

Agenda Item No: 6 **Report No:** 56/14
Report Title: Street Trading in Lewes District
Report to: Licensing Committee **Date:** 16 April 2014
Lead Councillor: Cllr Nicholson
Ward(s) Affected: All
Report By: Director of Service Delivery
Contact Officer -

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Purpose of Report:

1. To review consultation comments on and to seek approval of a new Policy for Street Trading together with application processes and conditions for the Lewes District.

Officer's Recommendations:

1. That the committee consider consultation comments received and determine whether the Policy, Application processes and Conditions require amendment.
2. That the committee agree the amendments required and confirm their agreement to the revised Policy, processes and conditions.
3. That the committee agree an implementation date for the new Policy, processes and conditions.
4. That revised fees are agreed for variations and annual
5. That the eligibility for waiving fees for Consents is agreed
6. That delegated powers continue to remain with the Principal Environmental Health Officer to determine non contentious properly made applications.
7. That the responsibility to waive fees in respect of private and community group trading is delegated to the Principal Environmental Health Officer in consultation with the Cabinet Member for the Environment.
8. That new fees are introduced for a Consent variation at £10 and for an annual Consent at £700.

9. That a review be undertaken after twelve months and a further report be made to the Licencing Committee.
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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, application processes and conditions were drafted and considered by the Committee on 24 February 2104. These were agreed for consultation which has now taken place.
- 1.5** Consultation has been undertaken with statutory partners and interested parties including:
- Sussex Police
 - East 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, Legal Services, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Clean/Green Team, The Equalities Officer, Enterprise and Regeneration Team
 - Relevant Ward Councillor of Lewes District Council
 - Town and Parish Councils
 - Local business groups or their representatives through the Economic Regeneration team
 - Existing street traders known to the Council
- 1.6** The comments received are included for Members consideration in two ways.
- Firstly comments have been added to the policy, application processes and conditions documents (see appendices 1, 2 and 3) in the appropriate places and their presence highlighted by the use different font from the bulk of the text,

- Secondly, comments received have been summarized in a table (appendix4). Some Officer comments have been included for members to consider. In addition the full text of comments received from Community Groups and Individual is included (appendix 5).

Members will wish to review both the revised draft documents, the table and the full comments to determine any amendments they wish to accept.

2.0 Implementation

- 2.1** A date needs to be agreed for the commencement of the Street Trading Consent Process. The date suggested is the 1st May 2014

3.0 Fees

- 3.1** Much of the comment received relates to the fees to be levied. Some suggestions have been made by consultees for changes to the fee structure and level of fees. These are summarised below:

- That private or community group sale of surplus produce or home made goods should have fees waived.
- That traders with an annual turnover less than a sum to be agreed or in a location for which there is no shop within an agreed distance be exempt fees.
- Delegate powers to Parish and Town Councils to agree a fee waiver.
- That a special case be made for primary producers, (“fresh from the ground”) because of the particular economics that apply to this sector.
- That there is a strong case to encourage start-up businesses and young entrepreneurs to ‘have a go’ with initially, low overheads. (Where will bigger businesses come from otherwise?) A figure of £12 has been suggested.
- That the fees currently imposed are, unreasonably, at the very top of the scale in Sussex with nothing being provided in return. Pitch fees to be lower in view of the economic situation.
- Street trading Consent holders should receive more value for money e.g. free parking, free stall, free litter and refuse removal
- To encourage local producers and maybe also young and start-up enterprises, with perhaps a one-off registration fee; or a fee-waiver for the less productive six months of the year; or a reduced weekly fee; encouraging the sale of, and reflecting the importance of, fresh, locally grown vegetables.
- During winter months Oct- March can a pay as you attend arrangement be put in place (for the Lewes precinct) whereby traders only pay if they attend also during winter months can the fee be reduced to £25/day

The Policy driving this new Consent process seeks to balance the needs of both the fixed and transient traders. Whilst the request from Street traders is for reduced or no fees a view has been expressed in the consultation that “ for those traders who have fixed overheads, permanent staff and soaring business rates it can be more than frustrating to tolerate 5 days of meagre high Street pickings. Then on Saturday, (the only day the town has a reasonable throng of

shoppers,) to witness swathes of customers drawn away from the shops by bargain market stalls who have no administrative costs.”

To assist members form their view on the issues of fees the following officer views are offered:

- The option of a discretionary fee waiver for private householder and community group sales as described in appendix 2 and include in recommendation 7 of this report.
- The use of turnover, distances from nearby shops and the delegation of powers to Town or Parish Council are considered too difficult and unwieldy to deliver in practice.
- The case for making exceptions or reductions for new business start ups and primary local and sustainable producers is sensible. This could be accommodated for new businesses by introducing a £12 flat daily fee for a limited 6 month period on the recommendation of the Property Regeneration and Enterprise Team. For local sustainable producers a new 50% of annual fee could be introduced on a case by case basis with the support and agreement of the Sustainability Officer.
- Extra benefits suggested for traders may be possible in respect of fixed sites in the towns. It should be remembered that traders will already benefit from the Councils street cleansing activity as well as other services that promote and maintain the standards of the local environment. To bring in additional street cleaning and free car parking will need referral to the appropriate Cabinet Member.
- Officers will examine whether it is possible to pilot a pay as you attend arrangement for the Lewes precinct
- New fees are considered appropriate for the variation of a Consent – a level of £10 is suggested and for an annual fee – a level of £700 is suggested.
- It is not considered necessary to reduce fees in the winter months – there is now the option to carry forward used days
- The comparison of fees with nearby Authorities shows Lewes charges to be very comparable and not excessive. The set fees are balanced and fair and in line with the Policy aims.

4.0 Financial Appraisal

- 4.1** 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.

4.2 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.

5.0 Sustainability Implications

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

6.0 Equality Screening

6.1 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. The equalities Officer has been included in the consultation for this report.

7.0 Risk Management Implications

7.1 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, No new risks will arise if the recommendations are implemented.

7.2 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.

7.3 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.

8.0 Background Papers

8.1 Previous committee reports dated 30 August, 22 October 2013 and 24 February 2014 February

9.0 Appendices

9.1 These are:

- Appendix 1 - Lewes Street Trading Policy.

- Appendix 2 - Lewes Street Trading Consent application and fees processes.
- Appendix 3 - Lewes Consent conditions and associated guidance.
- Appendix 4 -Table of Consultation Comments
- Appendix 5 -Full text from Community consultees