

# **Street Trading Policy**

## **2021 – 2026**

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## PART 1 – INTRODUCTION

- 1.1 The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

Harlow Council on 1 March 2001 adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and has designated all the streets within the boundaries of the district as either Prohibited Streets or Licence Streets for the purpose of regulating street trading.

Street trading is not permitted whatsoever in any of the designated Prohibited Streets. Street trading is not permitted in the remaining streets which are designated Licence Streets, unless a Street Trading Licence has been issued by the Council's Licensing Team.

### 1.2 Scope

"Street trading" is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street, with the following exceptions:

The following shall be considered as prohibited goods for the purpose of the policy (this is not an exhaustive list):

- (a) Second hand electrical goods
- (b) Medicines or treatments
- (c) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982
- (d) Cigarettes/tobacco
- (e) Any form of gambling
- (f) Firearms (including replicas) and ammunition
- (g) Fireworks

#### **Exemptions from the need to obtain a street trading licence:**

- (a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 (i.e. travelling on foot from place to place selling goods directly).
- (b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) Trading as a news vendor (selling newspapers or periodicals, Big Issue vendors).
- (e) Trading which—
  - (i) is carried on at premises used as a petrol filling station; or
  - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- (f) Selling things, or offering or exposing them for sale, as a roundsman (a person who follows a set route to attend on specific/identifiable customers for the purposes of either taking orders or for the delivery of goods e.g. milk round, grocery delivery service).
- (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway.
- (h) The operation of facilities for recreation or refreshment under Part VIIA of the
- (j) The doing of anything authorised by regulations made under section 5 of the Police,

Factories, etc. (Miscellaneous Provisions) Act 1916.

With regard to point (f) above it has been established in law that mobile ice cream sales are not normally deemed to be roundsmen and, therefore, are not exempt from street trading.

“Street” includes any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

The schedule for Streets within Harlow as Prohibited and Licence Streets under the Local Government (Miscellaneous Provisions) Act 1982 is shown in **Appendix 1**.

At the Environment and Community Committee on 22 June 2009, taking on board the High Court judgement, it was agreed to extend the licensing arrangements for street trading by adopting a wider interpretation of Land open to the public to include areas of Harlow that would have been previously considered private land.

Street traders must always seek permission to use the land from the land owner. This includes the Highway Authority where the land is a highway.

### **1.3 Prohibited Street**

“Prohibited Street” means a street in which street trading is prohibited.

If a street is designated as a “prohibited street” then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader or the Council may wish to restrict trading at a particular location. It may be considered that the prohibited status might be the most appropriate designation for the majority of residential streets in a town. There is no right of appeal in respect of a Council decision to designate a street as prohibited; challenge is by way of Judicial Review.

### **1.4 Licence Street**

“Licence Street” means a street in which street trading is prohibited without a licence granted by the Council.

Street trading in a licence street without a licence is a criminal offence. If a street is designated as a “licence street” then applications can be made by persons over 17 for a licence to trade in the articles described in the application on certain days on that street. For so long as the designation of licence street remains in place for that particular street or part of street the council is duty bound to grant or renew a properly made application unless one or more of the statutory grounds for refusal applies. When granting or renewing a licence the Council may attach any reasonable condition, furthermore the Council can at any time vary the conditions attached to a licence. There is a right of appeal against a council decision made in respect of a street trading licence.

The Act creates offences associated with trading in consent or licence streets without the necessary authority; a person guilty of such an offence may be liable, on conviction to a fine up to £1000.

Exemption - sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.

## 1.5 Town Centre

In 2015 under the Act, designated trading pitches on Broad Walk and East Gate (land which the Council owns) are on a licence street and would require a street trading licence, and pay a monthly pitch rental fee.

## 1.6 Special Markets/Events

In 2011 a policy was adopted by the Council which allowed street trading licences to be applied in a different way. This accommodates groups of traders such as specialist markets which trades from time to time in the Water Gardens (on private land). One street trading application could be submitted on behalf of the whole group of traders.

This was reviewed in 2017 where a limit of five such applications in one year, a maximum of 20 stalls to be included in the application and the maximum number of trading days being five consecutive days per application. Except during December when a single licence may be issued for a period of not more than 14 days.

## 1.7 Relevant Case Law

Below is an example of relevant case law. This is not an exhaustive list of Case Law. The Authority reserves the right to reference all relevant case law as required.

*Kempin (T/A British Bulldog Ice Cream) v Brighton & Hove Council [2001]*

This case determined that a roundsman was someone who delivered pre-ordered goods within a locality; and on this basis an ice cream salesman driving around an area was not a roundsman because he/she would not be delivering pre-ordered goods.

*West Berkshire DC v Paine [2009]*

This case determined that if the trading took place in an area where the public had access without payment (even if the public did not go there) it was a "street" and would require a licence to trade there.

## 1.8 Legislative framework

The primary legislation relating to street trading is Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

The Children and Young Persons Act 1933, as amended by the Children and Young Persons Act 1963, controls the employment of children in street trading. The Act prohibits the employment of children under 17 years of age for the purpose of street trading.

## 1.9 Human Rights

The Licensing Authority deal with applications for Street Trading Licence in a manner consistent with the Human Rights Act 1998. In particular, by giving due consideration to the rights under the following articles of the European Convention on Human Rights and Fundamental Freedoms:

- (i) Article 1 – property right (including the right to apply to hold a licence and operate a business);
- (ii) Article 6 – right to a fair hearing in the case of representations against applicant or licence holder;
- (iii) Article 8 – respect for your private life, your family life, your home and your correspondence (letters, telephone calls and emails, for example).

## 1.10 Duplication

Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes, for example food hygiene and standards, sale of alcohol or late night refreshment.

In addition, street trading activities may require Planning or Highways permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already place obligations on employees and operators.

Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects.

## 1.11 Equality

Licence holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

## 1.12 Purpose

The purpose of this street trading policy is to provide a fair, consistent and transparent decision making framework and process for the determination of applications for street trading licences.

To facilitate the creation of a street trading environment that is sensitive to the needs of the public (including local residents) provides diversity and consumer choice, and enhances the character ambience and safety of local environments for people who live, work and visit in Harlow.

Each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Harlow Council is particularly concerned to ensure:

- public safety;
- the prevention of public nuisance;
- the prevention of crime and disorder; and
- the protection of children, young persons and adults with care and support needs from harm.

The Council recognises that promoting the welfare of children and protecting them from harm is everyone's responsibility. Street Traders who may have dealings with children, young people and adults with care and support needs have a duty to report matters of concern to the relevant authorities.

Further details are set out in **Appendix 2**.

## 1.13 Consultation and Communication

In determining the Policy, the Council has consulted as set out in Part 5. The views of relevant stakeholders have been taken into consideration.

In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders.

#### **1.14 Review of Policy**

This policy will be reviewed every five years. If required, periodic updates may be undertaken following the consultation process

#### **1.15 Conditions**

The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that traders comply with relevant legislation and the fundamental purpose of the Policy.

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## **PART 2 - LICENSING PROCESS AND DELEGATION**

The licensing of street trading is a Council function that is discharged by the Council's Licensing Committee, who may delegate the matter to a Licensing Sub-Committee or Licensing Manager under delegated authority.

### **2.1**

### **2.2 Licensing Committee**

The Licensing Committee is made up of 10 members of the Council. It has the power to determine applications and also to suspend, revoke or refuse to renew licences.

Meetings are open to members of the public, except for when confidential information is being considered.

### **2.3 Licensing Sub-Committee**

The Licensing Committee is made up of 10 members of the Council. A quorum of three members will sit on hearings to consider any matters referred to it by the Licensing Committee or Officers in relation to functions conferred upon the Council as The Licensing Authority.

Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to the Local Government (Miscellaneous Provisions) Act 1982 and other relevant legislation, the Human Rights Act 1998, the Equality Act 2010, any relevant legal case law and other relevant Council policies.

### **2.4 Consideration of a Licence application by the Licensing Sub-Committee**

On receipt of relevant written representations and/or if the applicant has not met the criteria, arrangements will be made for the application to be heard by the Licensing Sub-Committee.

### **2.5 Contentious Applications**

Determination of contentious applications will be undertaken by Harlow Council's Licensing Committee, who would normally delegate the matter to a Licensing Sub Committee, or Environment & Licensing Manager under delegated authority.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal
- An objection has been received as a result of the public notices
- An Authorised Officer decision has been taken to refuse an application and a notice to that effect has been served on the applicant. The applicant then has seven days in which to make a relevant representation and this will be referred to a Licensing Sub Committee. [If the application is still refused then there is a right of appeal to the Magistrates Court.]

The applicant and all parties making representations will be notified in writing of the date, time and place where the application will be heard.

The person or body making a representation will be expected to attend the hearing and be allowed the opportunity to address the Licensing Committee and ask questions relating to the application. The applicant can be represented by a solicitor, or supported by a friend or colleague.

Representations received by the Council will be circulated to members of the

Committee in advance. Where appropriate, the representations will also be sent to the applicant but without any information that would identify the person submitting the representation.

The Licensing Sub-Committee will determine applications with consideration to the points below:

- Each application on its own merits;
- Using this Policy;
- Dealing with the hearing in a balanced and impartial manner;
- Ensuring that the rules of natural justice are applied in any hearings held;
- Giving all parties sufficient opportunity to present their case and ask questions;
- Present information for consideration in support of their application or representation.

## **2.6 Decisions**

The Council, by virtue of an officer with delegated authority, has the power to refuse, grant or renew licences or licences and also to vary or revoke existing licences and licences in accordance with relevant legislative provisions.

Any decision to refuse to grant or renew a licence or licence or to vary or revoke an existing licence or licence will be made in accordance with the Council's scheme of delegation as set out in **Appendix 3** and other relevant procedures.

In particular, applications will be considered favourably where there is clear and robust evidence of effective mitigating measures offered by the applicant in relation to those matters set out in **Appendix 4**.

Following the determination of an application by the Council the applicant will Receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made.

## **2.7 Right of Appeal**

Under Section 6 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 there is a right of appeal to the Magistrates Court against the refusal of the Local Authority to grant, renew, revoke or vary the principle terms of a Street Trading Licence.

## **2.8 Setting Fees**

The cost of dealing with street trading is covered by fees from licences.

The Council does not recover costs for the collection of refuse or the cleansing of streets on the basis that the conditions of each licence requires the licence holder to take responsibility for such matters.

The Licensing Committee reviews the fees annually under delegated authority from the Council.

On 29 March 2018 the Council decided to waive any Street Trading Licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

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## **PART 3 – STREET TRADING ACTIVITIES, APPLICATION PROCESS AND REQUIREMENTS**

### **3.1 Introduction**

This part of the Policy focusses on the licensable activities and the necessary steps required obtaining and holding a licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to ‘applicant’ is deemed to include existing and new licence holders.

### **3.2 Static Street Trading**

A static Street Trading licence is issued for a trader who remains in one place during trading and not positioned on a Prohibited Street in the District. Static Street Trading Application Form is downloadable from;  
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

### **3.3 Mobile Street Trading (including ice cream traders)**

Static Street Trading Application Form is downloadable from;  
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Mobile licences are issued to those who want to trade from numerous locations for a short period of time around the District.

In order to meet the criteria for mobile licence a trader generally must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A ‘particular length of street/site’ should normally be interpreted as being a length of street up to 500 metres long.

Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

### **3.4 Ice Cream Van Chimes**

**Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013**  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/245699/pb14030-ice-cream-vans.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/245699/pb14030-ice-cream-vans.pdf)

It is an offence to sound your chimes before 12:00 noon or after 19:00hrs.

Do not sound chimes as loudly in areas of low background noise or narrow streets as elsewhere and:

- for longer than 12 seconds at a time;
- more often than once every 2 minutes;
- more than once when the vehicle is stationary at a selling point;
- except on approach to or at a selling point;

- when in sight of another vehicle which is trading;
- when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);
- more often than once every 2 hours in the same length of street;
- louder than LAmax 80dB at 7.5 metres;

### 3.5 Buskers

Buskers do not normally require a street trading licence and accordingly are not within the scope of this policy. However, a Street trading licence may be required for buskers who wish to sell items associated with their performance for example CD's or merchandise.

### 3.6 Special Markets/Events Street Trading

The Council operates a periodic Makers Market in the Harlow Town Centre Market Square. Market Square has a 'Market Charter' designation and accordingly street trading licences are not required for the Makers Markets. Makers Markets are managed by Harlow Councils Town Centre management team. Please see link below for more information:

<https://www.harlow.gov.uk/community/council-events-and-award-nights/harlow-makers-market>

The Council recognises the need to trade in items of a seasonal nature and wants to support where possible this type of activity within the Street Trading scheme.

For events such as Christmas or Street Markets or Continental Markets, which occur for a limited time, the Council may accept one application (and associated fee) from the person organising the event. The 'Event Street Trading Application' will require full details of each trader attending the event and must be submitted at least six weeks before event. Event Application Forms are downloadable from:

<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

The Council will permit a group licence for single consecutive periods of not more than five days except during December when a single licence may be issued for a period of not more than 14 days.

The licence shall remain subject to the following conditions;

- No more than 20 traders shall be permitted to operate under one licence;
- No more than five licenses per year shall be issued in relation to any land; and
- The fee payable shall be equivalent to the annual street trading licence fee.

The licence will be issued for the duration of the specified event only and will be to a named individual. Where the application is made by an organisation they must nominate a named individual who will be responsible for managing the use of the licence.

The licence holder will be responsible for ensuring compliance with the conditions attached to the licence at all times whilst the licence is being used to facilitate street trading.

The licence holder will be required to keep records of all traders that use the special

event consent including the date, trading location, name and company name, address, vehicle registration, contact telephone numbers and items being offered for sale.

Special Events Licences do not provide exclusive control over trading in the designated area. Individuals are still able to apply direct to the Council for a licence.

Any trading on Council owned land for which permission has been obtained and for which a separate agreement is in place with the Council; proof of which must be provided.

### **3.7 Community & Charity Events**

The Council has provisions to issue a Street Trading licence for a community and or charitable event. On the 29 March 2018 the Council approved proposals to waive any Street Trading licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

In the case of organised events involving a charity, and groups of traders meeting the criteria and can be deemed in the individual circumstances of the case:

- to be of sufficient benefit to the community to warrant Council support;
- not to be of a primarily commercial nature; such as:
  - i. Fetes, carnivals or similar community based and run events of short duration (less than 1 day), e.g., Christmas lights switch-on events;
  - ii. Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity, educational organisation or community- based organisation.

This policy further requires that the following criteria must be met in order to qualify for the exemption;

- Traders cannot trade at the location more frequently than once in any four week period.
- Traders must be pre-booked by the organisers.
- Submission of a Returns form within 28 days of the event – detailing monies raised and details of the charity, educational or community based organisation that the monies have been passed to.

This exemption includes community car boot sales.

For 'hybrid' events that are part community or charity based the fee will not be reduced.

Use of this pitch will be subject to the Council's standard street trading conditions.

Street Collection permits will also be required if cash is collected in a public place for charitable purposes. Please contact the Licensing Team for a street collection permit.

### **3.8 Promotional Stalls/Pitches**

The Council has a very limited number of promotional pitches in the Broad Walk area of Harlow Town Centre. These pitches cannot be used for street trading. Further information can be found on the following link.

<https://www.harlow.gov.uk/business/licensing/other-licences/promotional-pitches>

### **3.9 Pedlars**

Pedlars are currently regulated by the Pedlars Acts 1871 and 1881. A person intending to trade as a pedlar (anywhere in the UK) must apply for a pedlar's certificate from the Police and must meet statutory criteria.

A Pedlars Certificate allows a Pedlar to trade anywhere nationally.

Pedlars are not permitted to remain in a fixed location and must be continually on the move, stopping only to make a sale.

If pedlars are suspected for selling illegal or poor quality goods then enforcement becomes the responsibility of Trading Standards.

Pedlars are not 'street traders' and do not fall within the scope of this Policy.

### **3.10 Permitted Trading Hours**

Hours of street trading will be assessed in terms of public order, public nuisance, public safety, crime and disorder and avoidance of nuisance and the needs of the area.

The Council retains the right to specify permitted hours of trading if local circumstances require.

### **3.11 Late Night Refreshment**

Should a street trader wish to sell alcohol or provide late night refreshment additional authorisation is needed under the terms of the Licensing Act 2003.

Late Night Refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week. Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

### **3.12 Planning Permission**

It is the responsibility of the applicant to identify the location(s) in which they wish to trade.

Private land is regarded as a 'street' if the public have access without payment. Written permission should be obtained from the land owner for the business to operate from that location. Units which are moved on and off a site on a regular basis will require a Street Trading licence.

Units which are permanently based on a site (even if they are capable of being moved) may need planning permission. If planning permission is granted for a permanent unit then it may not require a Street Trading licence.

### 3.13 Suitability of the site

The following will be considered when determining suitability of the site for a Street trading licence;

- any effect on road safety, either arising from the location of the pitch, or from customers visiting or leaving the site;
- the likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site;
- is there already adequate provision in the immediate vicinity of the proposed street trading site;
- any conflict with existing Traffic Orders such as waiting restrictions;
- any potential obstruction of pedestrian or vehicular access;
- any obstruction to the safe passage of users of the footway or carriageway;
- the safe access and egress of customers and staff from the pitch and immediate vicinity;
- if the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- the site does not allow the licence holder, staff and customers to park in a safe manner;
- if the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff;
- Number of existing street traders in any one street.

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity can be inspected by an Authorised of the Council at any time.

### 3.14 Needs of the Area

It is important that street trading complements the area. Each application will be considered on its merits, however a licence will not normally be granted on sites that are within:

Residential areas or where there is likely to be an unacceptable impact on residential amenity.

- Residential areas or where there is likely to be an unacceptable impact on residential amenity.
- 50 metres of the boundary of any hospital, nursing or residential care home.
- 50 metres of the boundary of any school.
- any Council owned pay and display car parks.

Other key considerations will be:

- The speed limit of the road unless the area is segregated from live traffic lanes, or there is evidence that the mean traffic speed is significantly below the posted speed limit.

### 3.15 Trading Near to a School

As part of the Every Child Matters: Change for Children Agenda, Central Government made a commitment in the national Children's Plan to publish a child health strategy jointly between the Department of Health and the Department for

Children, Schools and Families. Published on 12 February 2009, the “Healthy lives, brighter futures: the strategy for children and young people’s health” strategy presents the Government’s vision for children and young people’s health and wellbeing.

Harlow District Council recognises that a healthy start in life is vital for all children and young people to realise their full potential. Harlow Health and Wellbeing Partnership Strategy 2018 – 2028 includes the following aim: ‘reducing smoking, drinking and child/adult obesity, plus increasing the levels of physical activity’. In terms of child obesity there are benefits of not having certain traders such as ice cream vehicles and burger vans outside a school.

This Policy seeks to support the Council’s commitment to reducing obesity and improving dental health and accordingly the Council has attached a condition to a street trading licence that states there is a 50 metre exclusion zone around the curtilage of the school, as measured from the main site entrance, in which street traders are not allowed to trade.

This restriction applies during term time and then between the hours of 12 noon to 2.00pm and 3.00pm to 5.00pm on any school day. The restrictions apply to all street trading consents, regardless of whom the licence holders are targeting and whether or not the application is new or for a renewal of an existing licence.

### **3.16 Application Process**

#### **Advice for New Applicants**

New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice as well as clarifying any areas of uncertainty. No trading may take place until the new Licence is issued.

It is the responsibility of the applicant, in the first instance, to identify the location(s) they wish to trade as there is no designated list of street trading ‘pitches’ that can be traded from.

The Council can also provide advice in relation to other legal requirements of a new Licence Holder, for example, planning permission or food safety requirements.

#### **Applications forms:**

- May be downloaded from the Council’s website <https://www.harlow.gov.uk/business/licensing/street-trading-licence>
- Electronic applications can be made via email [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)

The following are applicable to all licence types:

- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence, the licence is likely to be revoked. Applicants are reminded that any applicant who makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- All fees are payable at the time of application. Where a licence is not granted, i.e.

the applicant withdraws their application or it is refused then no refund will be made.

- The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, otherwise the application process will cease to progress further until such time as the applicant provides all the required information;
- Where a licence has been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedure before the Council will consider the application;
- When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Applicants must submit the following to the Licensing Authority:

- A completed and signed relevant Street Trading Licence application form.
- The appropriate application fee.
- Two passport size photographs, countersigned in accordance with passport rules.
- Evidence of right to work in the UK in accordance with the Home Office requirements (if applicable).
- Proof of identity, address and date of birth documentation: e.g. passport, photo driving licence, national proof of age standards photo card, birth certificate, current utility bill/bank statement not more than 3 months old.
- Provide a basic criminal record disclosure from the Disclosure and Barring Service (see note below and **Appendix 5**). Any unspent convictions or proven criminal behaviour shall be taken into account assessing the suitability of the applicant. This will include offences of dishonesty, violence, sexual and indecency related offences, drugs, theft and deception.
- Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.
- Where the proposed street activity is from a fixed position, a copy of map of at least 1:1250 scale clearly outlining the proposed trading location in red should be provided. An additional map to scale clearly identifying the precise trading position and its proximity to other similar retail outlets (shops etc.).

- Colour photographs of any stall, van, barrow, cart, etc. that will be used for the street trading activity showing the front, rear and side of the unit. The photographs must also show any proposed branding and/or advertisements that will be displayed.
- A sketch or diagram of the stall, van, barrow, cart, etc. identifying the external dimensions.
- Copy of insurance that covers the street trading activity for third party and public liability risks of £5,000,000. (This may be provided following confirmation that the application has been granted but the licence will not be issued until the certificate has been provided).
- Details of employees that will work in connection with this business.
- Any permissions or licence already granted with regard to the proposed operation, e.g. including but not limited to planning consent, licence for the sale of alcohol, late night refreshment premises licence.
- Copy of waste transfer agreement.
- A copy of evidence that appropriate permission has been obtained from the landowner of the proposed trading location.
- If the land is in the ownership of Harlow District Council, written permission from the Property and Facilities Team will be required.
- MOT and Insurance certificate (for mobile vehicle licences)
- Each applicant must provide a copy of their last Gas Safety inspection certificate (Current within the last 12 months). This certificate can only be produced by an authorised engineer who is Gas Safe Registered for LPG - Commercial Catering -Mobile Catering.

Please see link below for further information on LPG Gas Safety;

<https://www.hse.gov.uk/gas/lpg/about.htm>

### 3.17 Criminal Record Disclosure

Criminal record disclosure is relevant to those persons who wish to apply for a Street Trading licence because the Council has a responsibility to ensure the suitability of the applicant for this particular licence.

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Sub Section 3 (6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

<https://www.legislation.gov.uk/ukpga/1982/30/schedule/4>

The Council may grant a licence if it thinks fit, suitability of applicants is set out in **Appendix 5** and **Appendix 6** for further details in this respect.

The basic criminal record disclosure from the Disclosure and Barring Service must be a new certificate requested as part of this application process. It should be no more than three months old at the time the application was submitted.

A satisfactory enhanced Disclosure and Barring Service (DBS) report will be accepted as an alternative to the basic criminal record disclosure from the Disclosure and Barring Service.

The DBS certificate must be in the name and address of the applicant as detailed on the application form. The original certificate must accompany the application form.

**NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

### **3.18 Trading in food or drink:**

Harlow Council requires evidence that the food business has a food hygiene score rating of 3 or above at the time of licence application. This applies to new and renewal applications.

In relation to mobile food vendors, if an Authorised Officer identifies conditions that result in a lower food hygiene rating being issued i.e. 2 or lower, then the Council reserves the right to suspend a street trading licence with immediate effect until a time that the issues have been addressed.

### **3.19 Waste**

The licence holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.

The Environmental Protection Act 1990 places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier; details of carrier must be given at the time of application. Further details about trade waste and your responsibilities can be requested from [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)

### **3.20 Nuisance / air quality**

The holder must not use or permit to be used any ancillary equipment e.g. generators, televisions, radio receivers etc. in such a manner as to cause a disturbance or nuisance. The licence holder must take sufficient steps at the request of an authorised officer to prevent any impact on amenity.

The use of generators is not permitted in the Town Centre. In addition, petrol and diesel engines must not be left idling in the town centre whilst trading.

### **3.21 Temporary Vehicles**

The licence holder shall only trade from a vehicle, stall, trailer or other unit specified in the licence. A holder may only use an alternative vehicle or trailer in an emergency situation, and then only having notified the Council in advance and after receiving authorisation to do so. If a vehicle, stall, trailer or other device specified in the licence is to be permanently replaced part way through the licence period, the holder must notify the Council and apply for a variation. Approval must be received before trading takes place.

### **3.22 Employees**

You are required to check the residency status and right to work of anyone who you employ to trade under your street trading licence before including their names on an application form. For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the Home Office guidance.

Licence holders may have up to three people registered to work on a particular licence.

The Licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.

At the time of original application the licence holder must produce the following for each employee to be registered on the licence:

- Name Address and Date of Birth
- Passport Photograph
- Basic Disclosure (DBS) Certificate which cannot be more than 30 days old
- DVLA driving licence (if the person will be driving a vehicle in their duties as an assistant)
- Evidence of employment

Up to date DBS Certificates will be required upon application or by way of variation for new workers.

### **3.23 Consultation**

Upon submission of a valid street trading licence application, applicants will be required to display a site notice on or immediately outside the proposed trading location, for a period of 28 days to allow for any representations to the application to be made.

The consultation period commences on the next working day following the receipt of the full application. Before a licence is granted, the Council will consult with and seek written observations from;

- Copy of the Public Notice published on Council website (new applications only).
- The Landowner
- Harlow Council Environmental Health – Commercial Team
- Harlow Council Properties and Facilities Management – Parking Services
- Harlow Council Properties and Facilities Management – Property Officer
- Harlow Council Regeneration – Town Centre Manager (where applicable)
- Harlow Council Community Safety Team
- Councillor(s) for the Ward(s) concerned (excluding mobile applications)
- Essex Police
- Essex Fire and Rescue Service (where applicable)
- Essex County Council Highways
- Essex County Council Trading Standards
- Planning and Development Services
- Any other person(s) or bodies the Council deems relevant

Relevant objections will be considered where it is one made by a person, business or body that is likely to be directly affected by the proposal. In addition, the objection must not be vexatious or frivolous and should concern itself only with matters relevant to the objectives arising from the application. The relevant delegated officer will determine whether an objection is relevant and not vexatious or frivolous.

### 3.24 Determining an Application

If no representations are received following the 28 days consultation the Licensing Team may grant the application in the terms applied for, and standard conditions will be attached to the licence (subject to all other requirements in this policy).

Where objections are received and not resolved relating to the grant or renewal of a licence the application will be referred to the Licensing Sub-Committee for determination.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal.
- An objection has been received as a result of the public notices.

Where an application is referred to the Licensing Sub-Committee as a result of a valid representation being made, it will determine each application on its own merits. Applicants and the person/agency making the representation will be invited to attend. Members of the Licensing Sub-Committee will consider the information submitted as part of the application and give due consideration to persons making a representation.

Following the determination of an application, the Licensing Section will notify the applicant of the decision in writing within ten working days of the decision.

All street trading licences are subject to the Council's standard conditions. Individual applications may be approved subject to additional conditions. Additional conditions form part of the street trading licence and must be complied with at all times.

The Local Government (Miscellaneous Provisions) Act 1982 makes provision, as below, for a Council to refuse an application on any of the following grounds;

- a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
- b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
- c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) of the Act;
- d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) of the Act;
- f) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it;
- g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

- h) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- i) to trade on fewer days or during a shorter period in each day than specified in the application; or
- j) to trade only in one or more of the descriptions of goods specified in the application

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

### **3.25 Granting of Applications**

The Licensing sub-committee or Officers with delegated authority will grant applications meeting the criteria contained within this Policy.

On granting the application the Council will issue a Street Trading Licence for a period of twelve months or shorter period as specified in the licence and shall also specify the following principle terms:

- the street(s) and where relevant a particular place in that street(s);
- the day(s);
- the trading times; and,
- the description of articles/goods that may be sold.

In addition, the Council will attach standard conditions in Appendix 7 and where necessary any additional specific conditions.

### **3.26 Renewal of Street Trading Licence**

An application to renew an existing street trading licence should be made at least six weeks before it is due to expire. Once the renewal application has been received, the Council may consult further to determine if the licence holder is a cause for concern or has been subject to any complaints, or if the application to renew differs from the expiring licence in any way.

Where an application is made to renew a licence to trade on land in private ownership, the application must include written approval from the landowner.

If a renewal application is not made before the expiry date of the current licence, a new application will be required. The effect of this will be that no street trading will be permitted until the new application has been determined and consulted upon.

If a renewal application has been received prior to the expiry of the current licence, the licence holder will be able to continue to trade whilst the application is being determined. The Licensing Team will aim to post the licence at least 72 hours before expiry of the current licence.

In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants on initial application and renewal must provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on

03000 200 190, online at [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) or by email at [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)

When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole and in accordance with the principles set out in **Appendix 5 and Appendix 6**.

In relation to the determination of the renewal application, if there have been no justifiable complaints or enforcement issues and the fee has been paid, the licence will be renewed.

### **3.27 Variation of a Street Trading Licence**

Any variation to the details of the licence holder must be notified to the Council in writing. The Council will issue an amended licence on payment of the relevant variation fee (fee to be set in line with annual fees and charges review). The original licence must be returned to the Council.

Any variation to the range of goods for sale days and/or hours of trading must be notified to the Council in writing and will need to be done via a variation application:

- Removing or altering the appearance of a vehicle/stall/trailer attached to the licence
- Reduction in trading hours or days
- Adding a new vehicle/stall/trailer to the licence
- Changes to the goods to be sold.
- Adding or removing street trading employee
- Updated list of streets or trading location's

### **3.28 Transfer of a Licence**

A street trading licence cannot be transferred or sold to another person except that the licence may be transferred to a member of the licence holder's immediate family in the event of the licence holder's death or incapacity.

The sub-letting of a pitch is prohibited.

Other business commitments, holidays and family or social engagements will not be considered. In these circumstances the licence holder may employ up to three registered workers to operate the stall subject to approval by the licensing authority and the terms of this policy.

Applications to take over existing licences will be treated as new applications. These will be treated on a 'first come first served basis' basis following the expiry of existing licence. Any application will be treated on its relevant merits in accordance with the policy requirements for a new application.

### **3.29 Revocation of a Street Trading Licence**

In line with Part 4 of this Policy, if there are any concerns about the licence holder through justified complaints or evidence of breach of conditions, the Licensing Department may refer the licence holder to the Licensing Sub-committee for consideration.

The licence holder will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

Where licence is revoked, there will be no refund of the application fee.

## **PART 4 – INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS**

### **4.1 Summary**

This part of the Policy sets out the manner in which the Council approaches inspection, compliance and enforcement, including the way in which complaints will be dealt with, as it relates to Street Trading Licences.

All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Licensing Team Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's compliance Code.

Unless covered specifically within the enforcement policy, where immediate action is required to secure public safety this is delegated to the Environment and Licensing Manager in consultation with the Chair or Vice Chair of the Licensing Committee.

### **4.2 Inspection, Compliance and enforcement**

The Council will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any regulatory action is proportionate to the importance of the matters to which it relates. Council officers may undertake inspection, compliance and enforcement activities for the purpose of assessing compliance with licences, and to determine whether an offence is being committed.

In doing so, the Council's officers will work closely with other enforcement authorities to achieve compliance with the relevant legislation, licence requirements and specific conditions of each licence.

The Council will undertake all inspection, compliance and enforcement work. In relation to the prevention, investigation and prosecution of offences under the Act, the Council will give priority, based on the level of risk posed, to crimes in which there is a greater risk of harm or exploitation to children and vulnerable persons, including adults with care and support needs.

The Council will default, in the first instance, to its regulatory rather than criminal powers when considering a breach of licence conditions. These regulatory powers include revocation, suspension and adding/removing/amending conditions.

### **4.3 Offences**

The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without a licence;
- contravention of a condition in relation to trading licence; and
- contravention of a condition in relation as to the times between which or periods for which a licence holder can trade.

### **4.4 Complaints**

Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

### **4.5 Deciding the Level of Action to Take/Decision Making Process**

If a complaint is found to be justified then the following actions may be taken:-

- Verbal Warning and Advice
- Written Warning and Advice
- Simple Caution
- Revocation of Licence
- Prosecution
- referral of the Licence Holder to a Licensing Sub-Committee.

#### **4.6 Verbal Warnings and Advice**

In some circumstances we verbally advise the offender, clearly identifying the contraventions, giving advice on how to put them right including a deadline by which this must be done. Failure to comply could result in formal enforcement action being taken, including a prosecution. The time allowed must be reasonable, but must also take into account the implications of the contravention. A verbal warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

#### **4.7 Written Warning and Advice**

For some contraventions we will send the offender a firm warning letter clearly identifying the contraventions. This may contain advice on how to put them right, and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken in the future, including a prosecution. Any time allowed must be reasonable, but must also take into account the implications of the contravention. A written warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

#### **4.8 Simple Caution**

This procedure is used as a final warning and can only be issued by an authorised officer of Harlow Council.

For a simple caution to be issued a number of criteria must be satisfied.

- Sufficient evidence must be available to prove the case.
- The offender must admit the offence.
- The offender must agree to be cautioned.
- The offender must not have committed the same offence before.

#### **4.9 Revocation of Licence**

In order to warrant revocation of a licence, the individual or organisation must have met one of the following criteria.

- Owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street.
- That the licence holder is unsuitable to hold the licence by reason of having been convicted of an offence, or for any other reason.
- That since the grant or renewal of the licence, the licence holder has persistently refused or neglected to pay fees due to the Council.
- That since the grant or renewal of the licence, the licence holder has without reasonable excuse failed to use the licence for a reasonable period.

#### **4.10 Prosecution**

The circumstances where prosecution is available will normally include one of the following.

- Engages in street trading in a prohibited street
- Engages in street trading in a licensed street without being authorised to do so
- Contravenes any of the principal terms of a street trading licence
- Contravenes a condition imposed on the licence

The final decision to prosecute will be taken by the Environment and Licensing Manager in consultation with Legal Services.

#### **4.11 Existing licence holders**

If an existing licence Holder is referred to a Licensing Sub-Committee, the Committee may take any one of the following steps as are deemed desirable to meet the objectives of the Policy.

- take no further action
- give a warning to the licence holder
- amend the days on which trading can take place
- amend the times during which trading can take place
- amend the location(s) where trading can take place
- amend the articles that can be traded
- amend the conditions attached to the licence
- amend the duration of the licence or
- revoke the licence.

#### **4.12 Appeals**

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

A person aggrieved by a decision of the Council may make an application to the High Court for Judicial Review of the decision. For further information on potential grounds for Judicial Review applicants should seek advice from an independent solicitor as soon as they receive notice of decision.

## PART 5 – CONSULTATION

Formal consultation was undertaken for a period from **DATE to DATE**.

The representations received during the consultation process, together with the Council's responses, is available on the Council's website as part of the report that was presented to the Licensing Committee on **DATE**.

During the process of assessing the representations of those who were consulted, the Council had regard to guidance issued under the Act and gave appropriate weight to the views of those it consulted.

In determining the weight to give particular representations the following factors were taken into account:

- Who made the representations (their expertise or interest)
- Relevance of the factors to the licensing objectives
- How many people expressed the same or similar views
- How far the representations related to matters that the Council should be including in this Policy

Members of the public were invited to put forward their comments to the proposed policy document during the consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Essex Highways
- Essex Fire and Rescue
- Essex Trading Standards
- Essex Police
- Ward Councillors
- Current Street Traders

We have also consulted various other teams within the Council, these include:

- Harlow Council Property and Facilities (Property)
- Harlow Council Property and Facilities (Parking Services)
- Harlow Council Community Safety Team
- Harlow Council Environmental Health Commercial Team
- Harlow Council Regeneration (for locations within the Town Centre)
- Harlow Planning Services
- Harlow Council Legal Services
- Harlow Council Street Scene
- Harlow Council Designated Safe Guarding Officer - Christine Howard
- Harlow Chamber of Commerce
- Chair and members of the Licensing Committee.

We have considered and taken into account the views of all the appropriate bodies and organisations.

## PART 6 – LICENSING CONTACT DETAILS

For information, advice and guidance relating to Street Trading Licences:

**Licensing Team  
Harlow Council  
Civic Centre  
The Water Gardens  
Harlow  
Essex  
CM20 1WG**

**Email: [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)**

**Website: [www.harlow.gov.uk](http://www.harlow.gov.uk)**

### **Licence Fee Payments:**

Payment can be made at Contact Harlow on 01279 446655 quoting reference: **19241 2772**. Please provide your payment reference number with your application submission.

DRAFT

## Local Government (Miscellaneous Provisions) Act 1982

### Street Trading Prohibited and Licence Streets (schedule A)

In accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, Harlow Council has designated all the streets within the Harlow district as either "PROHIBITED" or "LICENCE" streets for the purposes of street trading.

It is an offence for any person to engage in street trading:

- i) in a PROHIBITED street
- ii) in a LICENCE street, unless he is authorised to trade in that street by a Street Trading Licence granted by the Council.

The list of streets is set out below:-

#### Prohibited Streets

(a) Town Centre

Street Trading is not permitted in the streets and pedestrianised areas of the Town centre, namely:-

Linkway	Birdcage Walk
Post Office Road	Post Office Walk
Crown Gate	Cross Street
South Gate	The Rows
East Walk	

A limited number of designated trading pitches are licenced in Broad Walk, Harvey Centre Approach and East Gate. Details of availability can be provided on request.

(b) Regional Primary Routes

The A414 (for its entire length between the Town boundary)

(c) Principal Urban Distributor Roads

Elizabeth Way  
Velizy Avenue  
Third Avenue  
Second Avenue  
Katherines Way  
Water Lane (Town Boundary to Katherines Way)  
Fifth Avenue (A414 to Second Avenue/Allende Avenue) A1184 (A414 to Town boundary)

(d) Secondary Distributor Roads

Gilden Way (London Road to Town boundary) First Avenue/Mandela Avenue  
Fourth Avenue  
Southern Way  
Howard Way  
Tillwicks Road  
Abercrombie Way

(e) Local Distributor or Other Roads

Roydon Road (Elizabeth Way to Town boundary) Burnt Mill Lane  
Harlow Town Station Approach  
Road Harlow Mill Station Approach  
Road Station Road  
London Road  
Haydens Road  
Wayre Street  
Service Road to south of Old Harlow Shopping  
Precinct Church Langley Way  
Kiln Lane  
Flex Meadow

Licence Streets

Every street or part of a street which is not to be a PROHIBITED street will be a LICENCE street.

8 March 2006

## Appendix 2

### Safeguarding Children and Adults with Care and Support Needs

#### Introduction

This information for street traders is to help them report matters of concern to the relevant authorities that could relate to the safety of children and adults with care and support needs, particularly as it relates to child sexual exploitation and trafficking as set out below.

#### General Information

Harlow Council believes that all children and adults with care and support needs have the right to be safe, happy and healthy and that they deserve protection from abuse and exploitation. The Council is committed to safeguarding from harm all children and adults with care and support needs in receipt of its services and/or when involved in any of its activities and to treat them with respect during their dealings with the Council.

*Harlow Council Child and Adult Safeguarding Policy 2018/19 – 2020/21,*

<https://www.harlow.gov.uk/sites/default/files/documents/Child%20and%20adult%20safeguarding%20policy%202018%20-%202021.pdf>

#### Safeguarding Children

##### **The definition of child sexual exploitation is as follows:**

*Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.*

*Department for Education February 2017,*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/591903/CSE\\_Guidance\\_Core\\_Document\\_13.02.2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/591903/CSE_Guidance_Core_Document_13.02.2017.pdf)

One of the key factors found in most cases of child sexual exploitation is the presence of some form of exchange (sexual activity in return for something); for the victim and/or perpetrator or facilitator.

Where it is the victim who is offered, promised or given something they need or want, the exchange can include both tangible (such as money, drugs or alcohol) and intangible rewards (such as status, protection or perceived receipt of love or affection). It is critical to remember the unequal power dynamic within which this exchange occurs and to remember that the receipt of something by a child/young person does not make them any less of a victim. It is also important to note that the prevention of something negative can also fulfil the requirement for exchange, for example a child who engages in sexual activity to stop someone carrying out a threat to harm his/her family.

#### Harnessing the wider community

Educating those who work in local services and businesses about what to look for, and how to report concerns, can significantly enhance local disruption and protective capabilities.

**In particular, street traders should consider the following questions when trading:**

- Does your customer appear to be under 18 years old?

- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are you aware of any conversations that suggest children or young people are being or have been taken to a hotel, party or secluded location? If so, ask yourself why?
- Are you aware of children/young people being taken regularly to the same localities? If so, ask yourself why?

## Safeguarding Adults

An adult safeguarding concern is when there is a suspicion that an adult at risk is experiencing or has experienced, abuse or neglect, or there is a concern that the adult at risk is neglecting to look after their home, personal care, health or social requirements and it is having a negative effect on their quality of life and or safety.

Therefore, an adult safeguarding concern should include an adult at risk, known or suspected abuse or neglect and a person alleged to have caused the abuse or neglect, alternatively the concern could be that an adult at risk is neglecting to take care of themselves, their home or hoarding. An adult at risk is someone who:

- 1) has or appears to have care and support needs
- 2) that they may be subject to, or may be at risk of, abuse and neglect and
- 3) may be unable to protect themselves against this.

Southend, Essex & Thurrock (SET) Safeguarding Adults Guidelines,

<https://www.essexsab.org.uk/media/2798/set-safeguarding-adult-guidelines-final-050820-pdf.pdf>

## Report a concern

- If you are concerned about the immediate safety of a child or vulnerable adult you should call 999.
- If you are concerned about an adult you can call Adult Social Care on 0345 603 7630.
- If you are concerned about a child you can use the [Children and Families Hub website \(https://www.essex.gov.uk/report-a-concern-about-a-child\)](https://www.essex.gov.uk/report-a-concern-about-a-child) or call them on 0345 603 7627
- You can also report concerns about a child to the NSPCC on 0808 800 5000.
- If you are a child or young person, you can talk to someone in confidence by calling [ChildLine](https://www.childline.gov.uk) on 0800 1111.

For more information on safeguarding you can visit the [Essex Safeguarding Adults Board \(https://www.essexsab.org.uk/\)](https://www.essexsab.org.uk/)

or [Essex Safeguarding Children Board website \(https://www.esccb.co.uk/\)](https://www.esccb.co.uk/)

**Appendix 3**

**Harlow Council Delegation of Functions for the provision of Street Trading**

**Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**

<b>Matter to be determined</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Environment &amp; Licensing Manager (under delegated authority)</b>
<b>Final approval of the relevant Local Authority Policy Statement</b>	X			
<b>Fee setting</b>	X			
<b>Exemptions from fees</b>			X	X
<b>Application for a licence (new or renewal)</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
<b>Specify principle and Subsidiary terms of the licence</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
<b>Revocation of a licence</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn

## Appendix 4

### Matters to be considered when determining an application

In considering applications for the grant or renewal of a Street Trading Licence or the decision to revoke a current licence the following factors will be considered (This is not an exhaustive list and each application will be judged on its own individual merits);

#### 1.1 Suitability of Applicant

Whether the applicant or operator of the stall is under the age of 17 years;

Whether a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force on the proposed trading location;

Whether the applicant has been convicted of an offence that the Council considers makes them unsuitable to hold such licence/licence, (guidance relating to the relevance of convictions is set out in Appendix 6);

Whether the applicant has at anytime persistently refused or neglected to pay fees or charges due in relation to a licence;

Whether the applicant has without reasonable excuse failed to trade on the street and on the days and times agreed in relation to a licence;

Whether the applicant of the licence has failed to comply with the conditions relating to a licence;

Whether any earlier licence to the applicant has been surrendered, refused or revoked (whether it be by this Council or another);

The levels of complaints received about the operation of the street trading activity, taking into account whether and how such matters were resolved;

The attitude of the applicant and/or their staff in dealing with concerns and queries raised by any person, Officer or organisation; and

Any other relevant information relating to the suitability of the applicant to hold such a licence.

#### 1.2 Public Safety / Highway

Whether the street trading activity represents or is likely to represent a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site;

Whether there is sufficient space in the street for the applicant to engage in the trade in which he/she is proposing without causing undue interference or inconvenience to other persons using the street;

Whether the street trading activity may damage the structure or surface of the street;

Whether the location and operating times will be such that the highway can be maintained and that there are no dangers to those who have a right to use the highway and no obstruction for emergency services.

### **1.3 Public Order**

Whether the street trading activity represents, or is likely to represent a risk to public order.

### **1.4 Avoidance of Public Nuisance**

Whether the street trading activity represents, or is likely to represent a risk of nuisance or annoyance, particularly in residential areas.

Whether the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, odour, litter, disturbance or anti-social behaviour;

Whether the street trading activity is in an area which is residential and where trading would not normally take place.

### **1.5 Street Trading stall [This will include a van, barrow, cart, individual item for sale (e.g. motor vehicles), etc.]**

Whether the unit satisfies all relevant Health and Safety requirements.

Whether the unit satisfies all relevant hygiene standards.

Whether the unit is of a smart appearance.

Whether the appearance of the trading unit or structure and the associated branding and advertising is compatible with the character of the area in which it is proposed to be situated.

### **1.6 Environmental Impact**

Whether the proposed operation will or is likely to have a negative impact on the local environment (e.g. street surfaces and materials, verges, power supply, carbon footprint, supply chain, packaging, surface water or foul drainage system, waste minimisation, waste disposal and waste created by customers).

### **1.7 Goods to be Sold**

If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;

Whether the sale of the articles would conflict with those provided by nearby business premises providing similar goods or services;

Whether the trading in a particular location will conflict with concessions granted to other existing street traders;

Whether the quality of the goods to be sold and the hours and days for which it is intended to trade are suitable.

### **1.8 Number of Street Trading Licence/Licences**

Whether there are enough traders trading in the street from shops or otherwise in the goods in which the applicant decides to trade.

### **1.9 Objections**

Any objections made about the application or licence/licence holder from interested parties.

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## Appendix 5

### Suitability of an applicant to hold a Licence

- 1.0 The Council has a responsibility for determining the suitability of applicants to hold a licence. The principles set out below will be taken into account.
- 1.1 The Council will not grant a licence to anyone unless it is satisfied that they are a suitable applicant. The Council will consider the following criteria when assessing the suitability of an applicant:
- the integrity of the applicant;
  - the competence of the applicant to undertake street trading in a manner consistent with this Policy; and
  - any previous criminal history and/or pattern of behaviour.
- 1.2 In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants (including sole traders, partnerships and companies) on initial application and renewal must:
- provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on 03000 200 190, online at [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) or by email at [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)<sup>3</sup>;
- NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.
- 1.3 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at

<sup>3</sup> The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>. Where practical, the Council encourages the use of the DBS Update Service for all applicants.

<https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.

- 1.4 When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, level of previous compliance, and willingness to co-operate with Council officers) whilst holding a licence/licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may call into question the integrity and competence of the applicant to undertake street trading activities.
- 1.5 In addition, the Council considers that an important element associated with the suitability to continue to hold a licence is the appearance and behaviour of the applicant. Consequently, the Council requires all licence holders to maintain a reasonable standard of appearance and behaviour when in contact and dealing with customers, the general public, other license holders, other traders, Council officers and elected members at all times.
- 1.6 Applicants and licence holders must also co-operate with any reasonable request made by an authorised officer of the Council, any relevant authorised Highways officer, or any officer from the emergency services.
- 1.7 The Council will also consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst licence holders were directly engaged in permitted work at the time or whether they occurred during the licence holder's own personal time.

### **Criminal Record Disclosure**

- 1.8 The Rehabilitation of Offenders Act 1974 applies to persons who wish to apply for a licence. This means that convictions (not all) and cautions become spent in accordance with the provisions of the 1974 Act.
- 1.9 Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a suitable person to be granted or hold a licence.
- 1.10 The Council does not deem that a criminal record automatically bars an applicant from holding a licence; however, it will be a significant factor when determining whether a licence ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out under 'Relevance of Criminal Convictions. However, the overriding consideration will always be to ensure the safety and welfare of the licence holder's existing and potential customers. Decision making will be proportionate and focuses on the risks posed and whether these can be managed. This approach balances the rights of individuals to engage in work whilst protecting the public from risk.
- 1.11 Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings.

- 1.12 Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.
- 1.13 Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a suitable person, the Council will give serious consideration to refusing an application or revoking an existing licence/licence.

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## Appendix 6

### Relevance of Criminal Convictions and Cautions

#### Introduction

- 1.0 The purpose of this section is to provide additional guidance to determine whether or not an applicant or an existing licence holder is a suitable person to hold a street trading licence as it relates specifically to convictions and cautions.
- 1.1 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.
- 1.2 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.
- 1.3 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

#### Legislation

- 1.4 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out that the Council may refuse or revoke an application on the basis that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

#### Defining 'suitability of an applicant'

- 1.5 There is no legal definition as to what definitively constitutes a 'suitable applicant'. However, because of the potential vulnerability of the customers that licence/licence holders may come into contact with, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is suitable to hold a licence granted by the Council.
- 1.6 In essence, a suitable applicant will be:
  - Honest and trustworthy
  - Not abusive, violent or threatening
  - Knowledgeable and competent in the area of street trading able to communicate effectively with customers

#### The Council's approach when considering convictions

- 1.7 The disclosure of any convictions or cautions will not necessarily mean an applicant is an unsuitable applicant and, therefore, automatically prevented from being issued a licence. However, the Council will have regard to unspent convictions and

cautions and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

How relevant the offence(s) are to the licence being applied for. How serious the offences (s) were.

- When the offence(s) were committed.
- The date of conviction.
- The extent of any mitigating factors.
- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- The applicant's explanation around the offence
- Any other character check considered reasonable, e.g. personal references. Any other factor that may be relevant.

1.8 If the Council has any doubts as to the suitability of an applicant/existing licence holder, then an application must be refused or licence revoked until those doubts can be effectively allayed through the provision of further adequate evidence.

1.9 If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Sub-committee for a decision as to whether the permit ought to be revoked.

### **Patterns of behaviour**

1.10 A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence/licence or to revoking an existing licence.

1.11 A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence holder is a suitable person to hold a licence and will give significant consideration to refusing to grant a licence or to revoking an existing licence.

### **Rehabilitation periods**

1.12 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

1.13 A person with a conviction for an offence need not be automatically barred from obtaining a licence. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a suitable person to hold a licence. The onus is on the person to produce such evidence.

**NB** Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is suitable.

**Table A**

<b>Sentence/disposal</b>	<b>Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).</b>	<b>Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end Date of the sentence (including the licence period).</b>
<b>Custodial sentence* of over 4 years, or a public protection sentence</b>	<b>Never spent</b>	<b>Never spent</b>
<b>Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)</b>	<b>7 years</b>	<b>3½ years</b>
<b>Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)</b>	<b>4 years</b>	<b>2 years</b>
<b>Custodial sentence of 6 months or less</b>	<b>2 years</b>	<b>18 months</b>
<b>Community order or youth rehabilitation order **</b>	<b>1 year</b>	<b>6 months</b>

\*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

\*\*In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

**Table B**

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults(18 and over at the time of conviction or the time the disposal is administered).</b>	<b>Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).</b>
<b>Fine</b>	<b>1 year</b>	<b>6 months</b>
<b>Conditional discharge,</b>	<b>Period of the order</b>	<b>Period of the order</b>
<b>Conditional caution and youth conditional caution</b>	<b>3 months or when the caution ceases to have effect if earlier</b>	<b>3 months</b>
<b>Simple caution, youth caution</b>	<b>Spent immediately</b>	<b>Spent immediately</b>
<b>Compensation order*</b>	<b>On the discharge of the order (i.e. when it is paid in full)</b>	<b>On the discharge of the order (i.e. when it is paid in full)</b>
<b>Binding over order</b>	<b>Period of the order</b>	<b>Period of the order</b>
<b>Attendance centre order</b>	<b>Period of the order</b>	<b>Period of the order</b>
<b>Hospital order (with or without a restriction order)</b>	<b>Period of the order</b>	<b>Period of the order</b>
<b>Referral order</b>	<b>Not available for adults</b>	<b>Period of the order</b>
<b>Reparation order</b>	<b>Not available for adults</b>	<b>None</b>

- 1.14 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence or revoke an existing licence until the applicant is in a position to satisfy them.
- 1.15 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence holder in order to assist the Council to determine whether an applicant/existing licence holder is a suitable person or not. The rehabilitation periods will not be considered in isolation.
- 1.16 The Council will not grant a licence to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

### **Street Trading offences**

- 1.17 In addition to the consideration of rehabilitation periods, where an existing licence holder is found guilty of street trading related offences or multiple breaches of licence requirements, licence holders will be referred to the Licensing Sub-Committee or relevant officer with delegated authority in line with the Council's scheme of delegation with a view to determining whether the licence should be revoked.

### **Right of appeal**

- 1.18 Any applicant refused a licence on the grounds that they are not a suitable person, or who has had their licence revoked has a right of appeal to the Magistrates' Court within 21 days of the notice of decision.

### **Conclusion**

- 1.19 Any applicant having a previous or current conviction should not, in principle, be debarred from obtaining a licence. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence. It is this Council's policy to consider the protection of the public above all else by ensuring all holders of a licence are honest and trustworthy, will not be a threat to the public, and are competent in their role and able to communicate effectively. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

## Appendix 7

### Standard Licence Conditions

In this Licence the term "licence holder" means the person to whom the Licence is issued and includes any person employed by or working for him in the course of the trading which is licensed to be carried on.

- 1.1 This Licence is valid for a maximum of 12 months or shorter if specified in the licence from the date of issue and allows the holder to trade in Harlow in designated Licence Streets specified in **Appendix 1** only, and on the days and between the hours specified, and is subject to the following conditions:
- 1.2 Nothing contained in these conditions shall relieve or excuse the licence holder or their employee or agent from any legal duty or liability and the licence holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from their Street Trading.
- 1.3 Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- 1.4 The licence holder or their employee must move the Street Trading unit or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- 1.5 The licence holder must be 17 years of age or over and shall be responsible at all times for control of the Street Trading Unit. Any persons assisting on the unit shall be 17 years of age or over
- 1.6 The licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.
- 1.7 This Licence is personal to the trader to whom it is issued and is not transferable. Any change of vehicle must be notified to the Licensing Team, an application to vary the licence maybe required.
- 1.8 If the street trading site is located on private land, including forecourts, satisfactory written evidence must be provided to the Council that permission of the land owner or lessee has been obtained to carry out the street trading activity.
- 1.9 The trader must not, in exercising the rights granted under this Licence, cause, allow or permit any
  - (i) obstruction of the street or danger to persons using it, or
  - (ii) nuisance or annoyance (whether to persons using the street or otherwise).
- 1.10 This Licence, or a photocopy of it, must be displayed on the vehicle or stall whilst trading is in progress and must be shown on request to a Licensing Officer or other authorised officer of the Council, or to a Police Officer.
- 1.11 The Licence holder must comply with any relevant statutory requirements as relevant to their type of business.

## Conduct of Licence Holder

- 1.12 The licence holder must ensure that all employees are made aware of the responsibility to promote the welfare of children, young people, adults with care and support needs and vulnerable persons and to protect them from harm. To this end a licence holder must ensure that all employees are made fully aware of the information contained in the policy in particular **Appendix 2** relating to child sexual exploitation and adult safeguarding.
- 1.13 Throughout the duration of the licence, the licence holder must continue to be a suitable person to hold the licence. In this respect, the licence holder must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a suitable person would reasonably place on a licence holder.
- 1.14 In particular, during the duration of a licence, the licence holder must notify the Council, in writing, within 48 hours, if:
- They receive any warnings, cautions or fixed penalties; Are arrested (whether or not charged with an offence); Are charged with any criminal offence;
  - Are convicted of any criminal offence; or
  - Allegations are made of their involvement in criminal activity.

The licence holder must notify the Council in writing, of any change of address and contact details which may occur during the duration of their licence.

- 1.15 The licence holder **MUST** at all times when undertaking the street trading activity:
- comply with all reasonable requests made by an authorised officer of the Council, emergency services, or any relevant authorised officer of the appropriate Highways Authority.
  - at all times maintain a valid third party public liability insurance to the satisfaction of the Council and shall produce a valid certificate of such insurance when requested by an authorised officer of the Council.
  - Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
  - Behave in a civil and orderly manner towards all persons including, but not limited to, pedestrians, customers, the general public, other street users, police officers, officers and elected members of the Council.
  - Be courteous to customers.
- 1.16 The licence holder **MUST NOT**, at any time when undertaking the street trading activity:
- Use offensive, racist, abusive, profane or insulting language or behaviour.
  - smoke (this includes electronic cigarettes).
  - leave their stall, van, barrow, cart, etc. unattended at any time.
  - not trade outside the street and the days and times permitted by the licence.
  - not trade using a street trading licence where there are other licence, licence, approval or registration requirements under any other statutory provisions.
  - not assigned or transfer the licence to any other person.

- 1.17 Where the licence holder is not in sole control of the stall, van, barrow, cart, etc. they must ensure that those persons left in charge of the stall, van, barrow, cart, etc. or assisting are adequately trained to undertake the street trading activity.

### **Public Safety / Highway**

- 1.18 The street trading activity must not obstruct any of the street in which trading takes place other than as granted by the licence. No street trading to be on a roundabout, nor park within 15 metres of a junction, across a dropped kerb, on any form of parking restrictions, in parking bays which require permits, we would also expect the opening to be on a footway and not have customers queueing or being served in a carriageway. Not to park opposite a vehicular access and cause difficulty for vehicles turning in/out of the premises. Not to place any form of furniture on the public highway in relation to the vehicle (i.e., bins (this can be placed on/attached to the trailer) or tables or chairs or umbrellas)
- 1.19 The licence holder must undertake regular checks to ensure enough space is maintained in the street to prevent undue interference or inconvenience to other stall holders and persons using the street.
- 1.20 The street trading activity must not endanger any persons using the street.
- 1.21 The street trading activity must not damage the structure or surface of the street.
- 1.22 The licence holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall produce evidence of such insurance any time upon request

### **Public Order**

- 1.23 The licence holder must take appropriate steps to manage and control customers waiting to be served to ensure that public order is maintained.

### **Avoidance of Public Nuisance**

- 1.24 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.
- 1.25 The street trading activity must not cause annoyance, nuisance or loss of amenity to occupiers in the vicinity by virtue of noise, odour, litter and disturbance or anti-social behaviour.
- 1.26 The licence holder must not operate a generator or other plant or equipment if it gives or is, in the opinion of an authorised officer of the Council, likely to give rise to nuisance to other persons and shall immediately comply with any direction of an authorised officer of the Council to mitigate or abate such nuisance.

### **Environmental Impact**

- 1.27 A waste transfer agreement must be made available on request for all waste connected from the operation of this licence.
- 1.28 At the end of the trading period the licence holder shall remove all waste resulting from the street trading activity and ensure that the surrounding area is left clean and tidy.

- 1.29 The licence holder must not dispose of waste in public waste bins.
- 1.30 The licence holder must provide adequate waste bins and ensure that throughout the period of trading the bins do not overflow.
- 1.31 Ensure any litter that is not adequately disposed of by customers is removed and the surrounding area is kept clean and tidy at all times.
- 1.32 The licence holder must not deposit on any street surface, verges or into surface water drains any solid or liquid refuse, waste water or oil or other matter.
- 1.33 The licence holder must ensure that fuel, oil and any other waste does not leak onto the street, highway or verge or pollute any surface water or foul drainage system.
- 1.34 The licence holder must remove the Street Trading Stall from the approved site immediately upon the expiry of the licence.

### **Goods to be Sold**

- 1.35 The licence holder must not offer, display, sell or supply any article other than as specified in the licence.
- 1.36 The licence holder must ensure articles stored, offered, displayed, sold or supplied in such a manner to ensure that they meet all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 1.37 Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.

## **2. Additional Conditions applicable to Mobile Street Trading**

**(This will include a van, ice cream van, barrow, cart, caravan, and individual item for sale (e.g. motor vehicles))**

- 2.1 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.
- 2.2 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 2.3 Whilst trading the licence holder must at all times display in a conspicuous position the licence issued ensuring the licence holders name and licence number are fully visible to the public.
- 2.4 The size and type of stall or container must accord with the photographs/diagram, including the branding and advertisements, submitted as part of the licence application. Any alterations to the stall/container and branding or advertising must be notified to the Council and approval agreed prior to use.

- 2.5 The storage and use of fuel e.g. liquefied petroleum gas, petrol, calor gas etc. must comply with relevant safety requirements including, but not limited to, the number and method of securing full and empty gas cylinders. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.6 Suitable and sufficient fire extinguishers shall be held and maintained on the stall, van, barrow, cart, etc.
- 2.7 All electrical installations shall comply with any relevant safety requirement. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.8 The licence holder must, if requested by an authorised officer of the Council, arrange a test of any electrical or gas installation by a competent person and must submit a certificate of test to the Council.
- 2.9 Mobile licence holders must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A 'particular length of street/site' should normally be interpreted as being a length of street up to 500 metres long.
- 2.10 Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).
- 2.11 Licence holders are not permitted to trade within a 50 metre radius of any static traders, other mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.
- 2.12 For mobile licence holders no street trading may be carried on at any location on any bus route for any continuous period of more than 10 minutes.
- 2.13 Mobile traders must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway, and does not present any dangers to other road users or pedestrians.
- 2.14 Mobile units may sound chimes but NOT before 12 noon or after 19hrs, on any day.
- 2.15 The licence holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate
- 2.16 Any stall, container, vehicle or other article used for street trading shall be removed from the trading location no later than one hour after the end of trading period and shall not be return until trading commences the next day unless otherwise authorised by the Council.
- 2.17 Any licensed stall, vehicle or trailer must be capable of being immediately removed at the request of emergency services or an authorised officer of the Council.

If any of the conditions attached to this licence are not complied with or strictly observed, the Council may refuse to renew or revoke the licence. Failure to trade in compliance with the

Principal Terms of the licence i.e. in Licence Streets only, and in articles stated on the Licence, may result in prosecution, leading to a fine of up to £1000.

This licence does not in any way protect the licence holder from prosecution for obstruction of the highway (NB. "highways" includes lay-bys) or from civil action for trespass onto private land.

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