

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	3 rd December 2014	E2598
TITLE:	Review of the Council’s Street Trading Policy, conditions and guidance	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Annex A- Copy of the responses to the consultation exercise on the proposed revised Street Trading Policy, conditions and new guidance Annex B- Copy of the proposed Street Trading Policy, conditions and new guidance including amendments (in red) Annex C- Copy of the current Street Trading Policy		

1 THE ISSUE

1.1 To review the Council's street trading policy which was last updated in 2010.

1.2 This report brings the findings of the consultation exercise carried out on the proposed revision of the Council's Street Trading policy, conditions and new guidance.

2 RECOMMENDATION

2.1 The Cabinet adopts the revised policy and notes the proposed conditions and guidance provided at Annex B.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 Finance and Property: The revised policy proposes that there will be a preferred set of standards for the design and appearance of stalls and compliance is expected from all street trading pitches. Stalls within the main shopping area of Bath will be expected to use a particular design in recognition of the importance of this area and the world heritage status of the city. This area will include the central spine of Milsom Street down through Union Street, Stall Street and Southgate Street in addition to other popular areas such as Kingsmead Square, Sawclose and Terrace Walk.

3.2 It is proposed that all new applicants will be required to adopt the new standards from when they are granted a street trading pitch; existing pitches will be required to upgrade their units by 1st January 2017. To assist both existing applicants and new street traders, the Council has produced guidance notes which identify the types of stalls and standards of quality and design which would achieve compliance. In anticipation of this change, the Council has already been working with existing street traders to help them upgrade their units. For both existing and new traders, the Council intends to purchase a number of units which could then be rented to the trader on a cost recovery basis for the period that they have a street trading consent. This prevents the trader from paying a large, upfront cost to help them with their business from the outset. The unit would remain the property of the Council but be retained by the trader during the period of time that they retain the street trading consent. The trader would also be responsible for insuring the unit against theft and/or damage.

3.3 The cost of the units is expected to be under £10k in total, which would be found from within existing Licensing revenue budgets in 2014/15 or 2015/16. The annual anticipated total rental income from the units is likely to be c£3k until such time as the cost of each unit has been recovered. Thereafter there may be a small charge to traders to cover the on-going cost of repairs and maintenance of the units. This will be structured such that there is no surplus or deficit to the Council.

3.4 All fees charged in respect of street trading will remain on a cost recovery basis.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 The basis for this report stems from a need for the Council to review its street trading policy and ensure that it remains up to date. The Council is keen that this revision of its Street Trading Policy emphasises the importance of street trading to both the local environment and local economy and the role it plays in helping small businesses to establish and grow

4.2 All streets in Bath and North East Somerset are designated as 'consent streets'. The effect of this is that, with certain exceptions, selling, exposing, or offering for sale any article in a street requires a street trading consent issued by the Council. Persons trading without a consent are liable to prosecution for an offence and if convicted can be fined up to level 3 on the standard scale, currently £1000.

4.3 Street Trading consents are issued under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Paragraph 7 provides that:

- (1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.
- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) A street trading consent shall not be granted-
 - (a) to a person under the age of 17 years; or
 - (b) for any trading in a highway to which a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.

- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent-
 - (a) obstruction of the street or danger to persons using it; or
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street-
 - (a) from a stationary van, cart, barrow or other vehicle; or
 - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions-
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

4.4 When granting or renewing a street trading consent, the Council may attach such conditions to it as they consider reasonably necessary.

4.5 A copy of the Council's current Street Trading Policy and Conditions is produced at Annex C.

5 THE REPORT

5.1 The Council has completed a twelve week consultation on the review of its Street Trading policy, conditions and new guidance for stalls. This report brings to the Cabinet the findings of the consultation together with officer comments and recommendations. Copies of the comments received are provided in Annex A.

5.2 A copy of the amended Street Trading policy conditions and guidance, which includes the officer recommendations, is provided in Annex B. Amendments are shown in red.

5.3 The revised policy, conditions and guidance has been discussed and endorsed by the Licensing Committee in its meeting on 6th October 2014.

6 RATIONALE

6.1 The rationale for this report stems from a need on the Council to regularly review its Street Trading policy.

7 OTHER OPTIONS CONSIDERED

7.1 Advice has been sought from the Council's Legal Services and the Council's Monitoring Officer (Council Solicitor), and Section 151 Officer (Resources director) have had the opportunity to input to this report and have cleared it for publication.

8 CONSULTATION

8.1 The consultation included the persons listed below:

- The chief officer of police for the area;
- All Ward Councillors, Town Councils and Parish Councils
- Existing Street Traders
- Visitors to Bath City Conference
- Student Community Partnership
- Night Time Economy Group

8.2 In addition a stakeholder workshop was held on 23rd July 2014 which was attended by street traders, representatives of the Bath Improvement District, Council Officers and Councillors. Presentations were delivered by Sark Kenny, a street trader in Bath, David Dixon, the Council's Stronger Communities Manager and Andrew Cooper from the Bath Improvement District. Approximately 30 people attended and feedback indicated that 67% of those attending confirmed the workshop fully met their needs.

8.3 This report has not been sent to the Trades Unions because there are no staffing issues.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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Background papers	<i>Local Government (Miscellaneous Provisions) Act 1982</i>
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