

Agenda Item No:	12	
Committee:	Council	
Date:	21 May 2015	
Report Title:	Street Trading Policy	

1 Purpose / Summary

- To seek Councils agreement to the Street Trading Policy.

2 Key issues

- In some areas, Street Trading has been taking place in the district that has been seen to be a nuisance by the local community and members.
- When working to address these concerns using current available powers, the enforcement process has not been fit for purpose and traders have managed to continue to trade.
- In response to this officers were tasked to explore if other discretionary powers could be adopted to enable effective enforcement to take place where necessary.
- Adoption of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 and the implementation of a Street Trading Policy enables this to happen.
- The development involved consultation with the community and members
- The policy (see appendix A, page 4) details a range of exemptions for example:
 - Fetes, carnivals or similar community based and run events, for example Christmas lights switch-on events
 - Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity or political/educational organisation.
- Licensing Committee met on 30 June 2014 to discuss proposals for a Street Trading Policy. Committee agreed to consult Town and Parish Councils on the draft Street Trading Policy. Particularly Licensing committee wanted to get views from Town and Parish Councils on locations for the policy
- Licensing Committee met on 14 October 2014 to review Town and Parish Council responses. Following this feedback the committee felt that in terms of flexibility in the policy use and for consistency, the policy should be applied to the whole district rather than parts of it. However in doing so a review should be undertaken after 1 year of its implementation to look at the practicalities of the policy in operation.
- Committee decided that a Street Trading Policy for the Fenland District would go to public consultation for a period of 12 weeks.
- Consultation took place between 12 December 2014 and 6 March 2015. No consultation responses were received.
- Licensing Committee met on 16 March 2015 and agreed that the draft policy be recommended Council.

- The fee for an application to trade is based on a full cost recovery basis i.e the Council is not allowed to make a profit but can recover the cost of processing the application.
- In accordance with the Council's constitution the fee setting can be delegated to the Chief Financial Officer in consultation with the appropriate Corporate Director and Finance Portfolio Holder to authorise.

3 Recommendations

- Council is recommended to:
 - Adopt Schedule 4, Local Government (Miscellaneous Provisions) Act 1982
 - Adopt the proposed Street Trading Policy for the Fenland District and agree an implementation date of 13 July 2015.

Wards Affected	All
Forward Plan Reference	Not applicable
Portfolio Holder(s)	
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Background Paper(s)	None

4 Introduction

- 4.1 Local Authorities may regulate street trading in their area when they have adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. A Local Authority may then exercise their discretion by applying controls across the whole of their administrative boundary or just parts of it.
- 4.2 The Street Trading Policy is intended to create a street trading environment which is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of the environment.
- 4.3 The policy is intended to provide a framework for the Council's approach to the licensing of street trading throughout the district.
- 4.4 The policy aims to regulate the location and number of street traders, with a view to prevent obstruction of the public highway by regulating Street Trading activities.
- 4.5 Street trading is defined as the selling, exposing or offering for sale of any article in the street. This includes food items, vehicles or other things such as household items.
- 4.6 Named streets within the district may be designated as 'Consent Streets'. This means that any person who wishes to sell items in a street must first obtain a Street Trading Consent from the Council. To trade without consent would be a criminal offence.
- 4.7 The policy includes legally exempt activities however it also takes into consideration activities that are non-commercial, community and charitable events.

5 Background

- 5.1 In some areas, Street Trading has been taking place in the district that has been seen to be a nuisance by the local community and members.
- 5.2 When working to address these concerns using current available powers, the enforcement process has not been fit for purpose and traders have managed to continue to trade.
- 5.3 In response to this officers were tasked to explore if other discretionary powers could be adopted to enable effective enforcement to take place where necessary.
- 5.4 Adoption of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 and the implementation of a Street Trading Policy enables this to happen.
- 5.5 The development involved consultation with the community and members
- 5.6 Licensing Committee met on 16 March 2015 and it was agreed that the policy be recommended to Council for adoption.
- 5.7 A copy of the Street Trading Policy and conditions is provided in Appendix A of this report.
- 5.8 Appendix B to this report includes all the streets within the District that the policy will cover.

6 Legal Implications

- 6.1 There is no legal requirement for a district council to set any policy on Street Trading. However, authorities may if they wish to decide to set policies in order to guide applicants and assist in consistent decision making.
- 6.2 The policy has been drafted to reflect current legislative requirements. All applications for consents under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4,

would have to be made and determined in accordance with the council's Street Trading Policy.

- 6.3 Failure to reflect the requirements of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, in a policy for street trading could result in the council not complying with the legislation. Having a clear policy helps to ensure that decisions comply with the legislation and are made fairly and consistently
- 6.4 In accordance with the Council's constitution the fee setting can be delegated to the Chief Financial Officer to authorise.