal Team
Privacy and Data Protection	<ul style="list-style-type: none"> No implications have been identified 	Policy and Information Team
Equalities	<ul style="list-style-type: none"> No implications have been identified 	Policy & Information Manager
Public Health	<ul style="list-style-type: none"> No implications have been identified 	Public Health Officer
Crime and Disorder	<ul style="list-style-type: none"> No implications have been identified 	Head of Service or Manager
Procurement	<ul style="list-style-type: none"> No implications have been identified. 	Head of Service & Section 151 Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council has adopted powers under the Local Government (Miscellaneous Provisions) Act 1982 so that any person selling articles in the 'street' must obtain a street trading consent from the Council.
- 2.2 Maidstone Borough Council has a current street trading policy, which sets out the Council's approach for managing street trading, the process for applications and making decisions. (Appendix 1). However, experience has demonstrated that it lacks clarity and is not very helpful to applicants or Officers when determining applications.
- 2.3 The Policy was last updated in 2010 and has been reviewed in order to make it a more comprehensive informative document, the revised Street Trading Policy will be of more benefit to applicants, officers and residents and ensures improved public safety and protection. It will strengthen decision-making and support the Council's position should issues arise.
- 2.4 The process for applying for a street trading consent has not changed significantly but the draft provides a clearer explanation to assist applicants. The policy was considered at Licensing Committee on 18th June 2020 and now includes Councillors feedback where applicable –

2.5 **Policy amendments and feedback consideration**

Page no	Amendment/Insertion/removal	Reason
5&6	Remove All reference to public authority owned land has been removed	There is no provision in the legislation to allow for this kind of waiver, it is hoped that it is dealt with by amending Community and Charity Events to reduce the impact.
5	Insert Additional exemption from the requirement of a street trading consent added.	Expanded to provide more information on "services"
6	Amendment Community & Charity Events amended to provide a "light touch" by providing a discretion to charge the full fee or nominal amount	Suggested in order to assist those events that may have previously occurred without the relevant permissions and also Councillor's comment to make the intention less vague
7& 12	Amendment Application process time made clearer	Councillors comment to make it clear to applicants how long it will take to process an application
7	Amendment Description for short term consents amended to be clearer.	Less confusion

7&12	Insertion That the consultation fee is not charged for short term consents	Councillors comment to make it clearer in the document where consultation fees are charged
10	Insertion Street Trading consents are not issued for the purpose of selling vehicles on the highway.	Councillors comment that the document did not address car sales.
Appendix 2	Comment Confusion on the years stated for certain offences, these were typos that have now been removed. Its usual to set out a consistent approach to dealing with offences and the time the Council will have expected them to lapse before an application is made. Applicants with convictions will not necessarily be refused as 6.4.3 states Each application will be decided on its own merits.	Councillors comment Confusion on the years stated for certain offences. It was also suggested that proportionality be used when considering applicants for street trading and that not all offences should bar applicants.

Fees

The new fee tariff was discussed at Licensing Committee on 18th June 2020, it was requested that the fee table was made less confusing, the following fee table is suggested and Councillors are asked to confirm their agreement.

	Proposed Fee
Maidstone Borough Council	
Consultation application fee (applies to 12 month consents only)	£150.00
Short term consent 1 to 12 trading days New only (on grant) (no consultation fee is required)	£32.00
Full year consent (New & Renewal) (on grant)	£255.00
Additional assistants (checks and badges)	£50.00
Additional change (additional products)	£50.00
Copy/replacement Licence	£12.00
Copy/replacement Badge	£12.00

Delegation

1. That the Head of Housing and Community Services is delegated to determine applications, including those that receive objections. The Head of Housing and Community Services in exercising his delegated authority will consider whether it is necessary and proportionate for an appeal to be heard by a Licensing Sub Committee based on criteria set out in the revised policy. Currently all appeals are heard by the Licensing Sub Committee on the basis of a written request from the applicant, irrespective of the merits of the case.

2. At the Licensing Committee on 18th June 2020 it was suggested that there was no requirement to give the delegation to the Head of service as there were very few street trading matters referred to Sub Committee, however no decision was made and so confirmation is sought now.
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3. AVAILABLE OPTIONS

- 3.1 To agree to the proposed policy and 8 week consultation period and consult all those listed at page 4 of the draft policy.
 - 3.2 To refuse the proposed policy and consultation process and retain the Council's current policy.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The detailed draft Street Trading Policy provides clear advice and information to all persons involved in the consent process. The policy sets out the Council's expectation of the street traders in the district and provides a clearer understanding of what this Council will consider when administering applications, dealing with issues and undertaking any enforcement activities. It will support Licensing Officers in their day to day role in ensuring the Council's licensing aims within this policy are met and ensuring good standards are met and maintained.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Policy is brought back to this Committee with their consultation feedback on 14 January 2021
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 N/A
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8. REPORT APPENDICES

1. Current Policy
 - 2 Revised Draft Policy
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9. BACKGROUND PAPERS

N/A