

Royal Borough of Greenwich **Draft Street Trading Policy**

I. Introduction

Royal Borough of Greenwich is committed to maintaining a vibrant economy for the benefit of those who live, work and conduct business in the borough. Local authorities may regulate street trading in their area if they adopt Part III provisions under the London Local Authorities Act 1990 (the Act). If they adopt these provisions they can apply street trading licensing controls in any area of the borough. This policy recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area. This policy sets out the council's approach to the licensing of street trading. It informs applicants of the parameters in which the council will make decisions and how their needs will be addressed. It also highlights the council's intention to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies. The council aims to provide a clear, consistent service for users. At the same time, it aims to protect the safety of highway users, to prevent nuisance and to regulate the location and number of street traders.

This policy will be reviewed in light of developing practice, guidance and changing legislation as necessary, and in any event every three years. The policy aims to support economic growth and regeneration initiatives to better meet the needs of the residents and businesses in the borough and support the council's vision of working together to make a difference for Greenwich.

The policy enables the council to:

- Take leadership in supporting and promoting economic activity in the Borough;
- Demonstrate transparency and integrity when dealing with street trading matters;
- Ensure that there is consistency when making decisions; providing equal chance of fair trade to all residents and businesses;
- Deliver high quality services by responding to changing needs through constant evolution and innovation; and
- Introduce operating efficiency in carrying out the council's duties

The policy covers the regulation of:

- Markets
- Stalls and Pitches
- Mobile Traders
- Tables and chairs
- Shop fronts
- Street Entertainers and Buskers

2. Background

Street trading has always formed part of life in Greenwich. It provides valuable employment opportunities for local people as well as providing convenience for customers to the borough. Markets and Street Trading can help reinforce the economic strength of the areas in which they are located, increasing footfall and drawing in custom for other retailers. The development of this policy presents an opportunity to encourage small independent businesses and traders and increase employment opportunities, and at the same time maintaining sensible levels of Street Trading and complimenting trading from permanent businesses.

The policy sets out the council's approach and requirements for street trading and provides transparency and consistency of approach. The grant of a licence for street trading does not override the need for licensees to comply with other legal requirements such as planning permission etc. The policy also links directly to three of the Council's priorities. These are:

1. Economic prosperity for all:
2. A strong vibrant and well-run borough:
3. A Cleaner, Greener Greenwich:

3. Legislation

The London Local Authorities Act 1990 ("the Act") (as amended) provides a regime for the licensing of street trading in the London area. The regime applies to London boroughs who are participating councils. It is an offence to carry out street trading in a Licence Street without a licence. Street-trading without the required licence is an offence under section 38 of the Act and carries a maximum fine not exceeding level 3 on the standard scale, which is currently £1000.

Street trading licences are granted pursuant to the provision of the act but if the applicant need to gain any other approvals, those approvals must be sought

separately. The Council is permitted to charge fees and charges under s32 of the London Act in respect of street trading licences and related costs.

Other legislation also impacts on street trading and this includes the Highways Act 1980, and the London Local Authorities Act 2004 which provides for fixed penalty notices.

Some types of trade are legally exempt from the need to obtain a street trading licence, these include;

- A person trading under the authority of a Peddler Certificate granted under the Pedlars Act 1871;
- Trading as a news vendor within a defined area;
- Trade carried out by roundsman e.g. milkman and trading from a private forecourt.

The London Local Authorities Act 1990 sets out the circumstances in which an appeal can be made to the Magistrates Court.

4. Street Categories

Under the Act, streets may be designated as “Licence Street” for street trading purposes. A “street” is defined under the act to include

any road or footway;
any other area, not being within permanently enclosed premises, within 7 metres of any road or footway to which the public obtain access without payment,
any part of such road, footway or area;
any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985.

1. Licence Streets

If a street is designated as a “licence street” then an application can be made by persons over 17 for a licence to trade on that street. To trade without a street trading licence is an offence as noted earlier. Licence streets are designated by the council following a statutory procedure under the Act.

2. Unlicensed Streets

If a street has not been designated, it is an offence to carry out street trading within it. The Local Authority can grant a temporary licence for such trade, and such licences will be subject to the same terms and conditions as those operating within a designated area.

5. Application Process

1. The application form needs to be completed for all applications including renewals. Temporary licences can also be applied for. These forms are also available from the Street Trading team or can be downloaded from the council's website – www.RoyalGreenwich.gov.uk Please read the associated guidance before completing your application. Applications for street trading licences must take into account the council's list of prohibited goods and services in **Appendix I**

2. Applicants must provide evidence of current Third Party Liability Insurance to cover the requirements of the Council. The level of indemnity afforded by the policy should be up to £5 million. A license will not be issued or renewed before presentation of a copy of the insurance certificates.

3. **Market Operator** - A Market Operator selected to provide a market can provide a collated single document that captures the necessary information for all the proposed market traders.

4. **Sites that attract applications from more than one**

Applicant - Multiple street trading licences may be granted to different applicants for the same site provided specific trading days/periods are applied for. At any one time only one Licence Holder will be permitted to trade on a site and in its immediate vicinity.

5. **Mobile Traders** - Some applicants may wish to engage in street trading from a number of locations across the borough of Greenwich rather than from a fixed location. In such cases, applicants must, when submitting the application, clearly identify all of the locations they wish to trade from.

6. **Ice Cream Trading** - Royal Borough of Greenwich does not issue street trading licences in respect of Ice Cream trading unless on a street designated for ice cream trading. "Ice Cream" includes goods that are wholly or mainly ice cream, frozen confectionary or other similar commodities. People who own ice cream vans may trade as "itinerant traders" going from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to that location or any other location in the same street on the same day, provide the street is not exempt. People trading from the traditional stop-me-and-buy-one tricycle or the like are also subject to the same conditions. If you leave the vehicle parked and travel on foot with, for example, a small frozen cabinet, you would still infringe the law. If you are delivering house-to-house or by order by phone or the

internet then you do not infringe the law if you deliver to the door and take payment on the householder's property.

7. Forecourts - A shopkeeper who is selling goods which forms part of the business (of his/her shop) on his private forecourt, and the exposure for sale of those good during the shop opening hours does not need a street trading licence. If however the trade does not form part of the business then a street trading licence will be necessary.

Examples:

- 1. Coffee Shop selling coffee from its own private forecourt, then no licence is needed (unless the shop is closed for business and trade continues from the forecourt)**
- 2. Coffee Shop selling sweet corn from its own private forecourt, then a licence is needed**
- 3. Coffee Shop letting out its private forecourt to a sweet corn seller, the sweet corn seller needs to have a licence**

8. If a shopkeeper wants to place goods for sale outside of his/her shop on the footway (council land), then a street trading licence is required to cover this shop front sale. It is important to note that a number of factors will be taken into consideration when determining such applications including, accessibility of the footway, footfall and the type of goods to be sold. There are basic requirements in terms of the type of product, which either must be a continuation of the business or a separate business completely.

Examples:

- 1. Fruit & Veg shop wanting to sell fruit and veg at its shop front can apply for a licence.**
- 2. Butcher wanting to sell fruit and veg at its shop front won't get a licence**
- 3. Fruit and Veg seller wanting to sell outside a butchers, can apply for a licence (in this case the butcher would have the right to put in a representation if they were not in agreement)**

9. In the case of forecourts, the same principals would apply to any private land, including car parks, if within 7 metres of any road or footway. Where

there is an established right of way over a private forecourt then it is deemed highway.

10. Section 31 of the Highways Act 1980 adds to the Common Law by introducing a rebuttable presumption that, if the public at large have been using a way as of right for 20 years, the way will be deemed to have been dedicated as highway. If the 20 year rule applies, it is for the land owner to provide evidence that they did not intend to dedicate the land as highway – this will usually take the form of overt acts making it clear to users of the highway that there was no intention to dedicate.

11. **Private Land** - If someone trades within 7 metres of any road or footway to which the public can obtain access without payment, then this would also be liable for a street trading licence. In the is likely to be required as will a street trading licence as there is no continuation of business.

12. **Tables and Chairs** - Any table and chair position on the “street”, as defined under Section 4 above, will require a licence.

6. **Renewal Applications**

The application form needs to be completed for all applications including renewals. These forms are also available from the Street Trading team or can be downloaded from the council’s website – www.Greenwich.gov.uk. Please read the associated guidance before completing your application. Any renewal must be made no later than 2 months or earlier than 3 months from the end of the current licence

7 **After Submitting an Application**

Once a valid application has been received the applicant will display a site notice at the proposed site for 28 consecutive days. The Council reserves the right to seek further reasonable information on receipt of an application, and failure to provide can lead to delay / rejection of the application.

It is the responsibility of the applicant to ensure that all other permissions and requirements set out under other legislation (e.g. Planning Permission) is met prior to the application being received. On signing the declaration, the applicant is agreeing this. Any false statement or provision of false information is an offence.

The council will also maintain a register of applications on its website which will be updated regularly.

8 Consultation

Consultation will take place with any appropriate party as deemed appropriate, and through a public notice that must be displayed on application by the applicant. A period of 28 days will be allowed for comments to be received which will then be considered.

The Street Trading Team will consult with the Highways and Planning Teams (except where the trading is for a period of less than 28 days where planning permission is not required) and the Police along with other bodies as appropriate to the application.

9 Making a Decision

The licence will be granted by officers authorised to do so provided that the necessary preconditions / requirements are met. For those applications where it is proposed to refuse the application or revoke the licence, the applicant will be given the opportunity to make representations to the Licensing panel. Such representations should be made within 28 days of being notified of the intention to refuse the licence. Where no representations are made within the notified timescale the council will proceed to make a decision on the application and will notify the applicant of this in due course.

Where the application is to go before the licensing panel, the applicant will be expected to present the case and assist the panel with any questions. To facilitate this, the applicant will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented if they wish, whether or not the person is legally qualified. The Street Trading team will prepare a report for the licensing panel regarding the application. The report will be made available to the applicant at least five days before the date of the meeting together with any relevant hearing procedure.

An application may be refused on statutory grounds and / or criteria as outlined in this policy. A Licence may be revoked on statutory grounds and / or criteria as outlined in this policy.

Royal Borough of Greenwich cannot be held liable for any costs incurred and lost as a result of a refusal to issue a licence.

If there are sustainable objections to the application from the Police, Highways or Planning then the application will be rejected.

10 Conditions

General/ Conditions for all Street Trading Licences

Goods which are not authorised on the street trading licence must not be sold, offered for sale or advertised in the trading area or designated site.

The trading area to which the licence applies is to be used solely by the licence holder and any assistant and is not to be let, hired or loaned or used in any other way by another person.

At all times the name of the trader on the street trading licence must be prominently displayed.

Street trading fees must be paid in advance every month or also may be paid in advance for a six month period in the case of shop forecourts and tables and chairs licences.

Licence holders must notify the Royal Borough of any permanent change of address as soon as it occurs.

Trader's pets and other animals, other than registered assistance dogs, are not allowed at a street trading site.

The licence holder must not trade in food unless they have registered with the Royal Borough Environmental Health Team under the Food Safety Act 1990. The Royal Borough may ask the licence holder to produce evidence of registration before issuing any licence to trade in food.

In the event of an emergency, all goods, displays, tables and chairs must be removed immediately upon the direction of a Royal Borough officer or the police.

Standard conditions will be attached to all licences which will include the holder's responsibility to maintain public safety, prevent nuisance and generally preserve the amenity of the locality. Additional conditions may also be attached which are specific to certain types of street trading/market activities. Failure to comply with conditions may lead to revocation or non-renewal of licence. Persons engaging in street trading without licence or who fail to

comply with the licence conditions will be committing an offence and may be liable to prosecution. Decisions regarding enforcement action will be made in accordance with the council's enforcement policy for regulatory services.

The conditions that will attach to street trading and market licences can be found in the following notes (at the end of this policy);

- Note 1 – General conditions that will normally be attached to street trading licences
- Note 2 – Additional conditions applicable to motor vehicles
- Note 3 – Additional conditions applicable to fixed sites
- Note 4 – Additional conditions applicable to food related activity
- Note 5 – Additional conditions applicable to mobile traders
- Note 6 – Additional conditions applicable to tables and chairs licences
- Note 7 – Additional conditions applicable to shop front licences
- Note 8 – Additional conditions applicable to markets

The Council may change the conditions on a licence, attach extra conditions, or revoke a street trading license if it is in the interests of public health and safety to do so. The Council may review a licence if there have been complaints about the Street trading from that site or if there is a change in the surrounding areas, e.g footfall has increased or if the Council has put in permanent fixtures such as street trading.

If there is any difference between the standard conditions and amended or extra conditions on a licence, the amended or extra conditions will apply. The Council will always confirm the amended or extra conditions in writing.

If a licence holder wishes to amend any of the terms of a licence, s/he must apply in writing to the Council who will always respond in writing.

II Duration of Licences

Street trading licences will normally be issued for one of the following periods.

Stalls / Market (Including mobile units)

- 1 – 7 days
- 1 month
- 3 months
- 6 monthly
- Annually

Shop Front / Tables & Chairs:

- 1 month
- 3 months
- 6 monthly

Any period of less than 6 months shall result in the issuing of a temporary licence in line with Part III, Section 21(1) of the London Local Authorities Act 1990 as amended. Any street trading that takes place outside of a designated area, and therefore on an unlicensed street, shall only receive a temporary licence of up to 6 months as per 4.2 above.

12 Enforcement

The council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licencing issues. The decision to use enforcement action will be taken on a case by case basis, and, to ensure consistency of approach, in accordance with this and any more specific policies which may be applicable. The action taken, which may be immediate, will be proportionate to the seriousness and nature of the non-compliance. Licences can be revoked or varied. Once a licence has been granted, it is the responsibility of the licence holder to ensure that the requirements of the licence are managed in accordance with the conditions of the permission and guidelines. The licence holder is wholly responsible to ensure that any items are located at the approved location and must ensure it is inspected and maintained on a regular basis. This must be conveyed to staff that are involved in the business.

All complaints of un-licensed street trading will be investigated. Enforcement action in relation to un-licensed street trading will be undertaken where appropriate by the Street Trading Team.

Officers will regularly inspect Street Trading areas to ensure compliance with the Licence terms and conditions and enforcement action will be taken if appropriate.

The council may take the following types of enforcement action (in no particular order):

- Verbal/written warnings – e.g. a contravention and/or where officer contact has not resolved the contravention usually relating to a first offence (verbal warning), second offence/major obstruction (written warning);
- Simple cautions by authorised officers
- Licence review or application for licence revocation e.g. when fees go unpaid, a breach of licence condition;
- Fixed Penalty Notices;
- Prosecution.

Any decision to prosecute will be made in accordance with the council enforcement policy and the Code for Crown Prosecutors. Additionally, any receptacle as defined under the London Local Authorities Act 1990, Section 21(1) as amended, can be removed and stored by the Local Authority if in breach of street trading, at a cost to be borne by the licence holder. A receipt will be given, and the cost of storage recovered from the licence holder.

13 Complaints and Appeals

If a complaint relates to the conduct of an officer, rather than the actual street trading licence, the complaint will be dealt with through Royal Borough of Greenwich complaints procedure.

14 Fees and Charges

The Council has powers to charge fees and other charges under s32 of the London Act. Fees will be set and reviewed annually in line with inflation or on a full cost recovery basis. Fees must be paid in advance. There is right to a refund of a fee if the application to renew is refused. Under the Act, if the licence is revoked a refund can be made for part of the fee paid for grant or renewal. If the licence is revoked other than under the Act or is surrendered a refund of whole or part of any fee can be paid. Applicants for charity/community markets may apply to the council for a reduction or waiver of market licence fees.

All applications (renewal, new and variations) are subject to an administration fee

15 Partnership working

This policy relies on strong partnership working. We aim to work with the following partners in delivering the policy:

- Retailers
- The Police
- RBG Town Centre Business Improvement District (BID)
- Employment groups both locally and regionally
- Community Champions
- Resident Groups
- Traders Associations
- Local business and community groups
- Other relevant Council Departments

16 The Storing and Disclosure of Information

Information collected or recorded as part of the council's street trading activities will be securely retained in a paper and/or electronic format for a period defined by legislation or required for future reference by the service. This information will include decisions taken about the choice of enforcement options.

The identity of a person providing the council with information about other people committing crime, will remain confidential unless prior agreement by the person is obtained, or its disclosure is authorised by law or by a Court Order.

Personal data held manually or as computer records will be handled in accordance with the Data Protection Act 2018 (DPA). This information will be used in accordance with the council's DPA registration. Exemptions to this include where information is disclosed to other agencies or used for another reason for the purposes of detecting or preventing crime. This will include the sharing of information between council services and with the police and other enforcement agencies. Sharing of information relating to the Crime and Disorder Act will be undertaken in accordance with the appropriate information sharing protocol.

Right of access to information held by the council will be given on request, in accordance with the Freedom of Information Act 2000 and Environmental Information Regulations 2004 unless the information is already publicly available..

17 Monitoring and Review

This policy will be reviewed in light of developing practice, guidance and changing legislation as necessary and in any event every three years. At the

time of review consultation will take place with appropriate parties.

Monitoring the effectiveness of the policy will include measures such as:

- Number of applications received and considered
- Footfall in licensed streets being maintained or improved
- Markets and stalls continuously improving (e.g. appearance, quality of goods on offer, ability to meet local need or particular demand)
- Reduction in levels of complaints

The Street Trading Team will be responsible for monitoring this policy.

18 Amendments to this Policy

As may be necessary, for instance with the issuing of new guidance by Government, amendments will be made to this street trading policy. Should such amendments be minor, for example change of complaints process, or to reflect updated guidance etc., such amendments will be attached through an amendment document rather than the re-issuing of the street trading Policy as a whole, until the next full review takes place. Any matters of legal doubt will be assessed by the Councils Legal Section,

19 Appendices and Notes

Appendix I – List of Prohibited Goods

Notes

- Note 1 – General conditions that will normally be attached to street trading licences
- Note 2 – Additional conditions applicable to motor vehicles
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