



North West  
Leicestershire  
District Council

# Street Trading Policy

Approved by Council on 20 March 2018

Issue 4

## Foreword

As a licensing authority, we are keen to support Street Traders, as they are a sector of our business community that provides a valuable service to consumers across the district.

This policy, which covers the whole district, is designed to ensure that all street traders operate from a level playing field – making things fair for all traders and safer for customers.

First of all, we will make sure that areas are not saturated by street traders, giving businesses a fair chance of making a living.

Secondly, our Environmental Health Officers now know the exact locations of all traders. This will make it much easier to make sure traders are complying with the law, protecting consumers from unsafe practices and maintaining environmental standards.

We are keen to bring more order to Street Trading and to drive up standards within North West Leicestershire for the benefit of traders and consumers. This policy is key to that ambition.



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Deputy Leader and Portfolio Holder for Community Services

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# 1 Introduction

- 1.1 District Councils have the power to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 enabling them to control Street Trading within their district. Once this schedule is adopted a District Council may choose to designate any street within its area as a prohibited, licence or consent street.

North West Leicestershire District Council adopted Schedule 4 on 1<sup>st</sup> January 1983.

A Consent Scheme has been adopted in North West Leicestershire. This policy details this scheme

This policy was approved by Council on 20 March 2018 and came into force on 1 April 2018.

Within North West Leicestershire consents are required if a trader wishes to trade on a street anywhere within the district.

# 2 Definitions

1. 'Consent' means a consent to trade granted by North West Leicestershire District Council under powers conferred by the Local Government (Miscellaneous Provisions) Act 1982.
2. 'Consent Street' means a street in which street trading is prohibited without the consent of the district council.
3. 'Council' means North West Leicestershire District Council.
4. 'District' means the area within the boundaries of North West Leicestershire District Council.
5. 'Street trading' means the selling or exposing or offering for sale of any article (including a living thing) in a street.

The following street trading activities are exempt from the requirement to obtain a consent from the council for the purposes of this policy:-

- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (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;
- (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 roundsman does not include ice cream sellers (*Kempin v Brighton and Hove Council*) and mobile catering vehicles;
  - (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 Highways Act 1980;
  - (j) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916.
  - (k) Residents wishing to sell items from the pavement outside their home address on a temporary basis may be granted a concessionary consent.
  - (l) 'Markets' The legislation specifically provides that anything done in a market or fair which is held by virtue of a Charter, a presumed grant of a charter or a statutory provision is not street trading for the purposes of the legislation.
  - (m) Trading in a market run by a town/parish council. This policy will not impact on Coalville, Ashby or Castle Donington Markets.
  - (n) Fetes, carnivals or similar community based and run events, for example Christmas lights switch-on events, Christmas Fair, special markets.
6. 'Street' means any road, footway, or other area to which the public have access without payment or any part of a street. For the purposes of this policy, street includes
    - All forecourts, roads, footways or other areas adjacent to the streets as defined in the order.
    - A service area as defined in section 329 of the Highways Act 1980
  7. Premises means any barrow, stall, unit, vehicle, trailer or other premises from which street trading will take place.
  8. Persons means a natural person or a body corporate.
  9. 'Consent Holder' means the person or body corporate to whom the consent to trade has been granted by North West Leicestershire District Council.
  10. 'Nominated Person' means the person nominated by the consent holder to undertake day to day management of the business carried out under the consent.

### **3. Relevant Authorities**

New Applications:

Before a new application for a street trading consent is determined by the council the following people will be consulted:

Group 1:

All District Council Ward Members  
Town or Parish Council – where located

Before determining a new application the council may seek the views of the following authorities:

Group 2:

North West Leicestershire District Council – Environmental Health (Safety)  
North West Leicestershire District Council – Environmental Health (Licensing)  
North West Leicestershire District Council – Environmental Protection (Public Nuisance)  
North West Leicestershire District Council – Waste (littering, street cleansing)  
North West Leicestershire District Council – Planning (appearance – loss of amenity, planning consent)  
North West Leicestershire District Council – Community Safety  
Relevant Highways Authority (Leicestershire County Council / Highways England)  
Leicestershire Police  
Leicestershire Fire & Rescue Service

Renewal applications:

The council will not normally seek the views of others for renewal applications, unless there have been issues raised during the term of the previous consent.

Where complaints or concerns have been reported to the licensing team during the previous 12 months the consultation process for new applications detailed above will be followed.

We may take up to 28 days to seek the views of other in relation to an application.

### **4. Site Assessment**

The suitability of the proposed site will be assessed.

Where the licensing team consider the proposed site to be unsuitable the applicant will be informed and the application will be rejected.

Where the licensing team consider the proposed site to be suitable, the application will proceed to the next stage.

### **5. Inspection of the Street Trading Unit**

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the council prior to the issue of any street trading consent, where this is reasonably practicable.

The appearance of the unit will not present a loss or be detrimental to the needs of the area. At this stage the external colour decoration and appearance of the premises will be discussed and agreed.

The unit to be used for the street trading activity shall comply with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with food hygiene, health and safety and environmental protection legislation.

## **6. Criteria for determining an application**

You must be over 17 years of age to hold a consent.

The council may refuse an application to trade on a consent street on any grounds they think fit. There are no specific grounds stipulated in the legislation, however the council will use the criteria listed below in the determination of street trading consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each application will be assessed on its own merits and individual circumstances

- **Public Safety**  
The street trading activity (location and trading activity) should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard.
- **Prevention of street crime (public order) and anti-social behaviour.**  
The street trading activity should not present a risk to good public order or be the cause of anti-social behaviour in the locality in which it is situated.
- **Public Health**  
The street trading activity (or range of goods sold) should not have a detrimental impact on public health, given the location of the trading site in terms of its proximity to a local school or college.
- **Avoidance of Nuisance**  
The street trading activity should not present a substantial risk of nuisance from noise, light, litter, smells or fumes to households and businesses in the vicinity of the trading site.
- **Needs of the Area**  
The street trading unit should not present a loss of amenity in terms of its appearance;  
The council will have regard to whether there is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes;  
The council will have regard to the number, nature and type of traders already present in a particular area.
- **Compliance with Legal Requirements**  
The street trading activity should not present an unacceptable risk to the public in terms of food hygiene/safety. The street trading unit should comply with the relevant legislation.

Street trading consents from static locations will not normally be granted where:

1. There is not enough space for the applicant to trade in the manner proposed without obstructing the safe passage of users of the footway or carriageway, or
2. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or

3. There is a conflict with Traffic Orders such as waiting restrictions, or
4. The pitch interferes with sight lines for any road users such as road junctions, or pedestrian crossings, or
5. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
6. There would be a significant loss of amenity caused by the appearance of the unit, or
7. The range of goods in which the applicant desires to trade is likely to have a detrimental impact on public health, given the proposed location in terms of its proximity to a local school or college.
8. The consent, if granted, is likely to result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent.
9. The structure / equipment / appliances / layout / location of the proposed premises (barrow, stall, unit, vehicle, trailer or other) presents an unacceptable public safety risk.
10. There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
11. Any other reason (relevant to the street trading policy criteria).

The application will either be;

- 1) Granted and a trading consent will be issued with conditions attached, or
- 2) Refused and a proportion of the fee will be refunded as appropriate to the applicant.

The grant or refusal of an application is a matter for the District Council to determine having had regard to any views from relevant persons/organisations and any other relevant considerations.

## **7. Objections or concerns relating to an application**

In the event that the licensing team receive comments from organisations / persons opposing or expressing concerns relating to the application, the officer may choose to discuss these concerns with the applicant.

An Authorised Officer will devise a report detailing a recommendation. A second Authorised Officer will consider the recommendation report and determine the application.

## **8. Approval of Application**

Upon approving the application the council will issue a street trading consent to which conditions will be attached. The consent will contain specific terms such as days and hours when street trading is permitted, the location from which trading will take place and the goods that may be sold.

A consent may permit a street trader to trade from up to 3 specified locations. All trading locations must be detailed on the consent.

The conditions attached to the consent form part of the approval to carry out street trading in North West Leicestershire. They **MUST** be complied with at all times and failure to do so could lead to the consent being either revoked, or not renewed.

## **9. Issue of Street Trading Consents**

Street trading consents will be issued by the Licensing Team at North West Leicestershire District Council.

There are two types of consent, annual and occasional.

## **10. Refusal of applications**

Where the council refuses an application the applicant will be informed in writing of the reasons for not granting the application.

In the event that an application is refused the fee, minus an administration fee will be refunded.

## **11. Revocation of a Trading Consent**

If an Authorised Officer of the council is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought.

If an Authorised Officer of the council is of the opinion that the operation of a street trader undermines one of the policy criteria, firstly consideration will be given to adding to or amending consent conditions. If the concern cannot be mitigated through consent conditions revocation of a consent will be considered.

Fixed cabins used by consent holders to trade will not remain closed for longer than 4 months unless agreed with the council. The council reserve the right to revoke a consent in the event that a trader does not trade for a period of longer than 4 months.

The Officer will present a report to the Licensing Team Leader detailing the reasons for recommending revocation. Comments from the consent holder would be invited to accompany the report.

In the event of a consent holder having a consent revoked by the council a further application from that person will not normally be considered within a period of up to 3 years from the date of revocation. In order to promote fairness through consistency and proportionality the following guidance has been devised:

- Each application will be treated on its own merits.
- The Licensing Officer must obtain legal advice before making a decision.
- The reasons behind the decision to revoke the consent must be obtained and understood. The following factors will be taken into consideration.
- The length of time should meet, in a fair and proportionate way, the objectives of the punishment, deterrence and the removal of gain derived through the non-compliance, it should not be cheaper to offend than to comply with the street trading consent conditions.
- The following will be used as a guide when determining the length of time before which the Licensing team will consider an application.

	Up to 1 year	2 to 3 Years
Seriousness of failings	Failings were significant, however they occurred as an isolated incident	Deliberate breach of or flagrant disregard for the law  Pattern of non-compliance over a prolonged period of time  Concerns raised by customers, employees were ignored
Impact of failings	No harm or injury resulted from the failings	Harm or injury resulted from failings
Attitude / co-operation of consent holder	Some efforts were made to address the risk although they were inadequate	Failed to make appropriate changes following prior incident(s) exposing a public safety risk

Where a trading consent is revoked by the council there will be no refund of the application fee.

There is no right of appeal against the council's decision to revoke a consent.

## 12. Minor Variations to Trading Consents

A consent holder is able to apply to vary a consent. Further details of this process can be found within the guidance.

All applications to vary an existing consent must be made in writing. All applications will be considered by the Licensing Officer.

The Licensing Officer is not required to seek the views of others prior to making a decision, however they may choose to.

There is no right of appeal against the council's decision to refuse to vary a consent.

A variation fee must be submitted with the application.

### **Document History**

Issue 1 - 6 April 2009 – 31 March 2014 (Agreed by the Council on 26 February 2009)

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