

Streets and Neighbourhoods Scrutiny Board (4)
Cabinet Member (Community Safety and Equalities)
Council

27 February 2013
21 March 2013
25 June 2013

Name of Cabinet Member:

Cabinet Member (Community Safety & Equalities) – Councillor Townshend

Director Approving Submission of the report:

Director of Community Services

Ward(s) affected:

All

Title:

Outcome of Consultation on Coventry City Council's Revised Street Trading Consent Policy

Is this a key decision?

No

Executive Summary:

To inform the Cabinet Member of the outcome of the consultation carried out on Coventry City Council's revised Street Trading Consent Policy. Specifically, the consultation sought views on proposed changes to existing terms and conditions, including the fee structure.

Recommendations:

The Streets and Neighbourhoods Scrutiny Board (4) are recommended to consider the consultation responses and forward any recommendations to the Cabinet Member (Community Safety and Equalities).

Cabinet Member is asked to

- (1) Consider any recommendations made by the Streets and Neighbourhoods Scrutiny Board (4)

- (2) Consider the responses received to the consultation (as summarised in Appendix B) and the Equality Assessment (Appendix C) relating to the changes.
- (3) To support the revised Street Trading Consent Policy (option 1).
- (4) Recommend that Full Council :
 - a) Approve the revised Street Trading Consent Policy
 - b) Delegate authority to the Assistant Director (Public Safety and Housing) in consultation with the Cabinet Member (Community Safety and Equalities) to make minor amendments to the Street Trading Consent Terms and Conditions, to approve fee waivers in appropriate cases and to review the fee structure annually and if necessary adjust the fee levels in line with inflation and/or so as to avoid any significant income deficit/surplus.

List of Appendices included:

Appendix A	Proposed Street Trading Consent Policy
Appendix B	Summary of Consultation Responses
Appendix C	Equality assessment

Other useful papers:

Local Government (Miscellaneous Provisions) Act 1982

<http://www.legislation.gov.uk/ukpga/1982/30/contents>

Has it been or will it be considered by Scrutiny?

Yes

Scrutiny Board 4, 27th February 2013

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes, 25th June 2013

Report title: Outcome of Consultation on Coventry City Councils Revised Street Trading Consent Policy

1. Context (or background)

- 1.1 The extension of street trading controls across the City was approved by Full Council on 21st February 2012 . From 1st April 2012 any traders, including mobile traders, must hold a street trading consent.
- 1.2 The Street Trading Policy has been successful in meeting its initial aims, in particular, dealing with nuisance car sales. However, following the first 12 months of implementation, the policy has been reviewed in response to comments from local street traders and officer's experiences in administering and implementing the policy.
- 1.3 Some of the issues identified included;
- traders struggling to meet the charges for consent;
 - inconsistency between consent requirements for city centre traders compared to those outside the city centre;
 - traders on private land having to pay two charges – one to the landlord and one to the council.
- 1.4 The fees for consent were based on the forecast full cost of administering the scheme. Twelve months street trading consent (*outside city centre*) was set at £2,000. In the first year, this was reduced by 50% for those street traders who were already operating prior to 1st April 2012.
- 1.5 The legal definition of "street" includes:
- (a) any road, footway, beach or other area to which the public have access without payment; and
 - (b) a service area as defined in section 329 of the Highways Act 1980;
- 1.6 This means that Street Traders operating on private land but to which the public have access (e.g. retail forecourts, pub car parks, shopping centre car parks, open land adjacent to highways etc.) are also caught by the consent requirements which results in them incurring significant costs to trade.
- 1.7 It also became necessary to review the fee structure due to the Court's ruling in the case of *Hemming v Westminster City Council* (16/05/12). This case established that if a licensing regime is subject to the 'Provision of Services Regulations 2009', which street trading is, then any fees charged can only reflect the actual costs to the authority of administering the licensing regime itself and cannot reflect any costs for taking enforcement action against unauthorised traders operating without consent. The case also confirmed that fees should be regularly reviewed and that the authority was not allowed to create an artificial profit from fees that was out of proportion to the costs of administering the licensing regime. This case is being appealed by Westminster but is currently good law.

1.8 What are the proposed changes?

- Annual consent fee to be reduced from £2000 to £500.
- The following street traders will be given "deemed consent" and will no longer have to pay any fee :
 - i. Traders on private land (with owner's permission).
 - ii. Peripatetic traders (such as ice cream vans), who keep moving and do not trade within 50m of a school.
 - iii. Street trading on ALL Council owned land where permission has been obtained (currently only applies to City Centre but would in future apply to public parks, etc).
 - iv. Traders at charitable and recognised community events, each event lasting no more than 48 hours in any 4 week period (currently has no time constraints).
- The Council may temporarily suspend above deemed consents (in whole or part) for specific time periods and localities. This is in order to ensure effective management of street trading activity in the vicinity of *high profile or large scale events*.
- The ability of other existing traders to serve the needs of the area will no longer be a consideration in assessing applications – *This is consistent with other trading activities in the City*.
- The Council will no longer require Criminal Records Bureau checks for certain applications -*This is consistent with other trading activities in the City*.
- The Council will no longer require food traders to be in possession of a current food hygiene training certificate in assessing applications -*This is unnecessary duplication, being already enforced by other regulations*.

1.9 A public consultation on the proposed changes was carried out from 14th December 2012 to 14th February 2013. To date, more than 40 responses have been received, mostly from current street traders, which represents around 65% of the total.

1.10 Feedback from the consultation has generally been positive with overwhelming consensus on the proposed changes to the fee structure, including deemed consent arrangements.

2. Options considered and recommended proposal

2.1 Following the responses received through the consultation, a number of options have been reviewed by Officers, as detailed below.

2.2 Option 1 is recommended (the Council adopts the revised Policy without further amendment).

2.3 Option 1: Adopt revised Street Trading Consent Policy as outlined in para 1.8

The consultation process has been overwhelmingly supportive of the proposed changes to terms, conditions and fees.

2.4 Option 2: Adopt revised Street Trading Consent Policy with the following amendments –

- **Remove the Council's right to temporarily suspend deemed consents (in whole or part) by prior notice for specific time periods and localities.**

A number of responses have been received against this specific proposal.

The need to be able to effectively manage street trading and similar transient activity during limited high profile public events is considered necessary. The decision to invoke such a power would be made following consultation with the Cabinet Member. It is anticipated that this would be entirely exceptional and limited.

- **reintroduction of a clause assessing adequacy of existing trade outlets to meet area needs(i.e. a saturation policy).**

One response comment refers to mobile (peripatetic) traders regularly working in an area already well provided with static street traders. Another would like to see control on the number of vehicles being able to trade in an area.

When assessing Local Area Needs, existing terms and conditions state that consideration will be given to the sufficiency of other trading outlets to serve the needs of the area.

This has been removed from the proposed new Policy. As well as requiring subjective assessment, this requirement would be difficult to enforce in the case of transient peripatetic traders.

No such assessment applies to other trading activities in the City and it is not felt to be feasible to keep it in the street trading policy.

2.5 Option 3: Take no action and continue with existing terms and conditions (including fee structure)

In view of the results of the consultation and the Hemming case and the experiences of implementing the process in the first year, this is not considered to be a viable option.

3. The Consultation

- 3.1 The proposed Street Trading Policy was set up as an online consultation using the City Council's website. This gave people the opportunity to respond to proposals between 14th December 2012 – 14th February 2013. It has received local media coverage. Key stakeholders (including Police, Highways, Federation of Small

Businesses) were notified separately. Details were forwarded for information to Ward Forums and included in a Members' bulletin.

3.2 All known Street Traders were contacted twice by mailmerge letter. This included paper questionnaires for those preferring this method of response. In addition email messages were sent where contact details were known. Finally a number of direct contacts were made on a random selection of traders.

3.3 All of the consultation responses received are summarised in Appendix B.

4. Timetable for implementing this decision

4.1 Once any formal resolution has been passed by Full Council, the new Street Trading Policy is intended to come into effect from 1st July 2013.

5. Comments from Director of Finance and Legal Services

5.1 Financial implications

The fee has been re-calculated to reflect the actual administration costs which have been identified following implementation of the scheme and excludes any enforcement costs in accordance with the principles of recent case law. A list of proposed fees is attached at Appendix A.

Certain traders are proposed to be given "deemed consent" and will no longer pay a fee as explained in paragraph 1.8.

The anticipated income under this revised Policy will be reduced from current levels of £25,000 to approximately £5,500 per annum. The effect of this shortfall will be managed within Regulatory Services budgets.

5.2 Legal implications

The Council has a wide discretion in relation to granting street trading consents and any conditions attached such consents. (see Local Government Miscellaneous Provisions Act 1982, Sch4 para 7).

Under the Provision of Services Regulations 2009, fee income for street trading consents cannot exceed the cost to the authority of administering the street trading regime and as the law currently stands, cannot reflect the cost of taking enforcement action against persons operating without authorisation.

Under the 'Functions & Responsibilities Regulations' neither the Cabinet nor a Cabinet Member can make a final decision in relation to the terms or fee levels applied to street trading consents - these are 'Council functions' under the regulations and therefore a final decision on any changes will need to be made by Full Council.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The ability to control street trading in the City contributes to key objectives of the Corporate Plan by making Coventry an attractive and enjoyable place to be; reducing crime and anti-social behaviour; making places and services easily accessible; encouraging a creative, active and vibrant city; and improving the environment. With the revised consent policy it is believed these objectives can still be met.

6.2 How is risk being managed?

Any revisions to existing terms, conditions and fees would require Full Council approval. As such a revised Policy will not be operational before 1st July 2013. Many existing consents expire in April. This will need to be managed by providing a short extension to existing consents (effectively a payment holiday). Such a process will be offset by the fact that the majority of traders will be enjoying "deemed consent" should proposed changes be adopted. The risk is therefore believed to be low.

6.3 What is the impact on the organisation?

The Licensing Team currently process street trading applications in addition to their other duties, using the same software for administration purposes. It is acknowledged that the Licensing Team already has significant workloads which have become more demanding with the introduction of new licensing legislation in 2012.

Proposed changes will reduce the number of applications requiring active processing, with many traders receiving deemed consent. This will enable Licensing Officers to concentrate on other priorities.

6.4 Equalities / EIA

An EIA has been undertaken in relation to Street Trading legislation and has been found not to have an impact on any particular protected group. Proposed changes will not affect this judgement.

6.5 Implications for (or impact on) the environment

Consideration has been given to the potential impact on the environment from matters such as waste, litter and effluent as well as noise from generators. Any such adverse effects will be countered by compliance with the general terms and conditions proposed in appendix A.

6.6 Implications for partner organisations?

The impact on communities and neighbourhoods in the City should be a positive one. Street Trading can make a valuable contribution to the local culture and economy, providing a service to residents of the city, some of whom are unable to travel to centralised shopping centres and districts. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.

The Council is also committed to improve the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully.

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Appendices

Appendix A – Proposed Street Trading Consent Policy
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COVENTRY CITY COUNCIL

Street Trading Consent Policy Local Government (Miscellaneous Provisions) Act 1982

Introduction and Scope

Coventry City Council recognises the valuable contribution that street trading can make to the local culture and economy, and the service that street traders provide to residents of the city, some of whom are unable to travel to centralised shopping centres and districts. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.

The Council is also committed to improve the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully.

However, issues arise where vendors do not pay due regard to their siting, and create an obstruction in the street, or make it dangerous for people to move around them.

Street trading can also result in unnecessary littering and other nuisance to persons in the vicinity.

For this reason, Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4

The Council has designated **all** streets within its boundaries as “Consent Streets”. The effect of this designation is that if you want to sell goods on the street, you are classed as a Street Trader and, subject to legal exemptions, will need to have the appropriate consent. Conditions can be attached to the consent as is considered ‘reasonably necessary’. Trading without the required consent is a criminal offence.

What is a Street?

A street means any road, footway, beach, motorway service area or other area to which the public have access without payment. The Courts have confirmed that any land located away from the highway which the public can access without payment, including privately owned land, is capable of being a street for these purposes. For example, this could include car parks, trading estates, forecourts, open spaces etc. However, the Council takes the view that street trading controls would not normally apply within buildings.

What is Street Trading?

Street trading means selling, exposing or offering for sale any article (including a living thing) in a street. This includes a wide range of retail activities e.g. food, beverages, arts and crafts, jewellery, household goods, clothing etc. It also includes the sale of vehicles from the roadside.

What is not Street Trading

Certain activities are exempted from street trading control by the legislation. These include:

- trading as a pedlar under a pedlar's certificate;

- trading at an established market or fair;
- trading as a news vendor;
- trading at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop;
- trading as a roundsman (i.e. delivering pre-ordered goods to customers);
- trading from a licensed highway area (Tables and Chairs licence);
- trading under a street collection permit

Objectives of the policy

Central to the Council's policy are a number of key objectives which are:

- To prevent public nuisance by taking measures to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells.
- To ensure that traders operate within the law and act fairly in their dealings with the public so as not to present a risk to public order.
- To ensure the suitability of the structures used for the sale of goods on the street.
- To permit temporary or occasional street trading, where appropriate.
- To ensure that the process involves opportunities for consultation with relevant agencies.

Purpose

This Policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way.

Requirement to Obtain Consent

A person intending to sell items from a street in accordance with the above definitions of "street" and "street trading" will be required to obtain full written consent from the Council to do so, unless they fall within any of the 'Deemed Consent' categories or 'Prohibitions' listed below:

Deemed Consent

The following activities will be deemed to have consent (i.e. it is assumed that an application has been made and granted without the need to actually do so):

- a) A registered keeper displaying a vehicle for sale at the registered address for that vehicle subject to a maximum of two vehicle sales per household per year;
- b) Street Trading on private land, provided any necessary proof of lease/rent for pitch can be shown ;
- c) Peripatetic Street Trading, including ice cream vans, where the van keeps moving from street to street, not stopping in one place for more than 30 minutes and provided no trading takes place within 50m of any school;
- d) Street Trading on Council owned land where permission has been obtained from the Council department responsible for managing such land.
- e) Street Trading at an event organised and run by a registered charity or recognised community association or other organisation for public benefit, each event lasting no more than 48 hours in any 4 week period

Note 1

No application is required or fee payable for traders who operate with 'Deemed Consent'

Note 2

The Council reserves the right to temporarily suspend deemed consents (in whole or part) by prior notice for specific time periods and localities. This is in order to ensure effective management of street trading activity in the vicinity of high profile or large scale events that may occasionally take place in the city.

Prohibitions

The following will not be issued with street trading consents:

- a) Suitcase salesmen and similar itinerant traders.
- b) The selling of cars and other vehicles in the course of a trade or business.
- c) The sale of live animals.

Applications

In considering applications for the grant or renewal of a street trading consent the following factors will be considered:

a) Public Safety

Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.

b) Public Order

Whether the proposed activity presents or could present a risk to public order.

c) The Avoidance of Public Nuisance

Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

d) Local Area Needs

Consideration will be given to the character of the area (eg conservation area)

Street Trading Consent Conditions

Upon grant of a street trading consent a street trader will be required to comply with the conditions that are attached to the consent (see Appendix 1). Any breach of the conditions may result in the revocation of the consent.

Under the terms of the legislation, the Council may, at any time vary the conditions of a street trading consent.

Consent Period

Street trading consent may be granted for any period not exceeding 12 months.

Fees

A fee will be charged for processing any application for consent, transfer, variation or the issue of a replacement notice. The scale of charges is detailed in appendix 2.

There are no charges for anyone who falls under the category of 'Deemed Consent'.

Application Process

Applicants for a new (or renewal) street trading consent should not give less than 14 days notice of the application to:-

*Coventry City Council, Public Safety and Housing,
The Licensing Team, Broadgate House, Broadgate, Coventry, CV1 1NH*

Tel: 024 7683 1888 Fax: 024 7683 2154
email: licensing@coventry.gov.uk

Plan of Location

The applicant shall provide a map showing all streets and public areas in a radius of 0.25 a mile from the proposed location.
The map should be an ordnance survey map or equivalent and will mark clearly the proposed trading site.

Suitability of the Street Trading Unit

The application must be accompanied by a colour photograph of the unit to be used.

Suitability of the Applicant

The Council will not grant a street trading consent to persons under the age of 17.

Consultations

Before a street trading consent is granted or renewed the Licensing Team will consult with the following agencies as considered appropriate:

- Police
- Highways Department
- Environmental Health

The Council shall consider any representation made in writing to the Authority in respect of any application. The applicant will be provided with a copy of any representation received and given an opportunity to comment before a final decision is taken.

Appeals

There is no statutory right of appeal in respect of refusal or revocation of street trading consent, other than by means of a judicial review of the administrative action in reaching the decision.

However, you also have recourse to the councils complaints procedure if you consider that a council service has not been properly delivered. Full details are available on request or on the internet at - www.coventry.gov.uk

Appendix 1

General Conditions

Definitions:

Street Trading – the selling or exposing or offering for sale any article (including a living thing) in a street

Street –a) any road, footway, beach or other area to which the public have access without payment; and

b) a service area as defined in section 329 of the Highways Act 1980

The Council – Coventry City Council

Authorised Officer – an Officer employed by Coventry City Council and authorised by the Assistant Director (Public Safety and Housing) in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

Consent Details

1. A copy of the consent must be displayed prominently on the unit at the street trading site.
2. The consent holder shall not sell any type of food, goods or merchandise other than those specified in the consent.
3. The consent holder shall not trade outside the time and days permitted by the consent.
4. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
5. The consent is personal to the consent holder and any employees and shall not be assigned or transferred to another person or company without the appropriate notification of such transfer. (See application for consent transfer.)
6. The consent holder shall produce the consent if required to do so by a police officer or authorised officer at the time.
7. The consent may be revoked by the council at any time for non-compliance with conditions, or surrendered by the consent holder at any time.
8. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence..

General Conduct

9. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
10. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
11. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
12. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment must not be persistently audible in nearby residences. The use of generators are subject to prior agreement from the Council and if permitted must be fitted with a suitable silencer or acoustic enclosure.

Protection of Young People

13. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery or within a designated conservation area. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).

14. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

Noise Nuisance

15. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

Visual Appearance

16. Any vehicle/stall/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council. A high standard of presentation and appearance will be expected.

Health & Safety

17. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc Act 1974 and any Fire Authority requirements.

18. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.

19. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.

20. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.

Advertisements / Signage

21. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.

Waste Management

22. The consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.

23. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

Additional Requirements for Food Operations

24. When street trading includes the provision of food, the Food Business Operator (FBO) must ensure that any van/barrow/vehicle or stall is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable

protective clothing and have received suitable hygiene training. In addition the FBO shall ensure that:-

- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
- b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate.
- c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
- d) an adequate supply of hot and/or cold potable water to be available
- e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
- f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
- g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
- h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable

Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.

Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent

Appendix 2

Fee Structure

Type of Application	Fee
Street trading consent	£500
Limited period consent (per day or part day)	£50*
Transfer, variation	£50
Replacement copy of consent certificate	£12

**This charge will be waived for Street Trading at an event organised and run by a registered charity or recognised community association or other organisation for public benefit, each event lasting no more than 48 hours in any 4 week period*

Appendix B – Summary of Consultation Responses

Survey Responses

Question

Do you agree with the specific proposal to give "deemed consent" to all "peripatetic" traders (including ice-cream vans)?

Yes	No	Not Sure
29	4	8

Question

Do you agree with the specific proposal to give "deemed consent" to all permitted traders on private land?

Yes	No	Not Sure
39	2	1

Question

The proposal is that on occasion (eg during high profile events) Coventry City Council will temporarily suspend "deemed consent" (in whole or part). In such an event prior notice would be given to traders for specific times and locations. How would this proposal affect you as a Street Trader?

Positively	Negatively	Not Sure
10	15	13

Question

As a Street Trader, do you agree that the proposed reductions to the existing fee structure will have a positive effect on your business?

Yes	No	Not Applicable
40	0	2

General Comments

A summary of comments received during consultation -

1 - Fee levels

"I am so pleased the council has listened and understood the concerns of street traders, street trading and market trading are usually the first steps in business for entrepreneurs and as such should be encouraged"

"The current fee structure reduces my income from street trading by 30% it has made life very difficult"

"£500 is a reasonable amount to ask for us to trade"

"As we trade on private land the fee will not apply to us. But £500 is a lot more realistic than £2000. How on earth can you make a profit on that!"

"At present the extortionate costs incurred hit hard and will inevitably see businesses close."

"I have run my small business for some years now and feel that the reductions to the existing fee will allow me to carry on doing this as last years fee could have forced me to consider having to sell up."

"The new fee structure is more realistic to supporting small businesses."

"As I already pay (landlord) for.....(location), I find it unjust that I should have to pay again, as I have already been given sole rights to trade"

"As previously stated, with the inclement weather. Take 2012 for example. Trying to earn a living is impossible with extra payments."

"The council failed to collect the fees from a large number of traders last year so this is the 2nd time i have complied with council legislation that they failed to enforce there legislation throughout my business life."

"Hard to make a profit in this recession trade very slow."

" I agree because it will allow me to stay in business and provide a service to the "big community" and my family."

"The Street Trading Licence negatively affects my business income. Reduced or not, it is the same, I have to pay."

"I agree to the proposed reductions to the existing structure as it would take the little bit of added pressure off us to provide that extra bit of money each week. Any business welcomes any positive change specifically financially which will make their working day or week that bit easier."

"I feel that a fee should be for all food trading businesses be they mobile or static vans as I feel the static van have to be up to date on everything concerning being able to trade as the peripatetic vans will be hard to keep up to date with and this 30mins trading will not be kept to as it has been proven in the past. There will be so many more of them, how are they going to be restricted?"

Comment – Current fees for peripatetic street trading are a nominal £50. An overwhelming majority of responses are in favour of deemed consent.

2 - Deemed Consent for Peripatetic Trading

"I feel that all traders such as sandwich vans that are mobile and go on industrial estates etc need to pay the £500 fee as they go to the same places everyday Monday – Friday and earn a living. They are also taking my customers on which I have a fee to pay but I pay £500 and they only pay £50. There is also 3 snack vans in my area why would we want a mobile sandwich van going on to the estate"

Comment – Mobile (Peripatetic) trading is closely defined in the proposed Policy - van keeps moving from street to street, not stopping in one place for more than 30 minutes and provided no trading takes place within 50m of any school

"I strongly disagree with this as I run my business on an industrial estate so rely on trade from the local businesses around me. If I have 3 or 4 peripatetic traders driving around each day then I am not going to be able to afford to pay my own fee. I think they should be charged a fee as there will be so many others just setting up and driving round it will put us out of business and times are hard as it is without this happening. If I could afford to employ someone to do deliveries then I would do this myself"

Comment – Even if peripatetic traders were required to obtain full consent, this would not limit the general location in which they chose to operate.

"I agree with the proposal to give deemed consent to all peripatetic traders, but I am concerned that the 50m rule is going to be enforced, can you clarify this?"

Comment – Peripatetic mobile trading within 50metres of a school is not a new proposal, being present in the existing terms and conditions. It was considered fully as part of the previous consultation process on introduction of the scheme (minute 64/11 refers)

"I would need to know if I am going to be ok at my school, as this is important to me on a day to day work basis."

"I would like to see control on the amount of vehicles being able to trade in any special area."

"How will this be monitored?"

3 - Deemed Consent for Private Land

"As long as deemed consent can be withdrawn if traders operate in an inconsiderate manner"

Comment – By implication deemed consent is subject to the same conditions as any other consent and can be revoked. This can be more explicitly stated.

"Providing planning laws are not contravened"

Comment – Granting of street trading consent, deemed or otherwise, in no way confers compliance with any other statutory requirement. This can be more explicitly stated.

"Absolutely!"

"It is absolutely wrong that traders pay landlords really high pitch fees then the Council charges a fee to trade as well. This would of put a lot of traders out of business including ourselves"

"Consideration should be given where traders are paying high occupation costs to private landlords."

"If it can be proved that the trader is already paying then it should be ok"

"When the street trading policy first came to light it came as quite a shock and a rather enduring worry. After speaking with people at the Council it was made a lot easier and I didn't have a

problem paying the fee. But since then things have changed quite drastically for the worse. With our stock and foods increasing more and more and less people spending I'm finding it harder each week to stay afloat. Although I will always pay what has to be paid, it would be very welcome relief to hear we didn't have to pay it no longer. I'm not prepared to give up my small business as I put a lot of hours into building it up. I work on my own six days a week to try and save money. I don't have any staff. So I would be very grateful for any reduction in costs. Thank you."

"If it is private land you are normally providing a service to the public and normally a charge to who owns the land is paid."

"Just the fact that it is private land I thought it a bit strange for the Council to want to put a charge on us. But if its something they think we should do then so be it."

"I believe that in 2012 I paid (my landlord). I also had to pay a fee to sell which I believe was unfair. The only people to pay seemed to be those who were already registered with the Council. Those who have worked without informing the proper Authorities did not pay and continued to trade, especially weekends and evenings."

"As we have to pay rent already to our landlords on private land, I think it is only fair to lower the amount payable to the Council. Also the state of the economy, everyone is struggling."

"When trading on private land that pays rates to sell food and drink there should be no further legislation and should be deemed to have consent."

"I pay rent and rates to a landlord on private land and comply with all health, safety and hygiene legislation."

4 - Temporary Suspension of Deemed Consent (for special events)

"CCC have demonstrated historically how they favour other traders who come in for seasonal trading thus in turn taking business from existing traders. I am in favour of getting the mix right, but not at the detriment of existing traders."

"It is unfair to penalise long-term street traders who support the vibrancy and sustainability of an area for most of the year. During high profile events, or other, these traders should instead be given first refusal to trade during these events, over and above others who do not already have deemed constant/license."

"As a sole trader, I pay (my landlord). The time span in order to make a living selling ice cream is very short and with the English weather. If any high profile event was on (location) I would not expect to pay more."

"I would say it would only be fair to suspend "deemed consent" in the event of a high profile event giving the fact that our revenue would likely to increase substantially. So I wouldn't have a problem paying a reasonable cost or percentage under these circumstances whatsoever."

"Because as a Company we also pay rent as well as a street traders licence. Therefore this would be unfair."

"I am not happy that the Council could suspend my consent and possibly charge me a premium for a pitch that I already pay for on the basis of a high profile event. This proposal could also stop me trading."

"I'm not happy about the Council being able to suspend my consent & possibly charge me a premium for a pitch that I already pay for. This could also stop me trading and could mean a financial loss to me."

"This implies that the Council will have legal powers that it should not have in a democracy a capricious attitude to public and private freedoms is dangerous."

5 - General Comments

"I want to know why we are paying a £1000 for 1 year then the fee is scrapped the following year. We should not have to pay the £1000 fee at all. We already pay a huge amount to our landlord. It is hard enough to make a profit without this ridiculous fee that is only valid for 1 year!!"

"We need to make it easier for those who wish to trade legally by reducing unnecessary red tape."

"Concerned about Food Hygiene certificates not needed"

"I am totally in favour of restricting the illegal operators who just pull up outside bars and street corners."

"The nature, type and ability of other existing trading outlets to serve the needs of the area will no longer be a consideration in assessing applications – This is consistent with other trading activities in the City. ANSWER: Although this encourages competition, it may also have a negative impact on small businesses across the board. I would advise caution or a caveat in implementing this - a common sense approach is required."

"The Council will no longer require Criminal Records Bureau checks for certain applications - This is consistent with other trading activities in the City. AGREE"

"The Council will no longer require food traders to be in possession of a current food hygiene training certificate in assessing applications – This is covered by other regulations applicable to food traders. AGREE"

"The limitation of distance to schools will impact on the ice-cream vans/fast food traders particularly where they generate a large proportion of their income. How will this be communicated to existing traders, and monitored? I would urge that these traders be handled sensitively and with consideration - working with traders to look at alternative sites that ensure they remain sustainable long-term."

"I assume the council will pursue the non payers even if this means taking them to court."

"Last year some ice cream vendors did not register or pay for their trading permit. These should be made to pay and not get away with it."

"Making good a bad thing is a step in the right direction. I look forward to further steps to help businesses like mine. Thank you."

"I think that criminal backgrounds should still be checked, as street traders will be in contact with children. It is our duty to ensure that they are safe."

"Street Trading was introduced without consultation last year. Came out of the blue. If alterations are being made the question is raised that the introduction of street trading was wrong in the first place. Did not complete the first questionnaire as was very annoyed at receiving it."

"My income is too low to pay even a reduced amount of fee"

"Last year some ice cream businesses registered with the Council, myself being one of them. Others did not, these traders should be chased up and made to pay for last year. It should be one rule for all, not just the honest traders."

Appendix C – Equality Assessment



Equality and Consultation Analysis Template

Context

Name of analysis	Street Trading Policy
Officer completing analysis	Neil Eaton
Date	14 th December 2012

1. Briefly describe the area of work this analysis relates to:

Following adoption of street trading laws across the City, from 1st April 2012 mobile traders must hold a street trading consent.

The Council proposes to make changes to existing terms and conditions and incorporate these into a new "Street Trading Consent Policy".

Scoping the analysis

2. Who are the key stakeholders, both existing and potential, that could be impacted by this work?

- Street Traders
- Highways Authority
- The Chief Officer of Police
- Representatives of local businesses
- Regulatory Services – Environmental Protection, Food and Safety
- Legal Services
- Local residents
- Ward Councillors

3. From the list above, which of these constitute protected groups?

None

4. Which of the key stakeholders (including representatives of protected groups) will need to be kept informed, consulted or actively involved in this area of work?

Key Stakeholder	Type of Involvement*	Method(s) used
Street Traders	A 9 week consultation which will start on 14th December 2012.	Press Release Questionnaire and full Statement of Policy placed on Coventry City Council website Two mailmerge letters, including consultation questionnaire Email reminder sent to all where details known Direct contact with random traders
General Public	A 9 week consultation which will start on 14th December 2012.	Press Release Questionnaire and full

		Statement of Policy placed on Coventry City Council website
Local Businesses	A 9 week consultation which will start on 14th December 2012.	Press Release Questionnaire and full Statement of Policy placed on Coventry City Council website Full details sent to Federation of Small businesses, chamber of commerce
Elected Members	A 9 week consultation which will start on 14th December 2012.	Press Release Questionnaire and full Statement of Policy placed on Coventry City Council website Article for Members Bulletin
Partners / Agencies	A 9 week consultation which will start on 14th December 2012.	Press Release Questionnaire and full Statement of Policy placed on Coventry City Council website Provide information at the Responsible Authority Working Group

** Information, Consultation or Involvement*

5. Which, if any, parts of the general equality duty is the service relevant to? Please mark with an 'X'.

None Identified

6. What information is available to be used as part of this analysis?

The changes being proposed are revisions to terms and conditions for existing street trading consent requirements. Those affected will be mainly existing street traders. Regular contact occurs with these through routine Regulatory Services activity. However at the current time we have no formal feedback. This consultation seeks that feedback to inform our decisions

7. What are the information gaps?

The changes are currently only proposals and the Council is seeking views on the potential impact they may have. Officers believe that a general reduction in fees, together with many more street traders paying no fee at all ("deemed consent"), will have a generally positive effect. There are no known gaps of concern at present.

Data analysis

8. Please summarise below the key issues that your data is telling you.

Several current Street Traders have objected to the existing fee structure. Purpose of consultation is to seek formal feedback on proposed changes.

Generating and evaluating options

9. What are the different options being proposed to stakeholders?

The proposal is to amend terms and conditions, categories of traders having deemed consent, and associated fee structures. General comments are being sought as part of the consultation to determine whether these changes will impact anyone in particular.

10. How will the options impact on protected groups or those experiencing deprivation?

There is not likely to be any impact.

11. Please detail how you could mitigate any negative impacts.

There is not likely to be any impact that will require mitigation.

12. Identify which contractors or service users would be negatively affected by the options

There is not likely to be any impact.

Formal consultation

- 13. Who took part in the consultation? *Please also specify representatives of any protected groups.***

A 9 week consultation has taken place starting 14th December 2012.

- 14. What were the key findings of the consultation?**

Street Traders are overwhelmingly supportive of reduction in fees and extending deemed consent. Comments received concerning specific issues, including ability to temporarily suspend deemed consent for major public events will be considered.

- 15. Are there any gaps in the consultation?**

None identified.

- 16. Following the consultation, what additional equality issues have emerged?**

None identified.

- 17. Which of the options have changed following consultation and equality analysis, and how?**

To be completed after consultation closes.

Equality impact of final option

- 18. Please confirm below which option has been chosen for implementation.**

To be completed after consultation closes.

- 19. Please indicate which of the following best describes the equality impact of this analysis.**

There will be no equality impact if the proposed option is implemented.

- 20. What will be the impact on the workforce following implementation of the final option? *Please make reference to relevant equality groups (with protected characteristics under the Equality Act).***

To be completed

Formal decision-making process

Please detail below the committees, boards or panels that have considered this analysis

Name	Date	Chair	Decision taken
Scrutiny Board 4	27-Feb-13	Councillor Abbott	
Cabinet Member Community Safety and Equalities	21-Mar-13	Councillor Townshend	
Full Council	tba		

Approval

This equality analysis has been completed by:

Officer

Neil Eaton, Food and Safety Manager

Service Manager

Hamish Simmonds, Head of Regulatory Services

Note: Failure to comply with duties on equalities and consultation will put the Council (and specifically the elected member or officer making the decision) at risk of judicial review

Director

Brian Walsh

Elected Member

Councillor Townshend

Date

Monitoring and review

This section should be completed 6-12 months after implementation

- a) Please summarise below the most up to date monitoring information for the newly implemented service, by reference to relevant protected groups.

[Click [here](#) and type]

- b) **What have been the actual equality impacts on service users following implementation?**

[Click **here** and type]

- c) **What have been the actual equality impacts on the workforce since implementation?**

[Click **here** and type]

**Equality Analysis and Consultation Template
August 2012 · Version 2.0.2**

The latest version of this template can be found at:
<http://beacon.coventry.gov.uk/equalityanddiversity/>
Please ensure you are using the latest version of the template.