



STREET TRADING and MARKETS POLICY and GUIDANCE

First approved July 2008

Revised November 2014

Revised June 2015

Revised November 2015

CONTENTS

	Subject	Page
Part 1	Introduction	2
Part 2	Definitions	2
Part 3	What is Street Trading?	2
Part 4	Street Trading Objectives	4
Part 5	When is a Street Trading Consent not required?	4
Part 6	Application Process <ul style="list-style-type: none"> • Making an application • Application sent to Consultees • Objection(s) 	6
Part 7	Appeal against decision of Licensing Manager	9
Part 8	Duration of Consent	10
Part 9	Renewal of Consent	10
Part 10	Review of Consent	10
Part 11	Transfer of Consent	11
Part 12	Surrender of Consent	12
Part 13	Trading at Council run events	12
Part 14	Street Trading within Managed Locations	13
Part 15	Markets	13
Part 16	Council Contracts	13
Part 17	Conditions	13
Part 18	Complaints & Enforcement	14
Part 19	Further Information	15
Appendix 1	Prohibited Streets	16
Appendix 2	Fees	18
Appendix 3	Standard Conditions	19

Part 1 – Introduction

This policy document sets out the Council’s approach to street trading and markets. It sets out the application process for markets and street trading which aims to ensure that the Council’s objectives for street trading and markets are met. This policy and guidance sets out Gateshead Council’s framework for the management of street trading and markets and will assist people who would like to trade from a street.

Gateshead Council recognises the valuable contribution that street trading and markets can make to the local culture and economy and the service that street traders provide to the residents of the Borough. The Council seeks to create a street trading and market environment that compliments premises based trading and improves the local environment. In accordance with Vision 2030 and reducing obesity levels the Council will favour applications from traders who sell food and produce which promote healthy living.

Part 2 - Definitions

<i>Authorised Officer</i>	An officer of the Council authorised to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982 and/or the Food Act 1984.
<i>Street Trading Consent</i>	Document authorising the consent holder to trade on street(s) within the Borough.
<i>Market Consent</i>	Document authorising the consent holder to hold a market in a specified place and on specified dates and times within the Borough
<i>Consent Holder</i>	Legal person who has been granted (and retains) a valid consent.
<i>Consent Street</i>	Street in the Borough in which street trading is prohibited without a trader being in possession of a valid consent.
<i>Council</i>	Gateshead Metropolitan Borough Council.
<i>Market</i>	A concourse of multiple street traders trading in a specified marketplace on a street as defined below, on specified dates and times, the right to which has been created pursuant to the Food Act 1984
<i>Prohibited Street</i>	Street in the Borough in which street trading is prohibited.
<i>Street</i>	Road, footway or other area (or part of) to which the public have access without payment; and any service area as defined under <u>Section 329 Highways Act 1980</u> . <i>Please note – this may include private land.</i>
<i>Street trading</i>	Exposing and/or offering for sale, and/or selling any article or articles in any street as defined above.

Part 3 - What are Street Trading and Markets?

Street Trading

Street trading is where a person sells, exposes or offers for sale any article (including a living thing) in a street. This can be done –

- individually, for instance from a stall, cart or an ice cream van; or
- as part of a market, where a number of people trade from the same place and at the same time.

Unless trading is as part of an approved market established under the provisions of Part III of the Food Act 1984 (as amended), a person will need a Street Trading Consent from the Council to carry out any of the following activities from a street in the Borough :

- Trading from mobile and static structures, including kiosks.
- Sale of food and drink.
- Ice-cream vans (static and mobile).
- Mobile artists and musicians who sell their recorded work on the street.
- Sale of Christmas trees and other festive items.
- Sale of Arts/Crafts.
- Sale of Jewellery.
- Sale of candles.
- Sale of balloons.

Markets

A concourse of multiple street traders trading in a specified marketplace on a street as defined below, on specified dates and times, the right to which has been created pursuant to the Food Act 1984

Part 4 - Street Trading and Markets Objectives

The Council will only permit street trading and markets if the following objectives are promoted:

- *Preserving or enhancing the character of the area*
An applicant should be sensitive to the character of the area in which they propose to trade. This may include the number of existing outlets (whether fixed or mobile) selling similar articles in the vicinity. It may also include consideration as to whether the area is appropriate for the proposed activities, in particular with regard to conservation areas and 'feature areas'.
- *Promoting health and wellbeing*
An applicant should ensure that the health and wellbeing of residents and visitors is considered including the healthiness of the products sold and community interaction arising.
- *Promoting economic prosperity*

An applicant should ensure that vitality and vibrant activity is created or enhanced within Gateshead by improving and/or diversifying the shopping offer and experience within Gateshead, contributing to a competitive economy, and enhancing the independent retail offer including the provision of quality products.

- *Animating streets and spaces*
An applicant should ensure that in appropriate locations that their offer can help animate streets and spaces, encourage footfall, dwell time, and spend in an area.
- *Promotion of Public Safety*
An applicant should ensure that public safety is not threatened by their business activities and be able to demonstrate that their business does not present a danger to members of the public, including customers. Particular regard will be given to road safety, the potential for disorder and to avoiding the possibility of creating an obstruction, fire risk, unsafe practices or anti-social behaviour.
- *Prevention of Public Nuisance*
An applicant should ensure that their activities do not result in a danger or nuisance, particularly to residents and businesses near their site. 'Nuisance' can include littering, noise, smells, etc.
- *Promoting compliance with relevant legislation*
An applicant should be aware of all relevant legislation (Health & Safety, Food Hygiene, Highways/Road Traffic Act) and should ensure and be able to demonstrate that their business complies with all legal requirements that affect their activities.

Part 5 - When is a Street Trading Consent not required?

Under the Local Government (Miscellaneous Provisions) Act 1982 a Street Trading Consent is not required if you are:

- Trading in a charter market or a statutory market or fair (which is discussed in further detail below).
- A pedlar under the authority of a pedlar's certificate.
- A newsvendor.
- A roundsman.
- Trading at a premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- Trading which is carried out at a premises used as a petrol filling station.
- Trading in a trunk road picnic area under the Highways Act 1980.
- Trading in a kiosk placed on a highway under the Highways Act 1980.
- Operating refreshment or recreational facilities under the Highways Act 1980;
- Undertaking a permitted street collection under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916.

Street trading does not include:

- The contractual sign up of gas, electricity or other domestic services.

- Subscriptions to motor breakdown organisations.
- Handing out promotional literature for goods, services or venues.
- Provision of services (eg mobile masseuse, hair & beauty services)
- Displaying goods in front of a shop where customers must enter the premises to make payment
- Trading at certain markets, as described below

Permission to trade in the street (whether by Street Trading Consent or Market Consent) will **not** normally be granted for the sale of age restricted products as follows –

- tobacco products
- psychoactive substances / legal highs
- alcohol and liqueur confectionery
- offensive weapons (knives and similar), crossbows and airguns
- adult fireworks, low hazard, low noise fireworks (party poppers and similar products) and Christmas crackers
- solvents, lighter refills containing butane and aerosol paint
- lottery tickets; and
- age restricted videos, DVDs, and Blu-Ray discs and video games

or any of the following items:

- Replica firearms and replica weapons.
- Articles that would typically be sold in sex shops.
- Animals.
- Motor vehicles.
- Tinned goods.
- Grocery provisions.
- Clothing.
- Second hand gas and electrical appliances

The suitability of goods to be sold will be determined on a case by case basis. The Council will be mindful of and take account of all relevant matters, including local shopping needs, diversity, balance and conflict with nearby commercial shops and street trading.

Applicants and Consent Holders should ensure that the articles being offered or exposed for sale are not of a nature that may cause offence and that the manner of offering or exposing the articles for sale is not of a nature that may cause offence.

As a matter of the Council policy a Street Trading Consent will usually **not** be required for the following activities:

- Community run and/or charitable events where they are supported by the Ward Councillor(s) and where the Licensing Team is notified in writing in advance of the event of the nature of the event and the intended street trading, and the number of intended traders.

- Sales of household (ie non-commercial) articles by householders on land within the curtilage of their property, for example garage sales.
- Goods from working farms or smallholdings sold at the premises where they were produced.
- Trading in privately run shopping centres with covered mall walkways such as the Metrocentre and Blaydon Precinct.
- Trading in Council buildings such as the Civic Centre where the trader has the written permission of the Council to trade from the building at the relevant time.
- Trading as part of a travelling fair where permission for the event has already been granted by Gateshead Council.
- Operators of statutory services whose trading is ancillary to its main activity e.g. Council enforcement officers who sell wheelie bins to persons found to be fly tipping.

Persons seeking to show that a Street Trading Consent is not required because the public do not have free access to the land will be expected to show how they prevent members of the public from gaining access to the land without payment. Measures that this Council would ordinarily expect to be in place include:

- Gates / barriers.
- Measures to ensure accurate counting of persons in attendance.
- Receipts for payment of entry fees (this may be tickets).
- Accounts showing money received for entry payments.

Part 6 –Application Process

Within the Borough of Gateshead certain streets are designated ‘Prohibited Streets’ which means that street trading will not be permitted on any of these streets. Appendix 1 outlines which streets are ‘Prohibited Streets’. In regard to all other streets in the Borough, applicants can make an application for –

- a Street Trading Consent or
- a Market Consent (for approved market sites)

which will be considered in the first instance by the Council’s Licensing Section.

Making an application

A person seeking to obtain or renew a consent from Gateshead Council must make an application to the Licensing Section. An application form can be obtained by contacting the Licensing Section on 0191 4333947 or by email licensing@gateshead.gov.uk.

In respect of Street Trading Consents, the Local Government (Miscellaneous Provisions) Act 1982 requires that no person under the age of seventeen years shall be granted a consent and persons under the age of sixteen shall not be employed as an assistant.

Applications must be received by the Council’s Licensing Section not less than 20 working days prior to the proposed date of the Street Trading Consent or Market Consent coming into effect. A completed application form must be accompanied by:

- The specified fee (details outlined in Appendix 2). The fee must be paid in full with the application in cleared funds.
- Location plan setting out any fixed location (or in the case of Street Trading Consents for mobile trading, a list of all the streets) where the proposed trading is to take place. The plan should be 1:1250 scale and should show all residential and commercial premises in a 100m radius of the proposed site. The Licensing Section may require applicants to provide a further plan if necessary detailing the exact position of vans, carts, barrows etc on sites where necessary.
- Photographs of the van, cart, barrow, other vehicle or stall from which the trading is intended to take place clearly showing the front, side and rear views of the van, cart, etc, in colour and A4 in size.
- If requesting to trade from private land then the express permission, in writing, of the land owner must be provided to the Licensing Section with the application. (Should there be any confusion in regard to the actual legal ownership of the land it is the responsibility of the applicant to resolve this prior to applying for consent.)

Applications will not be deemed to have been accepted until they are complete and all relevant information, documentation and payment has been received by the Council.

If an applicant has not heard from the Licensing Section within 20 working days of making the application then they can conclude that tacit approval for the consent has been granted (please note however that tacit approval does not apply to Council run events – see part 13).

Consultation

The Licensing Section will send a copy of the application form and accompanying documentation to the following Consultees within five working days of receiving the application.

- Northumbria Police
- Tyne & Wear Fire and Rescue Service
- Ward Members
- Planning Authority
- Environmental Health
- Senior Enforcement Officer
- Senior Trading Standards Officer
- Transport Strategy
- Property Services
- Corporate Commissioning and Procurement Support
- Culture Communities and Volunteering Service
- Facilities Management, Leisure and Transport Services
- Waste Services and Grounds Maintenance

- Director of Public Health
- Economic and Housing Growth

In certain cases the Licensing Manager may consider it appropriate also to consult other consultees that are relevant to a specific application.

On receipt of the application the Licensing Section will put up an A4 yellow notice at the proposed site and advertise the application on the Council website which will allow any person to object. The notices will be on display and available for inspection for 5 working days.

Anyone wishing to object to the proposed street trading will have 5 working days to respond to the application, setting out relevant reasons why they believe that the application should be refused (with reasons/evidence provided).

Along with the street trading and markets objectives, the following questions (which may involve a site assessment) will be assessed:

Highway safety Is the siting of the street trading likely to have an adverse effect on road safety, either as a result of the siting itself or from customers arriving, attending and/or leaving the site?

Parking Is there adequate parking available to staff and customers?

Obstruction Will the siting cause an obstruction to pedestrians or road users?

Sight lines Will the siting interfere with the line of sight of pedestrians or road users?

Loss of amenity Will there be a significant loss of amenity in the vicinity from the new siting?

Lighting If it is proposed that the activities will take place at night, is the siting adequately lit?

Relevant Restrictions Are there any relevant restrictions that would prevent the Consent being exercised at certain times or on certain dates, e.g. parking or waiting restrictions, or conflicting market rights?

Cart/barrow Is the cart, barrow, etc adequate for street trading activities, having regard to the siting, and the nature of the vehicle?

Other There may be other issues relevant to the individual site.

No Objections

If the application is not opposed the Licensing Manager will issue a Consent as long as s/he is satisfied that:

- The street trading and market objectives will not be undermined by the proposed activity.
- The applicant has provided evidence of appropriate public and product liability insurance to cover a minimum value of £5,000,000.

- The appropriate fee has been paid in full.
- The applicant has been provided with, and has signed for, a copy of the standard conditions (Appendix 3) and has either agreed to adhere to these conditions at all times that the proposed trading will be carried on, or has agreed to adhere to the conditions subject to any dispensations and/or variations of the standard conditions as set out in their application.
- The application is not on a prohibited street
- The application is not within 400m of a school

Objection(s)

If the Licensing Section receives an objection(s) then it will be forwarded to the applicant for his/her comment. Any comments that the applicant may wish to make should be received by the Licensing Section within 5 working days of the applicant's receipt of the objection. Within 5 working days, the Senior Licensing Officer will provide a report to the Licensing Manager with a recommendation whether to grant the consent. This report will answer the questions set out above.

If, having regard to the issues set out in the Senior Licensing Officer's report, the Licensing Manager is satisfied that –

- The street trading objectives will not be undermined by the proposed activity.
- The applicant has provided evidence of appropriate public and product liability insurance to cover a minimum value of £5,000,000.
- The appropriate fee has been paid in full
- The applicant has been provided with, and has signed for, a copy of the standard conditions (Appendix 3) and agreed to adhere to these conditions at all times that the proposed trading will be carried on, or has agreed to adhere to the conditions subject to any dispensations and/or variations of the standard conditions as set out in their application

Decision

Where all the considerations above have been satisfied, consent may be given.

Where the applicant has proposed dispensation and/or variance from the standard conditions but the Licensing Manager is not satisfied that the Consent may be granted with any or all of those dispensation(s) and/or variation(s) then the Licensing Manager may grant the Consent subject instead to the standard conditions.

If however the Licensing Manager is not satisfied that the Consent may be granted, then the Licensing Manager will send the applicant a notice of intention to refuse their application, together with a copy of the Senior Licensing Officer's report setting out the grounds for concern.

If the applicant does not contact the Licensing Manager in writing to appeal the decision, within ten working days of receipt of the notice of intention to refuse their application, the fee will be returned to the applicant minus a £50 administration charge.

Part 7 - Appeal against decision of Licensing Manager

If the Applicant wishes to appeal the decision of the Licensing Manager to refuse the application s/he can have the matter considered by the Council's Regulatory Sub-Committee. However, the applicant cannot trade during the appeal period. The Regulatory Sub-Committee will consider a report from the Licensing Manager setting out his/her reasons for refusing the application and the Sub-Committee will also invite the applicant and objector(s) to provide further evidence. After considering the evidence the Regulatory Sub-Committee may:

- Uphold the Licensing Manager's decision (i.e. refuse the application)
- Adjourn the hearing if it deems further enquiries are necessary in order to make a fully informed decision; or
- Grant the application and, if appropriate, add or vary the conditions to be attached to the Consent.

In deciding whether or not to grant the application the Regulatory Sub-Committee will only have regard to such factors as are relevant to ensuring the street trading and markets objectives are not compromised. The Regulatory Sub-Committee therefore cannot have regard to the impact that their decision may have on the applicant's livelihood.

There is no right of appeal under the Local Government (Miscellaneous Provisions) Act 1982 or the Food Act 1984 so an applicant cannot appeal if the Regulatory Sub-Committee's decides to refuse their application for a Street Trading Consent or Market Consent.

If an applicant wishes to challenge the Sub-Committee's decision they can apply to the High Court of Justice for Judicial Review, which must generally be done within three months of the date of decision. Should an applicant choose to do this they should seek independent legal advice. Also an applicant can complain to the Local Government Ombudsman on 0300 061 0614 or 0845 602 1983 or e-mail advice@lgo.org.uk.

Part 8 - Duration of Consent

The Council will issue Street Trading Consents for the following periods, which will permit street trading to take place during the specified period unless the consent is surrendered, suspended or revoked:

- Between 1 and 6 days
- 1 week
- Summer Season (1 May to 31 October)
- Winter Season (1 November to 30 April)
- 12 months

The Council will issue Market Consents for the following periods, which will permit market trading to take place on the days specified in the Market Consent unless it is surrendered, suspended or revoked:

- Between 1 and 6 days within a 12 month period (which may be consecutive days)
- On up to 12 occasions in a 12 month period (with no more than one market day each calendar month)
- On up to 52 occasions in a 12 month period (with no more than one market day each calendar week)

The fees for each consented period are outlined in Appendix 2.

There may be circumstances that require a Consent or a number of Consents to be suspended for a certain period, for instance in the vicinity of the route of the Great North Run on the day of the race. The Licensing Manager may, if necessary, suspend a Consent by written notice to the Consent Holder. The written notice of suspension will set out detailed reasons as to why it has been deemed necessary for the Consent to be suspended. Any suspension will not extend the Consent duration and cannot be appealed but the Consent Holder can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman as above,

Part 9 - Renewal of a Consent

If a consent holder wishes to continue trading at the same venue after the expiry of their current Consent s/he must complete an application form at least 20 working days prior to the expiry of the current Consent and submit it to the Licensing Section together with the appropriate fee. The applicant will only have to provide a photograph of the cart/van/barrow/etc if its appearance has changed since the previous application, or if the applicant intends to use a different cart/van/barrow/etc to the one previously advised. While the Licensing Section will not routinely engage the consultation process at the time of renewal, applicants need to be aware that a review of their consent can be commenced at any time (see part 10); and where there appears to be good reason to consult with any or all of the Consultees regarding a renewal application – for instance if the character of the locality has changed since the current Consent was granted - then the Licensing Section may do so.

Part 10 – Review of Consent

The review process is intended to enable the Council to take appropriate timely measures to ensure that activities taking place pursuant to Street trading Consents and Market Consents do not infringe or continue to infringe the street trading and markets objectives. The review process is intended to address the future conduct of the Consent Holder and can take place regardless of any other measures that may be open to the Council, Police or any other body or person. The review process can be instigated by anyone including Consultees and Ward Councillors at any time on the grounds that they believe that the Consent Holder may not be trading in accordance with the street trading and markets objectives.

An application to review a Street Trading Consent or Market Consent must be made to the Licensing Section in writing and be supported by relevant information and/or documentation. If the Senior Licensing Officer takes the view that the application is relevant to the street trading objectives then a review of the Street Trading Consent or Market Consent will be undertaken. Please note, however, that an application that is frivolous, vexatious or repetitive will not be considered to be relevant.

The Licensing Section will then investigate the concerns raised by the person bringing the review and will discuss these concerns with the Consent Holder. If appropriate the Senior Licensing Officer will hold a meeting with the person who has made the review and Consent Holder with a view to reaching an agreement on what steps can be taken to address the person's concerns. A report will then be prepared by the Senior Licensing Officer with a recommendation for the Licensing Manager.

The Licensing Manager will:

- Take no further action;
- Give the consent holder a written warning as to their future conduct;
- Impose additional conditions on the Consent;
- Suspend the Consent with immediate effect until such time as a specified thing has happened; and/or
- Revoke the Consent with immediate effect.

If the Consent is revoked by the Licensing Manager, the Consent Holder can appeal the decision to the Regulatory Sub-Committee. In these circumstances a Regulatory Sub-Committee hearing will take place and the Sub-Committee will consider all information presented to it and may:

- Continue with the revocation;
- Reinstate the Consent;
- Reinstate the Consent with a written warning; and/or
- Reinstate the Consent and vary and/or impose additional conditions.

The Consent Holder has no right of appeal to the Magistrates' Court but can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman as above.

Part 11 - Transfer of Consent

A Street Trading Consent or Market Consent can be transferred from one person to another on approval from the Licensing Section but only on the provision that the location of the street trading remains the same. If a Consent Holder dies the next of kin can operate the Consent for up to 60 days before transfer. If the person to whom it is proposed to transfer the Consent has had a Consent with Gateshead Council revoked within the past five years then the Senior Licensing Officer has a discretion to refuse the transfer to that person.

Part 12 - Surrender of Consent

If a Consent Holder no longer wishes to hold a Consent they can surrender it by returning it to the Licensing Section. The Council recognises that the surrender of a Consent will usually mean that fewer Council resources are utilised in its administration and enforcement than would be the case if the Consent ran its full duration. However, Consent Holders should also recognise that significant costs are incurred in the initial granting of the Consent and in dealing with the surrender. In every instance a sum set out in the Council's Fees and Charges will be retained by the Council as a contribution to the costs of both administering the grant of the Consent and its surrender. This means that where the fee paid for the Consent is less than this amount, no refund shall be given. However, where the fee paid for the Consent is more than this amount and there is more than 6

months left on the Consent, the Licensing Section will refund the remainder of the fee on a monthly pro rata basis minus the administration charge as above.

If a Consent Holder fails to exercise the Consent for a duration of more than 3 months then the Consent will be deemed to have been surrendered, and the Licensing Section will notify the Consent Holder in writing that the Consent is surrendered and they must return the Consent to the Licensing Section.

Part 13 - Trading at Council run events

The Council organises a number of events throughout the year, such as fireworks displays and Spring shows. In order to ensure street trading at Council events remains safe any trader wishing to trade at or in the vicinity of such an event must first obtain the written agreement of the Council's Culture Team. A copy of this agreement must then form part of an application for Street Trading Consent and be forwarded to the Licensing Section. A Street Trading Consent must be obtained prior to any participation in the event (and any agreement by the Council to such participation is conditional upon obtaining Street Trading Consent). Tacit approval will not apply to Council run events. If a trader is caught trading at a Council run event without a Street Trading Consent they must cease trading and may face legal action.

If the Council runs an event in a place where a Consent Holder has consent to street trade from a static site, the Consent Holder may continue trading throughout the Council event unless the nature of the street trading conflicts with the nature of the Council run event, and in which case then the Licensing Manager may suspend the Consent on application from the Council's Culture team. The organisers of the event and the Consent Holder(s) are encouraged to discuss any potential conflicts in advance of making an application to try to reach agreement. Before deciding to suspend a Street Trading Consent for this reason, the Consent Holder will be notified by the Licensing Manager of the Culture team's application, and will be given the opportunity to respond. The Licensing Manager will then provide written reasons for their decision. As above, there is no right of appeal of such suspension but the Consent Holder can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman.

Part 14 – Street Trading within Managed Locations

The application of street trading and market regulation can be distinguished between places that are not specifically managed and those that are, in which case there is inherently a greater degree of control the range of activities that take place in those locations.

Currently within the Borough, the Trinity Square development in Gateshead Town Centre is unique in terms of its mix of retail and leisure opportunities on both Council and privately owned land.

To facilitate street trading and market activity within managed locations such as Trinity Square and potentially others, the location manager may apply to the Council for a Block Consent which will authorise street and market trading within the managed location in accordance with the conditions imposed by the Council but on the provision that –

- the location manager will keep a record of –

- the names and addresses of all persons trading, including any company names and/or trading styles
 - the dates and times that they are authorised to trade
 - a description of the items for sale
- such record is to be made available for inspection and copying to any Authorised Officer of the Council and/or Police Officer upon request
- the location manager shall ensure that no one is permitted to street or market trade in the consented location without having first obtained all necessary licences, approvals, certificates, etc relevant to the specific activity and that all street or market trading is in accordance with this policy

Subject to the granting of a Block Consent to the location manager, persons seeking to trade in a managed location should obtain the permission of the relevant location manager.

Part 15 – Markets

Gateshead Council can establish a markets throughout the Borough under the provisions of the Food Act 1984 (as amended).

Should an applicant wish to hold a market in the Borough, they are advised to contact the Licensing Section to discuss how approval may be obtained.

Part 16 – Council Contracts

If an applicant wishes to tender for a Council contract in regard to providing street trading services, which may be –

- static street trading in a specific area (such as the Angel of the North or Saltwell Park) or
- holding a market at a specified location on specified days and times

they must first obtain the relevant Street Trading Consent or Market Consent from the Licensing Section. If an applicant obtains a Street Trading Consent or Market Consent but is then unsuccessful in obtaining the relevant Council contract they can immediately surrender their Consent and will be refunded the cost of the Consent minus a £50 administration charge by the Licensing Section.

If an applicant wishes to tender for a Council contract to provide street trading services they should contact the person from the relevant Council Department who is offering the contract for further information. Alternatively, the applicant can contact the Licensing Section for further assistance.

As unauthorised street trading is a criminal offence, purporting to trade under a Council contract without first obtaining the relevant Street Trading Consent or Market Consent will invalidate the Council contract and the trader may face legal action for illegal street trading.

Part 17 - Conditions

There are a number of standard conditions listed in Appendix 3 which Consent Holders must adhere to. These conditions are applied to all Consents issued by the Council unless an applicant or Consent Holder specifically applies for one or more of the standard conditions not to apply.

Where an applicant or Consent Holder does not wish a standard condition(s) to apply to their Consent, or wishes to vary one or more of the standard conditions, they should apply in writing to the Licensing Manager. In the case of a person making an application for a Consent, this should be set out in their application.

Any proposed dispensation and/or variation of the standard conditions at the time of application will be included in the yellow notice displayed at the proposed site and on the Council website, and Consultees will be informed of the proposal. The Licensing Manager will have regard to any objections to the proposed dispensation and/or variance, and may grant the Consent with some or all of the dispensations and/or variations requested or without, i.e. with the standard conditions being applied.

Any proposed dispensation and/or variation of the standard conditions after a Consent has been granted will be subject to advertisement at the site of the street trading and consultation as set out above. Any objections will be considered as above, and the Licensing Manager will decide whether to amend the Consent as sought (in whole or in part).

If the proposed dispensation and/or variation of the standard conditions is not granted, the Consent Holder may appeal to the Regulatory Sub-Committee and a hearing will be scheduled. The Regulatory Sub-Committee will consider a report by the Licensing Manager and hear representations by the applicant/Consent Holder and/or any other relevant person.

The Regulatory Sub-Committee may decide to impose conditions as sought by the applicant/Consent Holder or any other conditions they see fit. Any conditions imposed will be proportionate to the circumstances they are intended to address and will ensure that they are:

- Relevant to the applicant/Consent Holder and the (proposed) street trading activity;
- Fairly and reasonably related to the scale and type of (proposed) street trading activity; and
- Reasonable in all other respects.

Conditions will not be imposed if:

- Complying with the condition(s) would mean it is impossible to comply with any statutory requirements.
- They do not relate to the activity of street trading.
- They unduly interfere with the applicant/Consent Holder's right to lawfully run their business as they see fit.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits.

Part 18 - Complaints & Enforcement

The Council's Licensing Section will take the lead role in dealing with complaints from members of the public, Consultees, other Consent Holders, local businesses, Councillors and MPs. The Licensing Section will investigate complaints about unauthorised street and market trading, non-compliance

with condition(s), conduct of Consent Holders etc, and if it appears that there is cause for concern about the Consent Holder's conduct, the Licensing Manager will determine the appropriate action to take. Such action may include the revocation/suspension of the Consent and/or prosecution under the Local Government (Miscellaneous Provisions) Act 1982 or Food Act 1984 as appropriate. Consent Holders should note that if they are prosecuted for other offences in respect of their street trading activity (for instance health and safety offences, obstructing the highway or fraud) this will also be treated as a complaint and the Licensing Manager will determine what action is appropriate in respect of their Consent.

The Licensing Section will liaise and share information with Northumbria Police, Trading Standards, Environmental Health, Planning/Highways Enforcement and other enforcing authorities where appropriate. All investigations will be undertaken on a fair, transparent and consistent basis.

Part 19 - Further information

Should you have any comments in regard to this policy and guidance please send them to the Licensing Section, Development & Public Protection, Gateshead Council, Civic Centre, Regent Street, Gateshead, NE81HH;

Tel: 0191 4334741

E-mail: licensing@gateshead.gov.uk

The Council reserves the right to amend this policy and guidance and its appendices (including fees) from time to time, following proper consultation where appropriate. If you have a hard copy of this document, to ensure that it is current, please contact the Licensing Officer as above, or refer to the Council's website.

Prohibited streets

Central Gateshead

Ann Street

Arthur Street

Bensham Road (between High West Street and West Central Route)

Charles Street

Grahamsley Street

High Street

High West Street

Hopper Place

Hopper Street

Jackson Street

Lambton Street

Nelson Street

Nuns Lane

Regent Street

Regent Terrace and Back Regent Terrace

St Bedes' Drive

Swan Street

Swinburne Place

Swinburne Street

Ellison Walk

Trinity Steps

Walker Terrace

Back Walker Terrace

Warwick Street

West Street

Within 400m of schools.

FEES

Note these fees will be reviewed as part of the annual review of the Council's Fees and Charges

The fee payable for a Consent will depend on the duration of the Consent sought. Street Trading Consent will normally be issued for one of the following periods:

- 1 day £25 per day (1-6 days)
- 1 week £100
- Summer Season (1 May to 31 October) £425
- Winter Season (1 November to 30 April) £425
- 12 months £750

Consents for markets with multiple traders will normally be issued for one of the following periods:

- Daily £25 per stall per day (1-6 market days)
- Up to monthly £100 per stall (7-12 market days)
- Up to weekly £425 per stall (13 – 52 market days)

Block Consent

- Annual fee £1,620

If an application for a Consent is refused, the application fee will be refunded to the applicant less a charge of £50 as a payment towards the cost of processing the refused application. However, if the fee paid for the consent is £50 or less then no refund shall be given.

All fees are set to cover the cost of administration, monitoring and enforcement.

ALL FEES MUST BE RECEIVED IN CLEARED FUNDS PRIOR TO CONSENT BEING ISSUED

STANDARD CONDITIONS

1. Street Trading and markets shall be conducted in such a manner as not to cause:
 - (a) obstruction of the street or danger to persons using it. It should be noted by Consent Holders that the holding of a Street Trading Consent / Market Consent does not preclude the Highway Authority or the Police from taking action to remove any obstructions on the highways.
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
2. Consent Holders are prohibited from setting out their goods or advertising material on the surface of the carriageway or pavement.
3. A Consent Holder shall not street trade within the vicinity of any premises selling articles/goods of a similar nature.
4. Street Trading is restricted to the location indicated on the Consent. Mobile street trading within Consent Streets is restricted to a 1 hour duration, after which the van/cart/barrow or vehicle must be moved a minimum distance of 300 metres before street trading again, return is prohibited within 2 hours.
5. At the end of each street trading period the van/cart/barrow/stall shall be removed from the street trading location within one hour of the end of street trading time showed on the Consent.
6. The Street Trading Consent must be displayed at all times at the van/cart/barrow/etc's point of sale at all times when street trading takes place. The Consent must be produced on demand to a police officer or authorised officer of the Council.
7. The Consent Holder shall notify the Council's Licensing Section in writing within seven days of any changes affecting the Consent.
8. The Consent Holder shall street trade only in goods specified by the Consent.
9. The Consent is personal to the Consent Holder and can only be transferred to another person on approval by the Council.
10. The Consent Holder shall provide sufficient containers as may be necessary for the depositing of litter arising from his trade and ensure that the immediate vicinity of his van, car, barrow etc is kept free from litter at all times during which he is trading. All sites must be left free from litter and waste when trading has ceased.

11. All Street Trading units which are authorised for use in street trading during hours of darkness must be equipped with safe and adequate lighting for such operation.
12. Horns, chimes, or instruments of similar description shall not be sounded –
 - for longer than 12 seconds at a time
 - more than once every 2 minutes
 - more than once when the vehicle is stationary at a selling point
 - except on approach to or at a selling point
 - when in sight of another vehicle which is trading
 - when within 50 metres of schools, hospitals and places of worship
 - more than once every 2 hours in the same length of street
 - before 12:00hrs or after 19:00hrs.

The use of loud speakers, flashing lights or any instruments used to attract customers' attention other than in accordance with the above is not permitted.

13. Consent Holders must not damage in any way, either wilfully or by negligence, any part of the consent street including paved areas, signs, fencing etc.
14. No Street Trading shall be permitted during 18:00 to 06:00 hours.
15. The Consent Holder must maintain Public and Product Liability Insurance for a minimum sum of £5,000,000 for the duration of the Consent.
16. If the Consent Holder street trades from any Council land, he/she shall indemnify the Council from and against all loss, damage, costs, liabilities and claims howsoever arising from its use and occupation of the land.
17. A Consent Holder shall be no closer than 300 metres from another trader or retail shop.
18. Mobile street trading must not take place within 500 metres of any school, Academy or college.
19. Consent Holders must ensure that all employees wear tags/badges bearing their name and must keep a register of all assistants/employees including days/times worked. The register must be provided to a licensing officer on request.
20. Consent holders selling food are required to display their current Food Hygiene Rating at the point of sale.