



# Street Trading Policy

(Draft for consultation)

[www.bristol.gov.uk/streettrading](http://www.bristol.gov.uk/streettrading)

## 1 INTRODUCTION SCOPE AND PURPOSE

- 1.1 Local Authorities may regulate street trading in their area. If they exercise their discretion they can apply controls across the whole of their administrative boundary or just parts of it. In the early 1980's Bristol City Council agreed to regulate street trading in certain parts of the city, predominantly in the central area. Bristol City Council revised its street trading policy in 2009. A key feature was the extension of street trading controls across the whole of the district. The vast majority of streets are now designated as 'consent streets'. A number of 'licence streets' became 'consent streets' and some streets became prohibited for the purposes of street trading.
- 1.2 The purpose of this street trading policy is to provide a decision making framework for the consideration of applications for street trading consents and to create a street trading environment which is sensitive to the needs of the public including residents, provides diversity and consumer choice, and enhances the character, ambience and safety of local environments. Street trading can be a valuable tool to aid the regeneration of Bristol's retail centres. The council's ability to regulate street trading is set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as "the Act".
- 1.3 Where controls are in place streets may be designated as either '**prohibited**', '**licence**' or '**consent**' streets for the purposes of street trading. A definition of the different classifications is set out below:-

### 1.3.1 Prohibited Streets

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 the city however this would create difficulties as such a restriction would prevent, for example, ice cream vans from carrying out their business.

### 1.3.2 Licence Streets

If a street is designated as a “**licence street**” then application 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 (e.g. among other grounds, that there is not enough room or that there are already enough traders in that street). Street trading in a licence street without a licence is a criminal offence. Applications for street trading licences will continue to be considered on a case by case basis.

### 1.3.3 Consent Streets

If a street is designated as a “**consent street**” then street trading without a consent is a criminal offence. The council is of course always bound to act reasonably and consistent with its general obligations (e.g. those under the Human Rights Act), but subject to that the council enjoys a very wide discretion with regard to the granting or refusal of street trading consents and does not have to rely upon specific statutory grounds in order to refuse an application for grant or renewal of a consent. There is no right of appeal against any council decision made in respect of a street trading consent. A street trading consent cannot be granted for a period of time exceeding twelve months and can be revoked at any time. When granting or renewing a consent the council may attach any reasonable condition, furthermore the council can at any time vary the conditions attached to a consent. Any such variations will be notified in writing to the named person on the application form for the consent and will take effect immediately or on the date of the notification letter.

- 1.4 This policy primarily facilitates the administration of applications for street trading consents. Due to the limited number of licence streets the administration of street trading licence applications will be adapted to take account of any legislative differences between the consent and licence regimes. Central to the council’s policy are a number of objectives which are set out below:-

#### 1.4.1 Public Safety

The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction. This would include the consideration of factors such as: - interference with sight lines for road users and access to pedestrian crossings. Some locations may be considered unsuitable and may require on officer site visit. Applications in respect of sites that have previously been the subject of a refusal due to the unsuitability of the location are unlikely to be accepted.

Guidance notes have been provided to outline these concerns.

#### 1.4.2 **Commercial Need**

Consideration will be given to the number of other traders in the vicinity of the application site.

#### 1.4.3 **Prevention of Crime and Disorder**

The proposed activity should not present a risk to public order. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

#### 1.4.4 **Prevention of Public Nuisance**

Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.

#### 1.4.5 **Sustainability and Product Type**

The applicant should set out measures to reduce the environmental impact of the proposed activity. Typically this could include the use of recyclable products and energy efficient processes. Consideration will also be given to the type of products sold and the suitability of the products at the location requested. For example, applications which propose to sell articles of firearms, replica firearms, tobacco or animals are unlikely to be accepted.

1.5 In addition to these policy objectives the council will also consider:

##### 1.5.1 **Suitability of Trading Unit**

The vehicle, trailer or stall to be used will be of a high quality design/build and will add to the quality of the street scene. The unit may be inspected by an authorised officer of Bristol City Council prior to any

consent being issued. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed and in particular with the following legislation (and any subsequent revisions):-

#### Food Hygiene legislation

- (a) Food Hygiene (England) Regulations 2006 (as amended)
- (b) Regulation (EC) 178/2002
- (c) Regulation (EC) 852/2004
- (d) Food Safety Act 1990

#### Health and Safety legislation

- (e) Health and Safety at Work etc Act 1974 and any regulations made under this Act.

#### Noise control legislation

- (f) Environmental Protection Act 1990

#### Licensing

- (g) Licensing Act 2003 – Sale of hot food between 11.00 pm and 05.00 am and sale of alcohol.

### **1.5.2 Suitability of Applicant**

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:

- (a) whether the applicant has any unspent convictions

*We may ask for a basic Disclosure and Barring Service (DBS) disclosure to be submitted with each application. The DBS disclosure must not be older than one month at the time of its submission. Any unspent convictions or proven criminal behaviour will be taken into account in assessing the suitability of the Applicant.*

- (b) refusal or neglect in paying fees due to the council for a street trading consent or for any other charges due for services rendered by the council to the applicant in his capacity as the holder of a street trading consent . Examples of such services include collection of refuse and cleansing of streets.

- (c) previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent .

## 2 SUBMITTING A NEW APPLICATION

2.1 Application forms and guidance are available from the Licensing Office or can be downloaded from the city council website ([www.bristol.gov.uk/streettrading](http://www.bristol.gov.uk/streettrading)). The following will be required to be submitted with the application:-

- (a) A completed and signed application form.
- (b) Two forms of identification of the applicant. (*Please see guidance notes for information in respect of what identification will be accepted* )
- (c) Two passport sized photographs of the Applicant
- (d) The application fee. (*Please note a part fee payment is required which is 50% of the quarterly charge of the consent being applied for. This will be refunded if the application is rejected.*)
- (e) Where the proposed activity will take place at a fixed position a map to show all streets in the proximity of the proposed site within at least a radius of 500 m of the proposed site should be submitted clearly identifying the proposed location by marking the site boundary with a red line.
- (f) Three colour photographs of the trading unit illustrating different elevations of the unit. This should be accompanied by a plan which clearly shows the dimensions of the unit.
- (g) Evidence that both applicant and assistants have completed a food hygiene qualification. (For food related applications)
- (h) Basic Disclosure and Barring Services check. Not more than one month old
- (i) Written permission from land owner to use the site for the purposes of street trading (if appropriate)
- (j) Such other particulars as the Council may reasonably require. (*Please see guidance notes for examples of other information that may be requested*).

2.2 The following additional documents will be required prior to the consent being issued;

- a. A copy of the certificate of insurance covering third party and public liability risks
- b. MOT certificate and insurance documents where a motorised vehicle will be used for street trading.

### **2.3 Concessions**

A person may already have permission from another department in Bristol City Council (e.g. Docks or Parks) enabling them to engage in street trading on council owned land. In order to operate lawfully, such a person would also need to make an application for a street trading consent, which is likely to be granted. The procedure for administering the application will be more relaxed and the fee(s) for the consent may be waived.

### **2.4 Sites that attract applications from more than one Applicant**

Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/periods are applied for. The ability to utilise the consent shall be subject to satisfactory use of the consent and any other users. At any one time only one consent holder will be permitted to trade on a site and in its immediate vicinity.

### **2.5 Premises Licence – Licensing Act 2003**

If a Premises Licence has been granted under Licensing Act 2003 which enables the Licensee to engage in street trading at a particular location, an application for a street trading consent is still required, which is likely to be granted. The application for street trading consent must be lodged with accompanying documents and fees to the satisfaction of the Licensing Office.

### **2.6 Mobile traders**

Some applicants may wish to engage in street trading from a number of locations across the city rather than from a fixed location. In such cases, applicants must, when submitting the application, clearly identify all of the locations they wish to trade from. If an applicant proposes to trade on streets where there is already an existing street trading consent, commercial need will be a relevant consideration.

### 3 SUBMITTING AN APPLICATION - RENEWAL

Application forms and guidance are available from the Licensing Office or can be downloaded from the city council website ([www.bristol.gov.uk/streettrading](http://www.bristol.gov.uk/streettrading)). To ensure continuity of a consent applications for renewal should be made at least 14 days prior to the expiry of the consent and the following will be required to be submitted to the Licensing Team;

- (a) A completed and signed application form
- (b) The fee
- (c) New photos for applicant if appearance has changed.
- (d) A copy of the certificate of insurance covering third party and public liability risks
- (e) Such other particulars as the Council may reasonably require

### 4. WHO WILL THE COUNCIL CONSULT?

4.1 Before any consent is granted the council will normally consult with the following agencies or persons in respect of new applications. A period of twenty eight days will be allowed for comments to be received.

- (a) Avon & Somerset Constabulary
- (b) Area Planning (Bristol City Council)
- (c) Highways Department (Bristol City Council)
- (d) Noise Control (Bristol City Council)
- (e) Food Safety (Bristol City Council)
- (f) Ward Councillors
- (g) Trading Standards (Bristol City Council)
- (h) Any other consultee that officers consider appropriate. (*Please see guidance notes*).

NB: It is unlikely that consultation will take place in respect of applications for a site that has an existing consent (i.e. renewals) or where a consent has recently expired, provided that no complaints have



been received, the same goods are to be sold and the application is largely the same as the existing or previous consent.

## **5. WHAT DO I NEED TO DO ONCE I HAVE SUBMITTED MY APPLICATION?**

5.1 Once a valid application has been received the Licensing Office may, if reasonably practicable, display a site notice at the proposed site for 28 consecutive days.

5.2 The Council will also maintain a register of applications including mobile traders on its website which will be updated regularly.

## **6. HOW THE COUNCIL MAKES ITS DECISION**

6.1 The Licensing Manager may determine all applications for street trading consents under his delegated powers, except for those applications where he proposes to refuse the application the applicant will be afforded the opportunity to make representations to committee. Wherever practicable, such representations would be made within 28 days of the date given to the applicant as the date by which s/he could notify their wish to make representations. Where no representations are forthcoming within the notified timescales the Licensing Manager could proceed to make a decision under full-delegated powers.<sup>1</sup>

6.2 Where the application is to go before the committee, the applicant, who will be expected to attend, will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented by a solicitor, or supported by a colleague and translation provision will be provided if requested. The Licensing manager will prepare a report for the committee regarding the application. The report will be made available to the applicant at least five days before the date of the meeting. When considering the application the committee will ensure that all persons receive a fair hearing.

6.3 Local members shall be offered up to 14 days to request that an application be brought before the Committee for determination when the Licensing Manager is minded to approve but the Members consider that

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<sup>1</sup> 02/02/10 Public Safety and Protection Committee agreed revised decision making process.

there are local concerns about the application.<sup>2</sup>

## **7. DURATION OF CONSENTS AND FEES**

7.1 Street trading consents will normally be issued for one of the following periods:

(a) Daily

(b) Weekly

(c) Monthly

(d) Quarterly

(e) Annually

7.2 All fees must be paid in full in advance unless an alternative arrangement has been agreed with the council. Applicants not applying for regular trading days will be charged for the duration as specified in the application. If applicants are granted an annual consent they will be invoiced for the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> quarters. Failure to pay fees may result in the consent being revoked.

7.3 No application to renew a consent will not be determined until the fees have been paid which will result in the applicant not being permitted to engage in street trading once the previous consent has expired.

7.4 Non payment of renewal fees may result in any subsequent application being treated as a new application.

7.5 Consent fees are set by the service director in consultation with the relevant executive member(s), chair of the relevant scrutiny committee and chair of the relevant regulatory committee in accordance with the provisions of

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<sup>2</sup> 02/02/10 Public Safety and Protection Committee agreed revised decision making process.

the council's general scheme of delegations.

## **8. CONDITIONS AND ENFORCEMENT**

8.1 General conditions (attached at Appendix A) will be attached to every consent detailing the holder's responsibility to maintain public safety, prevent nuisance and generally preserve the amenity of the locality. Additional conditions may also be attached which relate to the type of consent granted. Such additional conditions may include conditions in respect of motor vehicles (attached as Appendix B), fixed sites (attached as Appendix C), food related premises (attached as Appendix D) and mobile traders (attached as Appendix E), limiting the days and the hours when street trading is permitted, the goods which may be sold, the size of the trading pitch or any other relevant matter. Failure to comply with conditions may lead to revocation or non-renewal of a permission. Persons engaging in street trading (as defined in the Act) without a consent or who fail to comply with the conditions will be liable to prosecution under paragraph 10 of Schedule 4 of the Act. Decisions regarding enforcement action will be made in accordance with the Councils Enforcement policy for Regulatory Services

## **9. COMPLAINTS**

- 9.1 Legitimate complaints will be fully investigated and consent holders shall be expected to liaise with the Council to resolve them. Substantiated complaints may result in a consent being revoked.
- 9.2 Complaints may also be taken into account when considering an application to renew a street trading consent .

## **10. DEFINITION OF STREET TRADING**

10.1 Street Trading is defined in paragraph 1 of Schedule 4 of the Act as:

“the selling or exposing or offering for sale of any article (including a living thing) in a street”.

The Act defines the term “street” as including:

“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”.

Any part of a street is a “street” for the purposes of the Act.

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

- (a) a pedlar trading under the authority of a pedlar’s certificate granted under the Pedlar’s’ Act 1871;
- (b) anything done in a market or fair, the right to hold which was acquired by virtue of a grant, 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;
- (e) trading carried on at premises used as a petrol filling station;
- (f) trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop;
- (g) selling things, or offering or exposing them for sale, as a roundsman.

**APPENDIX A**

**GENERAL CONDITIONS THAT WILL NORMALLY BE ATTACHED TO  
STREET TRADING CONSENTS**

1. The consent holder shall only trade on the days and between the times stated on the consent. The consent holder shall only trade in the description of articles stated on the consent.
2. The consent holder shall not carry on business on any street so as to cause obstruction or cause danger to people using the street.
3. The consent holder shall not carry on business from any vehicle or erect or place any stall or other structure in any street except in the area mentioned in the consent.
4. The consent holder shall not sell, offer or expose for sale any goods or articles other than those described within the principle terms of this consent.
5. The consent holder shall on all occasions, when carrying on business, be strictly sober, and conduct him/herself in a proper, civil and courteous manner, and he/she shall not carry on his/her business in such a way as to cause annoyance to the occupier or person in charge of any shop, business, resident, or any person using the street.
6. The consent holder shall at all times conduct his/her business and position any vehicle used by him/her in connection with his/her business in such a manner that no danger is likely to arise to persons trading or intending to trade.
7. The consent holder shall at all times conduct his/her business in a clean and tidy manner.
8. The consent holder shall ensure that a copy of the consent is clearly visible to the public.
9. A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the Police.
10. The consent holder shall not permit any person to assist him/her in his/her trading unless the details of that person have been supplied to the Licensing Authority. Any such person shall be issued with an identification badge by the Licensing Authority.

11. The consent holder and any assistants shall wear an identification badge issued by the Licensing Authority at all times of trading.
12. If, during the currency of any consent any material change occurs in the facts of which particulars and information were contained in, or given along with, the application for the consent, the holder of the consent shall report such changes to the Licensing Authority within 72 hours of that change.
13. Neither the consent holder nor any assistant shall display merchandise which is likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation.
14. Advertisements or other notices shall not be placed in the immediate area of the premises without the approval of the Council.
15. The Consent Holder shall not place any furniture or equipment in the immediate area of the premises other than as permitted by the Consent.
16. The city council reserves the right to alter or amend these conditions at any time.
17. The subletting of any consent is prohibited.
18. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and its subsequent removal from the site. The removal and disposal must be to the satisfaction of the council.
19. The consent holder shall not cause any nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity.
20. No articles of firearms, replica firearms, knives, tobacco or fireworks shall be sold.
21. A valid third Party Public Liability Insurance certificate shall be held by the consent holder at all times to the satisfaction of the Council.

**N.B This consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, obstruction, etc**

**APPENDIX B**

**MOTOR VEHICLE CONDITIONS**

**CONDITIONS THAT MAY BE ATTACHED TO STREET TRADING  
CONSENTS**

1. Any trailers used for the purposes of street trading shall be removed from the highway when the consent is not in operation.
2. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e. insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any police officer or authorised officer of the Council.

**APPENDIX C**

**FIXED SITE CONDITIONS**

**CONDITIONS THAT MAY BE ATTACHED TO STREET TRADING  
CONSENTS**

1. The consent holder shall ensure that sufficient sanitary accommodation is available for both the consent holder and assistants when operating at a static site.



**APPENDIX D****FOOD RELATED CONDITIONS****CONDITIONS THAT MAY BE ATTACHED TO STREET TRADING CONSENTS**

1. The consent holder, if intending to sell food from a stationary vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force, and any subsequent changes to those regulations.
2. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate shall be required to ensure the safety of all gas cooking and heating equipment. A fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
3. All hot food vans/trailers are required to carry a basic first aid kit.
4. The consent holder shall ensure that litter checks are carried out regularly in the vicinity of the premises.
5. A consent holder selling food shall at all times comply with any food hygiene regulations in force at that time, and when required by the Licensing Authority, shall produce appropriate food handling certificates for relevant food handlers.
6. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
7. The Consent holder shall ensure that measures shall be put in place to remove litter or waste arising from customers and to prevent such litter from accumulating in the immediate vicinity of the site or neighboring premises.
8. Odour from any flue used for the dispersal of cooking smells serving the site shall not cause nuisance to the occupants of any properties in the vicinity.  
Recommendation: It is recommended that any flues for the dispersal of cooking smells shall either:
  - (f) Terminates at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air or:
  - (g) Have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.

**APPENDIX E**

**MOBILE TRADERS CONDITIONS**

**CONDITIONS THAT MAY BE ATTACHED TO STREET TRADING  
CONSENTS**

1. The maximum stop time for any site is 20 minutes. After which the vehicle/cart/wagon must move at least 200 metres further from the previous location.
2. There shall be no return to a site within 2 hours.

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02/02/10	1.2	Emma Lake	02/02/10 Public Safety and Protection Committee amended decision-making process for applications.