



Agenda Item No. -----

WALSALL METROPOLITAN BOROUGH COUNCIL

REPORT OF ASSISTANT DIRECTOR OF LEGAL SERVICES TO THE
LICENSING AND SAFETY COMMITTEE

ON 17TH MARCH 2005

STREET TRADERS

1. Purpose of the Report

1.1 A Report was first submitted to the Licensing and Safety Committee on 9th January 2005 (copy of Report appended).

1.2 During the Committee Meeting of 9th January 2005, members asked for further information as to the level of public liability insurance other West Midlands Authorities were imposing.

Comparison of other West Midlands Authorities

Dudley Metropolitan Borough Council require initial public liability insurance cover of Five million. If any trader has difficulty in being able to afford the premiums for that amount of cover, Dudley MBC request details of the applicant's financial problems, and the minimum amount of cover is Two million pounds.

Sandwell Metropolitan Borough Council require minimum public liability insurance in the sum of Two million and try to obtain a figure of Five million if at all possible.

Birmingham City Council also require a minimum public liability insurance in the sum of Two million pounds and try to obtain a figure of Five million pounds if at all possible.

Wolverhampton City Council require traders to have a minimum public liability insurance cover in the sum of Five million pounds

2. Recommendations

Members to agree that a condition will be imposed on all future Licences that the Street Trader provides details of public liability insurance, the amount to be set by members.

On renewal application the same condition shall be imposed

3. Financial Implications

Within budget: Yes.

4. Legal Implications

The Local Government (Miscellaneous Provisions) Act was introduced in 1982. Pursuant to section 4 (4) of Schedule 4 of said Act – ‘when granting or renewing a Street Trading Licence, the Council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the Licence) as appear to them to be reasonable’.

Section 5 provides ‘without prejudice to the generality of sub paragraph (4) above, the subsidiary terms of a Licence may include conditions;

- a) specifying the size and type of any stall or container which the Licence Holder may use for trading,
- b) requiring that any stall or container so used shall carry the name of the Licence Holder or the number of his Licence, or both and
- c) prohibiting the leaving of refuse by the Licence Holder or restricting the amount of refuse which he may leave or the places in which he may leave it.

Pursuant to Section 7 (4) of Schedule 4 of the above Act – “when granting or renewing a Street Trading Consent the Council may attach such conditions to it as they consider reasonably necessary”.

When the above Act was passed in 1982 there was no specific reference in its Terms and Conditions to the Street Traders having to confirm insurance cover. With the passage of time it was considered, fair, reasonable and indeed essential for the protection of members of the public for all Street Traders to have to provide documentary evidence to confirm their Public Liability Insurance, in a fair and reasonable sum. Insurance cover of half a million pounds is considered reasonable in all the circumstances although, Legal Services Department understand from the Environmental Health Department that the nearby Wolverhampton Borough Council requires Street Traders within its jurisdiction to have Public Liability Insurance to the value of 5 million pounds.

In the event of a member of the public sustaining injury or wishing to pursue a claim against a Street Trader the Trader’s appropriate Insurance would ensure that the claimant would pursue his/her claim directly to the Trader’s insurance company, and not have to give consideration as to whether any intended claim should be directed to the Borough Council.

5.0 Equal Opportunities Implications

None.

6.0 Environmental Impact

None.

7.0 Other Policy Implications

None.

8.0 Conclusion

Members are asked to place a condition on all new Street Traders' Licences, that they are to provide a copy of their Public Liability Insurance cover, a sum to be set by members.

Members are asked to place a condition on all renewal applications that the Street Traders provide public liability insurance cover, a sum to be set by members.

SIGNED.....

Bhupinder Gill
Assistant Director, Legal Services

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Service & Case Manager, Legal Services
Tel: 654854



Agenda Item No. -----

WALSALL METROPOLITAN BOROUGH COUNCIL

REPORT OF ASSISTANT DIRECTOR OF LEGAL SERVICES TO THE
LICENSING AND SAFETY COMMITTEE

ON 9TH JANUARY 2005

STREET TRADERS

1. Purpose of the Report

To inform members to impose a condition attached to all Street Trader Licences, requesting that all Street Traders will have to provide insurance documents confirming their public liability insurance in the sum of half a million pounds.

2. Recommendations

Members to agree that a condition will be imposed on all future Licences that the Street Trader provides details of public liability insurance prior to the granting of a Street Traders Licence.

On renewal application the same condition shall be imposed

3. Financial Implications

Within budget: Yes.

4. Legal Implications

The Local Government (Miscellaneous Provisions) Act was introduced in 1982. Pursuant to section 4 (4) of Schedule 4 of said Act – ‘when granting or renewing a Street Trading Licence, the Council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the Licence) as appear to them to be reasonable’.

Section 5 provides ‘without prejudice to the generality of sub paragraph (4) above, the subsidiary terms of a Licence may include conditions;

- a) specifying the size and type of any stall or container which the Licence Holder may use for trading,
- b) requiring that any stall or container so used shall carry the name of the Licence Holder or the number of his Licence, or both and
- c) prohibiting the leaving of refuse by the Licence Holder or restricting the amount of refuse which he may leave or the places in which he may leave it.

Pursuant to Section 7 (4) of Schedule 4 of the above Act – “when granting or renewing a Street Trading Consent the Council may attach such conditions to it as they consider reasonably necessary”.

When the above Act was passed in 1982 there was no specific reference in its Terms and Conditions to the Street Traders having to confirm insurance cover. With the passage of time it was considered, fair, reasonable and indeed essential for the protection of members of the public for all Street Traders to have to provide documentary evidence to confirm their Public Liability Insurance, in a fair and reasonable sum. Insurance cover of half a million pounds is considered reasonable in all the circumstances although, Legal Services Department understand from the Environmental Health Department that the nearby Wolverhampton Borough Council requires Street Traders within its jurisdiction to have Public Liability Insurance to the value of 5 million pounds.

In the event of a member of the public sustaining injury or wishing to pursue a claim against a Street Trader the Trader’s appropriate Insurance would ensure that the claimant would pursue his/her claim directly to the Trader’s insurance company, and not have to give consideration as to whether any intended claim should be directed to the Borough Council.

5.0 Equal Opportunities Implications

None.

6.0 Environmental Impact

None.

7.0 Other Policy Implications

None.

8.0 Conclusion

Members are asked to place a condition on all new Street Traders’ Licences, that they are to provide a copy of their Public Liability Insurance cover in the sum of half a million.

Members are asked to place a condition on all renewal applications that the Street Trader provides public liability insurance cover in the sum of half a million.

SIGNED.....

Bhupinder Gill
Assistant Director, Legal Services

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