

Agenda Item No: 6 **Report No:** 44/14

Report Title: Street Trading in Lewes District

Report to: Licensing Committee **Date:** 24 February 2014

Lead Councillor: Cllr Nicholson

Ward(s) Affected: All

Report By: Director of Service Delivery

Contact Officer -

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Purpose of Report:

To seek the Committee's approval to a new Policy for Street Trading across the whole of the Lewes District together with application processes and conditions applicable to traders.

Officer's Recommendations:

1. That the Committee agrees the Lewes Street Trading Policy in draft and authorises Officers to formally consult on this.
2. That the Committee agrees the draft Street Trading application process and conditions related to the above Policy and authorises Officers to formally consult on these.
3. That a further report is brought to a future meeting of this Committee to consider the results of formal consultation and approve a Policy for the Lewes District, application processes and conditions and a date for implementation.
4. That delegated powers continue to remain with the Principal Environmental Health Officer to determine non contentious properly made applications.

1 Information

- 1.1** The Committee has twice previously considered the need for extending Street Trading controls on the 30 August and 22 October 2013.

- 1.2** The Committee resolved in August “that as from (a date to be determined) all streets within the District of Lewes shall be designated as Consent Streets pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982”
- 1.3** In October, following a consultation period, which brought forward no adverse comment or concern, Officers were instructed to take the necessary steps to designate all Lewes District streets as “Consent” streets. This included a review of existing practices as well as those of other authorities, the drafting of a new Policy framework and drawing up operating conditions and application processes.
- 1.4** A Policy has been drafted for Committee discussion, amendment and approval for consultation along with application processes and conditions. These are attached at Appendix 1(the Policy), 2 (the Application process) and 3 (the Conditions available to be applied).
- 1.5** Following Committee agreement to 1.4 above a formal period of consultation will be undertaken with statutory partners and interested parties including:
- Sussex Police
 - Sussex Fire and Rescue Service
 - The Highways Authority, Children’s Safeguarding Team, Public Health Network and Trading Standards Service at East Sussex County Council
 - Various section of Lewes District Council including Planning, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Clean/Green Team, Enterprise and Regeneration Team
 - Relevant Ward Councillor of Lewes District Council
 - Town and Parish Councils
 - Local business groups or their representatives
 - Existing traders

2.0 Financial Appraisal

- 2.1** There will be an initial outlay for setting up the Consent system; then ongoing costs for granting Consents to Traders and enforcing against unlicensed Traders. The initial costs will include a sum in the region of £500 for the publication of the requisite Notices in the Sussex Express. The fee that is charged to each Trader will cover the costs of administration and monitoring, but not the costs of enforcement. Recent case law has established that License fees, in general, should not include any element of the costs of enforcement against unlicensed Traders.
- 2.2** It is not anticipated that existing fees will need to increase beyond inflationary rises as new Policy and Application processes will be managed within existing resources.

3.0 Legal Implications

- 3.1** The policy has been drafted to reflect current legislative requirements. All applications for consents under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, have to be made and determined in accordance with the council’s street trading policy.

4.0 Sustainability Implications

- 4.1** I have completed the Sustainability Implications Questionnaire and there are no significant effects as a result of these recommendations

5 Equality Screening

- 5.1** An Equality Impact Assessment screening exercise has been undertaken and all due regard has been given to equalities issues. This report is not found to have a negative impact upon equalities. Form AF29199.

6 Risk Management Implications

- 6.1** Financial Risk: The financial risk has been covered earlier in the report.
- 6.2** I have completed a risk assessment. The following risks will arise if the recommendations are not implemented, and I propose to mitigate these risks in the following ways. The committee already passed a resolution to designate all streets in Lewes district as Consent Streets and in order to implement this fully and effectively it is necessary to have a robust policy in place. No new risks will arise if the recommendations are implemented.
- 6.2** Reputation Risk: It is important that the Council is seen to consider the regulation of Street Traders in an open and transparent process. The Council has a duty to protect residents going about their daily activities in the locality and to promote the economic wellbeing of existing businesses in Lewes District. It is paramount that the Council is seen to be addressing the issue in order to retain a good reputation with the public and businesses. Failure to consider the impacts of Street Trading upon the community appropriately may adversely affect the reputation of the Council. The Policy and associated conditions seek to balance the rights and responsibilities of itinerant as well as permanent Traders with those of residents.
- 6.3** Health and Safety: Street Traders may create an obstruction to both pedestrian and vehicular traffic. Further, some activities, such as the use of LPG and generators, may present risks to the public. Allowing Street Trading to be unregulated may lead to significant disruption and puts pedestrians and drivers at risk of injury.

7.0 Background Papers

- 7.1** Previous committee reports dated 30 August and 22 October 2013 –
<http://cmis.lewes.gov.uk/CmisWebPublic/CommitteeDetails.aspx?committeeID=237>.

8 Appendices

- 8.1** These are:

Appendix 1 - Lewes draft Street Trading Policy.
Appendix 2 - Lewes draft Street Trading Consent application and fees processes.
Appendix 3 - Lewes draft Consent conditions and associated guidance.