

DISCUSSION DOCUMENT

DRAFT

PROPOSALS FOR
AN INFORMAL TRADING POLICY
FOR THE CITY OF EAST LONDONPrepared for the City of East London Municipality
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1. INTRODUCTION

- 1.1 The purpose of this paper is to propose policy for the informal trading sector in East London. The informal trading sector has received considerable attention in recent times due to its rapid growth and increased visibility in areas where it was once sharply restricted if not prohibited all together.
- 1.2 The issue of informal trading poses important urban management issues that must be addressed by the City Council. This paper will go some way towards giving Council direction and context for its action in managing informal trading in East London.
- 1.3 Debates around the issue of informal trading have long been caught up with the effects felt in the main CBD areas, informal trading in previously marginalised areas also need to be addressed. This paper will seek to redress this imbalance and address the issue of infrastructure and services in all areas of the City of East London.
- 1.4 A policy to promote the informal trading sector should be seen within the context of East London's wider local economic development strategies. One of the main objectives of these strategies is to improve the employment and income generating opportunities for all the people of East London. To this end focus is placed on the promotion and support of the Small, Medium and Micro Enterprise sector, consequently, the promotion of the informal trading sector plays an important role in this objective.
- 1.5 This document has been developed within the context of national and regional policy that seeks to promote and support the small enterprise sector, of which the informal trading sector is an important component.
- 1.6 An informal trading policy should be promoted within the City Council so as to inform and direct Council action in its dealings with the informal trading sector. It is hoped that it will enable departments to act with a common cause and move in the same direction. The policy should be used as a planning tool, so that planning for the informal trading sector will be rightfully placed at the centre of the city's urban planning framework.
- 1.7 This document will firstly define what is meant by the informal trading sector, no consensus exists on the concept of the informal economy, but for the purposes of policy formulation and implementation an agreed and acceptable definition needs to be reached.
- 1.8 A brief overview of past approaches to informal trading will be presented. Past policies of restriction and control will be challenged, and the need for a new approach is argued for.
- 1.12 The importance of the informal trading sector within the context of the City's local economic development strategies will also be considered.
- 1.13 The role of the local authority in promoting informal trading will be examined. It is argued that the main role of the local authority is to create an enabling environment to encourage the operation of informal trading sector.

- 1.14 Finally, the main components of the enabling environment will be examined in detail: the regulatory environment; the physical environment; and the administrative environment.

2. DEFINING THE INFORMAL TRADING SECTOR

- 2.1 For the purposes of policy implementation it is important to define what is meant by the 'informal trading sector'. There is a need to outline the characteristics of the 'informal sector or economy', and secondly to identify the characteristics of the particular trading sector that we are seeking to promote.
- 2.2 There is no widespread accepted definition of the informal sector. Definitions vary according to the ideology and the purposes to which the informal sector is being used. Studies carried out by the International Labour Organisation in the early 1970s, used the concept of the informal sector to describe the activities of small producers, vendors and service workers in less developed countries. The ILO characterised the informal sector by the following criteria:
- i) ease of entry
 - ii) reliance on indigenous resources
 - iii) family ownership of enterprises
 - iv) small scale of operations
 - v) labour intensive and adapted technology
 - vi) skills acquired outside of formal school systems
 - vii) unregulated and competitive markets (Evertt & Savara: 1991)
- 2.3 The informal economy is not homogenous and it incorporates a variety of different activities that are not limited to any one particular income level. This is evidenced by the variety of trading operations and the differentiated economic status of the operators. In addition, the informal economy is generally not captured in national economic statistics - informal sector earnings often elude official records. Hence in quantitative terms the informal economy is a 'hidden' or 'shadow' economy.
- 2.4 In political and administrative terms, the informal economy is often perceived through the lens of licensing, regulation, tax and criminal law. Castells & Portes (1989:12) suggest that the informal economy is characterised by income-generating activities that are unregulated by the institutions of society, in a legal and social environment in which similar activities are regulated.
- 2.5 The majority of informal trading businesses are survivalist and micro-enterprises that tend to lack formality in terms of business licenses, VAT registration, formal business premises, operating permit and accounting procedures. Furthermore, they generally tend to operate in open public places, along pavements and in trading clusters. They lack permanent premises or trading structures and generally have little access to services.
- 2.6 Distinctions exist between independent and dependent operators. Independent operators are generally self-employed and have ownership of their tools and raw materials. They also handle parts of the production and distribution processes. Dependent workers participate in putting out systems or work on commission. They rarely own their own tools or raw material and are paid on a piece-rate basis for their labour.

- 2.7 Whilst it would be unwise to make generalisation, it can be said that on the whole the fruit and vegetable hawkers are independent operators, whereas the clothing vendors are dependent or disguised wage workers. Both types of informal traders' livelihoods are inextricably linked to formal sector retail or wholesaling concerns. It has thus been argued that small operators do not necessarily operate in a different sector from larger businesses, instead there is a continuum of businesses, income-earning opportunities or work situations with those activities falling at the lower end of the continuum not being fundamentally different from those which fall at the upper end (Dewar & Watson: 1981).
- 2.8 The fallacy of perceiving two distinct sectors - the formal and informal - is evidenced by the growing occurrences of formal wholesale and retail enterprises increasingly operating parts of their distribution systems in the informal sector. In these cases it is important that we are able to discern between the status of different enterprises so that when support mechanisms are developed, we are able to ensure that they are delivered to the intended target sector.
- ## 3. PAST AND PRESENT APPROACHES TO THE INFORMAL TRADING SECTOR
- 3.1 In the past the approach to the informal trading sector in East London was one of strict control and repression. The extent of this approach was witnessed in 1984 when a strong anti-hawking environment within the local authority resulted in the council attempting to make the act of purchasing from hawkers a punishable offence (Rogerson: 1989). Concessions were made to the informal trading sector only after the effects of a consumer boycott were felt. Informal trading was then permitted only at specific times, places and in certain products, and informal traders were required to be continually on the move.
- 3.2 It has been argued that underpinning much of the anti-hawking sentiment in South African cities, including East London, is in the legacy of past planning attitudes and prejudices where concern for preserving the tidiness and orderliness of the city was manifest. The presence of informal traders in urban centres conflicts with planners notions of a 'tidy cityscape' or 'city beautiful'. Accordingly, objections to informal traders have been based on the arguments of 'unsightliness', 'unfair competition', 'a threat to public hygiene', and 'the obstruction to pedestrian and vehicular traffic'. The equation of informal traders with a health hazard has been the basis for discriminatory controls.
- 3.3 The legacy of past perceptions and planning traditions necessitates the casting aside of long-cherished attitudes that have been the corner stones of urban policy. A new approach is demanded, one that recognises the economic and social importance of informal economic activities in providing income and employment to a large section of East London population who are unable to gain employment in other sectors of the economy.
- ## 4. LOCAL ECONOMIC DEVELOPMENT AND THE INFORMAL TRADING SECTOR
- 4.1 The vision for local economic development in East London is to improve the quality of life for all its citizens by promoting their economic and social empowerment by developing an integrated economic development strategy that promotes business opportunities, job creation and the economic integration of previously marginalised and disadvantaged communities.

- 4.2 The promotion of the Small, Medium and Micro Enterprise (SMME) sector plays an important role in East London's economic development strategies. The survivalist and micro enterprises, which predominantly operate in the informal economy, constitute a large section of the SMMEs sector. The DTI's White Paper on a National Strategy for the Development and Promotion of Small Business in South Africa (March 1995), outlines national government's approach to the SMME sector and argues:

"SMMEs represent an important vehicle to address the challenges of job creation, economic growth and equity in South Africa. The promotion of the small enterprise sector is one of the critical areas addressed by the Reconstruction and Development Programme. It is of great importance for the rate of job creation and income generation, it also deserves particular attention since the sector has been greatly neglected in the past - particularly black-owned and controlled small enterprises." (DTI:1995)

- 4.3 The informal trading sector is an important component of the survivalist and micro enterprise sector. The promotion of the informal trading sector is an integral component of East London's economic development vision.
- 4.4 It has already been noted that the micro-enterprise segment constitutes a large portion of the small business sector. The constraints and shortcomings of the survivalist and micro-enterprise sector have been acknowledged on a number of fronts, not least the ability of these enterprises to become sustainable and to provide steady and secure income and employment opportunities. The main concern, therefore, is the need to transform these enterprises into viable small businesses by assisting these entrepreneurs to break out of the pattern of low income, lack of finance, negligible marketing skills and generally low skill levels - a cycle that traps many of the working poor.

5. THE ROLE OF LOCAL GOVERNMENT IN THE PROMOTION OF THE INFORMAL TRADING SECTOR

- 5.1 There is an increasing realisation that the most effective level for the promotion of local economic development and the SMME sector in particular is the village, town, city or metropolitan area. This approach heralds a break from past practices and expectations of the role of local authorities, where they tended to play a negligible if any role in the development of the city's economy.
- 5.2 Local authorities have a significant and supportive role to play with respect to SMME development and the DTI White Paper provides a conceptual and practical framework within which local government can formulate and implement strategies for SMMEs. The establishment of the national network of Local Business Service Centres is a crucial component of government's strategy for SMME promotion. It is expected that both provincial and local government will play important roles in the establishment of Local Business Service Centres.
- 5.3 In terms of the promotion of the SMME and informal trading sector, it is understood that local government should play the role of a facilitator and not an implementor. The primary objective for local government is to create an enabling environment for SMME development and once such an enabling environment has been provided it is expected that the small entrepreneurs themselves will accept responsibility for the operation, growth and progress of their enterprise.

- 5.4 It is envisaged that once established, Local Business Service Centres in East London will provide the vital support services and put into place the support mechanisms that will assist informal trading enterprises to become sustainable and growing businesses. A Local Business Service Centre will provide support services such as information in to access finance, premises and facilities, training and marketing advice.
- 5.5 It should not be the role of the local authority to provide the small business support mechanisms directly, but rather it should play a proactive and facilitatory role in the coordination of the efforts of the different bodies and programmes that seek to support small businesses.
- 5.6 The current environment is tipped heavily in favour of larger formal businesses and gaps exist in terms of small business support. In the interim it may, therefore, be relevant for the local authority to play an interventionist role and assist in the provision of some small business support services until non-government and private organisations have the capacity to operate and offer support services.
- 5.7 Assistance will be provided only where feasible and cost-effective, for example: in terms of investigating and assessing the needs of the micro- and informal trading sector; and in pressuring and lobbying financial institutions to make their credit facilities accessible to micro enterprise sector.
- 5.8 It has already been noted that the local authority can best play the role of effecting change in the operating environment of the informal trading sector. It can do this by effecting change in the regulatory, physical and administrative environment.

6. THE REGULATORY ENVIRONMENT

- 6.1 In the past, the regulatory environment for the informal trading sector was restrictive. Concern over the issue of black unemployment played an important part in changing official attitudes and in directing policy and legislative changes. The resultant shift in national government policy towards the small business sector led to the deregulation of the informal trading sector in 1991. Current legislative emphasis has, therefore, been on the promotion of the informal trading sector by removing many of the restrictive control measures of the past. Local authorities must be guided by national legislation in the formulation of municipal by-laws pertaining to the regulation of the informal trading sector.
- 6.2 The intention of the Council should be to maximise the survival chances of small entrepreneurs by providing overall encouragement and an operating environment in which enterprises have a better chance to survive. Accordingly, the Council should seek to create an enabling regulatory environment by simplifying or eliminating restrictive legislative and regulatory conditions.
- 6.3 In the formulation of informal trading by-laws, the approach to regulation should emphasise the promotion of economic activities and be less directed towards their control. Emphasis should be placed on creating opportunities and promoting prescriptive rather than prescriptive solutions. The approach should not be to legalise what is illegal or to formalise what is informal but rather to remove unnecessary restrictions so as to allow for greater flexibility and freedom of operation.

- 6.4 This requires a shift in the approach of the Council in their perceptions of the informal trading sector. There has also to be a realisation of the changing social, economic and political context for the operation of the informal trading sector. Municipal governments have long been emphasising the attainment of appropriate or minimum standards which has resulted in much of the regulations attempting to impose First World standards on that are essentially Third World operations.
- 6.5 This approach does not advocate that there should be no regulation, on the contrary some control and planning measures are required to ensure efficient urban and economic management. The challenge is to discover ways in which regulatory and management systems can be organised in new and creative ways.
- 6.6 One of the problems of the past regulatory regime was that it was one of strict enforcement with no effort being made to explain, consult or gain the cooperation of the informal trading sector. The processes involved in the formulation and implementation of regulatory controls need to be revisited. The formulation of informal trading by-laws should be undertaken in consultation and with the participation of the informal trading sector, as well as other business and community stakeholders.
- 6.7 The issue of capacity building within the informal trading sector also needs to be addressed. Council should, therefore, facilitate capacity building programmes by entering into partnership with non-government organisations to offer these programmes.

7. THE PHYSICAL ENVIRONMENT

- 7.1 At times it seems as if informal trading is taking place within a chaotic and unorganised physical environment. Pavements are busy with traders with their trading stalls fabricated from a mixture of materials ranging from cardboard boxes and bottle crates to ironing boards and metal bed frames etc. The result has often led to the congestion of the pavements and the obstruction of pedestrian flow. The common response to this situation has been to call for the removal of the traders from the pavements. The removal of informal trading from the pavements is not considered to be a viable solution in the current economic, social or legal context in South Africa. Alternative and more creative solutions need to be identified and promoted, solutions that attempt to meet the needs of all the stakeholders.
- 7.2 Efforts need to be made to relieve the urban congestion in central city locations without destroying the income and employment opportunities of the informal trading sector. The approach to physically integrate the urban informal trading sector with urban development planning should be promoted. Suitable locations within the city can be earmarked together with the provision of investment in the form of infrastructure and support services that conform to the required standards.
- 7.3 The effective management of the physical environment can play an important role in the promotion of the informal trading sector and the city economy. There are two main issues here:
- access to physical space;
 - the provision of physical infrastructure.

7.4 Access to Urban Space

- (a) The opening up of the central areas of the city is vitally important for the survival, well being and growth of the informal trading sector. The informal trading sector should not be alienated from its markets. Informal traders should have access to the zones of greatest market potential, and allied to this is access to these markets by members of the poorest urban populations for increased trading opportunities.
- (b) Provision should be made of urban land in suitable locations for clusters of informal trading activities. This could come in the form of informal trading areas consisting of parcels of land following the major pedestrian flows of the city. The demarcation of standardised trading areas would assist in relieving congestion by ensuring that adequate space is left for pedestrian crossings, access to vehicular traffic and shop entrances. This measure would assist in considerably improving the quality of the environment. It would also enhance and enrich the city centre whilst at the same time allow small businesses to take advantage to the concentration of people and spending power.
- (c) Land should ideally be owned by the municipality who should take the responsibility for demarcating standardised areas, or squares, and setting appropriate levels of rentals. Rentals should not be set at levels which will result in forcing the more economically disadvantaged traders out of business.
- (d) It is evident that the number of allocated and demarcated informal trading areas along main pedestrian routes will be insufficient to cater for the volume of informal traders currently operating in central urban areas. This situation necessitates the identification of informal trading markets in suitably located areas. Again, efforts must be made not to alienate informal traders from their markets. The municipality needs to investigate ways in which an informal trading market could be organised and administered. Care needs to be taken to ensure that a small trading 'elite' does not monopolise prime locations.
- (e) There should be payment for land and services provided in all demarcated trading areas, such as refuse removal, shelter and access to ablution facilities. This concept is crucial in terms of supporting and promoting the concept of the need to pay for services and contribute to the costs of managing the city.

7.5 Physical Infrastructure

- (a) The quality of informal trading infrastructure is poor, a situation that detrimentally impacts on the efficient running of enterprises and also on the quality of the environment. There is a need to provide support infrastructure: refuse bins; toilets; hard surface facilities; shelter; taps; street furniture, etc.
- (b) There is also a need to provide services, such as clean water. Access to clean water is especially important for informal traders selling fresh fruit and vegetables. Clean water can be provided at centralised trading locations and areas. In the case of food traders there needs to be provision of hygienic services for the handling of food. In the case of services such as access to clean water and refuse removal, the council should charge for the provision of these services.

- (c) Many informal trading businesses, especially in the previously marginalised and economically disadvantaged areas are hampered by a lack of adequate infrastructure and services. In these areas there is need to investigate the state of current facilities, and where necessary upgrade these facilities or attempt to invest in new areas. Where services need to be provided they should be delivered within the context of the Reconstruction and Development Programme so that the benefits accrue to the whole of the community. The upgrading and provision of services should therefore be investigated and delivered in consultation with the various Community Development Forums.

7.6 Shipping Container Units

- (a) Council needs to outline its policy on the use and location of container units. It is becoming increasingly evident that shipping container units have been identified by a number of informal businesses as offering a cheap and flexible solution to the problems of acquiring permanent premises and facilities. Container units have the potential to be used for a variety of social and economic purposes. They are non-permanent structures that are able to provide nearly all the benefits of a permanent structure, with the additional advantage of avoiding many of the administrative, bureaucratic, legal and financial constraints encountered in erecting permanent structures. Council needs to agree its approach to the location and use of container units. In terms of agreeing a policy, the following points need to be considered:
- i) Agree that container units be used as an interim measure for use as a business facility, i.e., storage space, trading facilities, workshops, offices etc, until more permanent facilities can be obtained. However, Council may have to accept the fact that in the face of financial constraints, container units may be the only long term solution in the provision of business premises for some sections of the informal sector business community.
 - ii) The criteria by which container units would be permitted to be located in central urban areas needs to be agreed, i.e: fulfilling the various requirements of the relevant municipal departments and their services effected; balancing aesthetic requirements with economic need. The proposed location of a container unit should not be denied solely on the grounds that it is in a central city area.
 - iii) There is a need to streamline Council application procedures. At present the application procedures for the proposed location of container units is lengthy and time consuming. It is envisaged that the number of applications will be increasing and in the interest of supporting small business development, it is important that these applications are dealt with as speedily as possible.

7.7 The Provision of Trading Shelters

- (a) The municipality can play the role of providing infrastructure. As stated before this service should be paid for. Therefore, systems have to be devised whereby the municipality can recover the costs of this provision as well as seeking to make an income at some point in the future. It can do this setting down policy and guidelines on the management of the structures and subcontracting the service out to the private sector. The policy and guidelines will ensure that the venture is not solely dominated by profit interests.

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