



STREET TRADING POLICY

1 INTRODUCTION SCOPE AND PURPOSE

Local Authorities have a legal discretion to regulate street trading in their area. If they exercise their discretion they can apply controls across the whole of their administrative boundary or just parts of it. In the early 1980's Bristol City Council agreed to regulate street trading in certain parts of the city, predominantly in the central area. Where controls are in place streets are designated as either '**prohibited**', '**licence**' or '**consent**' streets for the purposes of street trading. A definition of the different classifications is set out below:-

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.

Licence Streets

If a street is designated as a "**licence street**" then application can be made by persons over 17 for a licence to trade in the articles described in the application on certain days on that street. For so long as the designation of licence street remains in place for that particular street or part of street the council is duty bound to grant or renew a properly made application unless one or more of the statutory grounds for refusal applies (e.g. among other grounds, that there is not enough room or that

there are already enough traders in that street). Street trading in a licence street without a licence is a criminal offence. Applications for street trading licences will continue to be considered on a case by case basis.

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.

Bristol City Council revised its street trading policy in 2009. A key feature was the extension of street trading controls across the whole of the district. The vast majority of streets are now designated as ‘consent streets’. A number of ‘licence streets’ became ‘consent streets’, and some streets became prohibited, for the purposes of street trading.

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 Bristol’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 a number of objectives which are set out below:-

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. Where any proposed trading is within 53 metres of a school entrance the council will seek the views of the school.

Commercial Need

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

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.

Prevention of Public Nuisance

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

Sustainability and Product Type

The applicant should set out measures to reduce the environmental impact of the proposed activity. Typically this could include the use of recyclable products and energy efficient processes. Consideration will also be given to the type of products sold and the suitability of the products at the location requested.

In addition to these policy objectives the council will also consider:

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 Bristol City Council prior to any consent or licence 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 Safety Act 1990

- (b) Food and Hygiene (England) Regulations 2013 as amended
- (c) Health and Safety at Work etc Act 1974 and any regulations made under this Act.
- (d) Environmental Protection Act 1990
- (e) Licensing Act 2003

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. A basic disclosure will be required every three years once an application is granted.
- (b) persistent refusal or neglect in paying fees due to the council for a street trading consent or licence 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 or licence. 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.

2 SUBMITTING AN APPLICATION

Application forms are available on the city council website (www.bristol.gov.uk/streettrading). The following will be required to be submitted with the application:-

- (a) A completed and signed application form.
- (b) The application fee.
- (c) Where the proposed activity will take place at a fixed position a map of at least 1:1250 scale should be submitted clearly identifying the proposed location by marking the site boundary

with a red line.

- (d) Three colour photographs of the trading unit illustrating different elevations of the unit.
- (e) A copy of the certificate of insurance covering third party and public liability risks.
- (f) Evidence of permission from the landowner

3 WHO WILL THE COUNCIL CONSULT?

Before any consent is granted the council will normally consult with the following agencies or persons, as well as advertising the application online. A period of twenty-one days will be allowed for comments to be received.¹

- (a) Avon & Somerset Constabulary
- (b) Area Planning (Bristol City Council)
- (c) Highways Department (Bristol City Council)
- (d) Noise Control (Bristol City Council)
- (e) Food Safety (Bristol City Council)
- (f) Local residents groups/local amenity groups
- (g) Ward Councillors

The applicant shall also be required to display a notice at the site for a period of 21 days.

4. HOW THE COUNCIL MAKES ITS DECISION

The Licensing Manager or Licensing Team Leader may determine all applications for street trading consents under his delegated powers. Where he intends to refuse an application or put an application before Committee it will be at the discretion of the Licensing Manager or Licensing Team Leader in consultation with the Chair of the Public Safety and Protection Committee.²

Where the application is referred to Committee the applicant will be afforded the opportunity to make representations. Such representations would be made within 28 days of the date given to the applicant as the date by which s/he could notify their wish to make representations.

¹ 28/02/17 Public Safety and Protection Committee agreed revised consultation process

² 28/02/17 Public Safety and Protection Committee agreed revised decision making process

Where no representations are forthcoming within the notified timescales the Licensing Manager could proceed to make a decision under full-delegated powers.³

Where the application is to go before the committee, the applicant, who will be expected to attend, will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented by a solicitor, or supported by a colleague and translation provision will be provided if requested. The Licensing manager will prepare a report for the committee regarding the application. The report will be made available to the applicant at least five days before the date of the meeting. When considering the application the committee will ensure that all persons receive a fair hearing.

Local members shall be offered up to 14 days to request that an application be brought before the Committee for determination when the Licensing Manager is minded to approve but the Members consider that there are local concerns about the application.⁴

5. DURATION OF PERMISSIONS AND FEES

Street trading consents and licences will normally be issued for one of the following periods:

- (a) Daily
- (b) Weekly
- (c) Monthly
- (d) Quarterly

Permissions for more than one days duration will normally be issued for a minimum of six days per week, unless an alternative arrangement has been agreed with the council. All fees must be paid in full in advance. In the case of the renewal of a quarterly permission payments may be made on a quarterly basis on or before the following dates:

³ 02/02/10 Public Safety and Protection Committee agreed revised decision making process.

⁴ 02/02/10 Public Safety and Protection Committee agreed revised decision making process.

1st Jan, 1st April, 1st July, 1st September

Any permission granted part way through the year will be calculated on the number of months left in the quarter until the renewal date is due. If a permission is revoked or surrendered the refund will be based on the number of months remaining on the permission, less an administration charge. Failure to maintain payments may result in the consent or licence not being renewed. Consent and licence fees are set by the service director in consultation with the relevant executive member(s), chair of the relevant scrutiny committee and chair of the relevant regulatory committee in accordance with the provisions of the council's general scheme of delegations.

6. CONDITIONS AND ENFORCEMENT

Standard conditions (attached at Appendix A) will usually be attached to every consent detailing the holder's responsibility to maintain public safety, prevent nuisance and generally preserve the amenity of the locality. Additional conditions may also be attached limiting the days and the hours when street trading is permitted, the goods which may be sold, the size of the trading pitch or any other relevant matter. Failure to comply with conditions may lead to revocation or non-renewal of a permission. Persons engaging in street trading (as defined in the Act) without a consent or licence or who fail to comply with the conditions will be liable to prosecution under paragraph 10 of Schedule 4 of the Act. Decisions regarding enforcement action will be made in accordance with the Licensing Enforcement policy and the Enforcement Concordat adopted by the council.

7. DEFINITION OF STREET TRADING

Street Trading is defined in paragraph 1 of Schedule 4 of the Act as:

“the selling or exposing or offering for sale of any article (including a living thing) in a street”.

The Act defines the term “street” as including:

“any road, footway, beach or other area to which the public have access without payment”; and a service area as defined in section 329 of the

Highways Act 1980”.

Any part of a street is a “street” for the purposes of the Act.

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

- (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.

APPENDIX A**GENERAL CONDITIONS THAT WILL NORMALLY BE ATTACHED TO
STREET TRADING CONSENTS**

1. The consent holder shall only trade on the days and between the times stated on the consent.
2. The consent holder shall only trade in the description of articles stated on the consent.
3. The consent holder shall not carry on business on any street so as to cause obstruction or cause danger to people using the street.
4. The consent holder shall not carry on business from any vehicle or erect or place any stall or other structure in any street except in the area mentioned in the consent.
5. The consent holder shall not sell, offer or expose for sale any goods or articles other than those described within the principle terms of this consent.
6. The consent holder shall on all occasions, when carrying on business, be strictly sober, and conduct him/herself in a proper, civil and courteous manner, and he/she shall not carry on his/her business in such a way as to cause annoyance to the occupier or person in charge of any shop, business, resident, or any person using the street.
7. The consent holder shall at all times conduct his/her business and position any vehicle used by him/her in connection with his/her business in such a manner that no danger is likely to arise to persons trading or intending to trade.
8. The consent holder shall at all times conduct his/her business in a clean and tidy manner.
9. The consent holder shall ensure that a copy of the consent is clearly visible to the public.
10. The consent holder shall not permit any person to assist him/her in his/her trading unless the details of that person have been supplied to the Licensing Authority. Any such person shall be issued with an identification badge by the Licensing Authority.

11. If, during the currency of any consent any material change occurs in the facts of which particulars and information were contained in, or given along with, the application for the consent, the holder of the consent shall report such changes to the Licensing Authority within 72 hours of that change.
12. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any police officer or authorised officer of the Council.
13. Neither the consent holder nor any assistant shall display merchandise which is likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation.
14. A consent holder selling food shall at all times comply with any food hygiene regulations in force at that time, and when required by the Licensing Authority, shall produce appropriate food handling certificates.
15. The city council reserves the right to alter or amend these conditions at any time.
16. The subletting of any consent is prohibited.
17. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and its subsequent removal from the site. The removal and disposal must be to the satisfaction of the council.
18. The consent holder shall not cause any nuisance or annoyance to persons using the street.
19. The consent holder, if intending to sell food from a stationery vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force within the provisions of the Food Safety Act 1990, and any subsequent changes to those regulations.

N.B This consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, obstruction, etc

Current Document			
Version	1.2	Date	11/11
Officer	Emma Lake		
Version History			
Date	Version	Author/Editor	Comments
02/02/10	1.2	Emma Lake	02/02/10 Public Safety and Protection Committee amended decision making process for applications.