



# Walsall Council

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## REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

### LICENSING AND SAFETY COMMITTEE

19 FEBRUARY 2025

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 4, PARAGRAPH 2

### DRAFT STREET TRADING POLICY

#### 1.0 Summary of Report

- 1.1 The Council, as Licensing Authority, plans to implement a new Street Trading Policy with updated conditions and processes.
- 1.2 The current conditions have not been modified for an extended period, and the council aims to modernise the policy to support businesses whilst also protecting the residents and visitors of Walsall.

#### 2.0 Recommendation

The Licensing & Safety Committee is requested to review the report and grant permission for the licensing authority to commence the consultation on the policy.

#### 3.0 Background information

- 3.1 **Appendix 1** is a copy of the current conditions that are in place for street trading.
- 3.2 **Appendix 2** is the draft Street Trading Policy for members to review and approve, initiating the consultation process.
- 3.3 The draft policy intends to structure street trading within the borough, considering several factors. Key points include:
  - Licensing Objectives
  - Types of Consents
  - Street Trading Criteria
  - Applicant Suitability
  - Responsible Authorities
  - Flexible Trades
  - Variety

3.4 If members approve, the policy will undergo a minimum 4-week consultation involving current street traders. Posters with QR codes will be displayed in council and partner organization buildings.

3.5 Consultation will take place with the following:

- West Midlands Police
- Traffic Management
- Highways
- Planning
- Trading Standards
- Environmental Health
- Markets
- Community Protection
- Members of the public
- Existing stake holders (Licensing traders)

#### **4.0 Resource Considerations**

4.1 **Financial:** The Licensing Service is funded by street trading fees. These fees are set according to relevant guidance. The policy will provide updated conditions, protecting the public and consent holders. The cost of advertising designation changes in a newspaper will be covered by current fees.

4.2 **Legal:** The Local Government (Miscellaneous Provisions) Act 1982 enables a District Council to control street trading by resolution to “designate any street in their district as a prohibited, licensed street or a consent street”.

4.3 The recommendation aims to enable progress while protecting existing traders. Existing consent holders will have 12 months to comply with the new policy. Challenges to the Licensing Authority’s policy must be made through Judicial Review.

4.4 The main difference between licence and consent is the level of control that the council may exert. A summary of the differences is tabled below:

4.5 It is essential to keep the members informed about the consultation process of the policy, as this engagement is crucial for its comprehensive development and successful implementation. The proposed policy will undergo a minimum 4-week consultation involving current street traders. Posters with QR codes will be displayed in council and partner organization buildings to invite feedback and suggestions.

4.6 Having a robust policy for street trading is vital for several reasons:

- **Regulation and Order:** A clear policy helps maintain order and regulation within the borough, ensuring that trading activities are conducted in designated areas, minimizing conflicts and disruptions.
- **Public Safety:** By designating specific streets and ensuring compliance with safety standards, the policy protects both traders and the public, enhancing overall community safety.
- **Economic Growth:** A well-structured policy can foster economic growth by providing opportunities for new businesses and traders, thereby contributing to the local economy.
- **Equity and Fairness:** The policy ensures that all traders are treated fairly and equitably, providing a level playing field for new entrants and existing businesses.
- **Compliance with Legal Standards:** The policy ensures adherence to legal standards and guidelines, reducing the risk of legal challenges and ensuring smooth operations.

4.7 Covid has had a big impact on the borough with businesses shutting down, empty shops, street traders not able to continue financially.

4.8 Having prohibited streets in the borough restricts the options available to businesses to set up their trade. The current designation of streets took place upon the implementation of the act and is now out of date.

4.9 The licensing authority has received numerous enquiries from members of the public looking to set up trading in Walsall but have been unsuccessful as the Street is prohibited or the cost to set up with a licence is too much for them.

4.10 The licensing authority has spoken to the Highways Service who are consulted on each application. Therefore, as a statutory responsible authority under the act, if Highways and West Midlands Police are consulted on each application, it would make sense to designate all streets in the borough to a consent street.

4.11 **Legal Requirements on Adopting a Street Trading Policy:**  
When developing or updating policies, it is essential to adhere to legal requirements regarding consultation. These requirements ensure transparency, public participation, and the consideration of diverse viewpoints, which ultimately contribute to the robustness and acceptability of the policy. Key legal requirements include:

#### Statutory Obligations:

Many policies are subject to specific statutory obligations that mandate public consultation. These obligations are often outlined in relevant legislation, which specifies the procedures and timelines for consultation.

#### Inclusivity:

Consultation processes must be inclusive, ensuring that all affected parties, including marginalized groups, have the opportunity to provide input. This inclusivity is crucial for achieving equitable and fair policy outcomes.

#### Transparency:

The consultation process must be transparent, with clear communication about the purpose, scope, and potential impact of the policy. This transparency helps build trust and encourages meaningful participation.

#### Feedback Mechanisms:

Effective consultation requires mechanisms for collecting, analysing, and responding to feedback. These mechanisms should be well-publicized and accessible to all stakeholders.

#### Documentation and Reporting:

The outcomes of the consultation process must be documented and reported. This documentation demonstrates that the consultation was conducted in accordance with legal requirements and that the feedback received was considered in the policy development.

#### Timing:

Adequate time must be allocated for the consultation process, allowing stakeholders sufficient time to review the policy and provide feedback. Rushed consultations can undermine the quality and credibility of the policy.

#### Legal Compliance:

Policies must comply with relevant legal standards and guidelines, which may include data protection laws, equality and non-discrimination laws, and other regulatory requirements.

By adhering to these legal requirements, the Licensing Authority can ensure that the policy development process is thorough, inclusive, and legally sound, thereby enhancing the legitimacy and effectiveness of the policy.

- 4.12 There is no statutory requirement for the consultation period; however, we will confer with our legal department to ensure that adequate time is allotted for all interested parties to submit their responses.

4.13 Extract from Local Government (Miscellaneous Provisions) Act 1982 (7):

*An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.*

*Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.*

*A street trading consent shall not be granted—*

*to a person under the age of 17 years; or*

*for any trading in a highway to which a control order under section 7 of the [M1](#) Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.*

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

*Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—*

*(a) obstruction of the street or danger to persons using it; or*

*(b) nuisance or annoyance (whether to persons using the street or otherwise).*

*The council may at any time vary the conditions of a street trading consent.*

*Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.*

*The council may include in a street trading consent permission for its holder to trade in a consent street—*

*(a) from a stationary van, cart, barrow or other vehicle; or*

*(b) from a portable stall.*

*If they include such a permission, they may make the consent subject to conditions—*

*(a) as to where the holder of the street trading consent may trade by virtue of the permission; and*

*(b) as to the times between which or periods for which he may so trade.*

*A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.*

*The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.*

**5.0 Staffing issues**

None arising from this report.

**6.0 Citizen Impact**

None arising from this report

**7.0 Community Safety**

None arising from this report

**8.0 Environmental Impact**

Nothing arising from this report.

**9.0 Performance and Risk Management Issues**

Nothing arising from this report.

**10.0 Equality Implications**

The Street Trading Review will be the subject of an Equality Impact Assessment

**11.0 Consultation**

11.1 Section 349(3) of the Act states that the following must be consulted:

- a. The Chief Officer of Police
- b. Highway Authority
- c. Existing Licence & Consent holders

11.2 Responsible Authorities have had the opportunity to review the policy and provide feedback, which has been considered during the drafting of the policy

**12.0 Associated Papers**

Appendix 1 – Current conditions

Appendix 2 – Proposed Draft Policy and Conditions

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