

**BRISTOL CITY COUNCIL**

**PUBLIC SAFETY AND PROTECTION COMMITTEE**

**28 FEBRUARY 2017**

**Report of:** Strategic Director, Neighbourhoods

**Title:** Street Trading Policy Amendments

**Ward:** Citywide

**Officer Presenting Report:** Nick Carter, Regulatory Services Manager

**Contact Telephone Number:** (0117) 92 22394

**RECOMMENDATION**

To note the contents of the report and approve amendments to the Street Trading policy for adoption.

**Purpose of Report**

To advise of proposed changes to the Street Trading policy to provide a more efficient service for applicants and to streamline some of the current processes.

**Summary**

The current Street Trading Policy, which sets out how applications for permissions under the regime can be obtained, was agreed by the Public Safety and Protection Committee in 2009. This proposal is for some relatively minor changes to the current administrative arrangements for dealing with applications.

**The significant issues in the report are:**

- The formulation of any amendments to the Street Trading policy is a non-executive function that rests within the terms of reference of the Public Safety and Protection Committee
- The amendments relate to landowner permission, the consultation period, the consultation requirements and the powers of the Licensing Manager.

## Policy

1. There is no legal requirement for a Council to set any policy on Street Trading however it is considered good practise because it clearly sets out the council's approach and ensures consistent decision making. The policy may guide but not bind the authority.
2. The Local Government (Miscellaneous Provisions) Act 1982 (the Act) defines street trading as the selling, exposing or offering articles for sale in a street. The council has already adopted schedule 4 of the Act to apply in the city. Schedule 4 of the Act enables the council to control street trading. The definition of a "street" is wide-ranging and includes any road, footway, beach or other area to which the public have access without paying and service areas as defined under Section 329 of the Highways Act 1980.

## Context

3. Street trading can positively contribute to the street scene, local economy and needs of the community. The aim of the City Council Street Trading policy is to balance the needs of street trading, the needs of the area and to protect the city's amenity. The Licensing Service is proposing a number of low-risk changes to how applications are processed and to how applications can be determined, which would require minor amendments to the Street Trading policy. Under current practises, there are a number of steps that must be taken by the Service that are bureaucratic and do not necessarily complement the process. These steps cause a strain on the Licensing Services' ability to determine applications in good time. These proposed changes will improve the efficiency of the Service.

## Proposal

4. In order to ensure the council continues to have a modern, transparent and robust framework for controlling street trading and making decisions, the Committee is asked to give its approval to the following amendments and additions to the current Policy:

| <b>Current Policy Provision or Omission</b>   | <b>Issue</b>  | <b>Revised Provision</b>   | <b>Benefit</b>   |
|---|---|--|--|
| Requirement to consult with residents/business within 100 m of the application site. 14 | Depending on location this can result in large numbers of letters being | Applicant to place a notice on site setting out details of the application and | The revision will speed up the application process for the applicant and |

| <b>Current Policy Provision or Omission</b>  | <b>Issue</b>  | <b>Revised Provision</b>   | <b>Benefit</b>   |
|--|---|--|--|
| days allowed for comments.   | posted. The situation becomes exacerbated when an applicant submits several applications on a speculative basis                       | information on how to object. Licensing Team to add application details to an on line register. Consultation time extended to 21 days. These proposals bring the street trading consultation closer in line with other regulatory requirements as found under, for example, the licensing act 2003 and planning requirements | reduce inefficiencies in the current process.  |
| No requirement to obtain landowners consent prior to submitting application                                    | Applications can be progressed to a late stage without permission of the landowner only to fail when landowner permission not granted | Applicant to provide written confirmation from the landowner of permission to trade at the application site before the application is processed (unless land owned by BCC)   | This revision will inform the applicant prior to submitting an application whether they will be able to trade at their preferred location. |
| Licensing Manager/Licensing Team Leader may determine all applications except where they propose to refuse the | Currently the policy does not permit delegated officers to refuse applications  | Licensing Manager may determine all applications or refer to committee for a decision (if this   | Applications are assessed against policy considerations previously agreed by this committee. Many  |

| <b>Current Policy Provision or Omission</b>   | <b>Issue</b>  | <b>Revised Provision</b>  | <b>Benefit</b>   |
|---|---|---|--|
| application. In such cases the applicant is given the opportunity to go before committee. | without recourse to committee if requested by the applicant.                      | is considered too contentious then the Licensing Manager, when minded to refuse, could consult with Chair of the PSP Committee) | applications fail to comply with the agreed policy but currently the Licensing Manager cannot refuse without offering the opportunity for a committee appearance. This change would enable them to be more time efficient.                     |
| On application for a street trading permission a Basic disclosure is required (CRB check) | Currently there is no requirement to undertake a further disclosure once licensed | Applicant to provide a basic disclosure every three years on renewal  | This change would increase public safety as any new criminal offences that might question the suitability of the licence holder to continue trading would come to light. This provision would align with similar requirements for taxi drivers |

5. The formulation of any amendments to the Street Trading policy is a non-executive function that rests within the terms of reference of the Public Safety and Protection Committee. After discussion with Officers, the Chair of PSP agreed on 4 August 2015 that prior to any application being processed and moving to the consultation stage, an application must be received with evidence of landowner permission.
6. The changes proposed will help the Council at a time where savings (in terms of resources and personnel time) are paramount. If the changes are approved by members at the PSP committee, they would come into force immediately but only affect applications sent in after the date of

implementation i.e. any applications sent in before this date would still have to be considered under the processes that are in place as of today.

## **Consultation**

### **7. Internal**

Not applicable.

### **8. External**

Not applicable.

## **Other Options Considered**

### **9. Do nothing**

Applications would continue to be sent to consultation, which will mean the problems listed will continue. This option was not considered viable as it does not allow licensing officers to effectively fulfil their duties.

### **10. Full policy review**

Should members of the Committee be prepared to progress with this option the matter will be subject to a formal public consultation.

## **Risk Assessment**

### **11. If things continue the operational efficiency of the Licensing Service will be adversely affected. Such processes are costly, time-consuming and are not sustainable in the long-term.**

The Council is continuing to look for savings and by removing the requirement to consult using a vicinity test and instead provide information online, these changes will ensure that the limited resources available are well spent.

## **Equalities Impact Assessment**

### **12. An Equality Impact Relevance Check has been produced and is attached as an appendix.**

## **Legal and Resource Implications**

### **Legal:**

The proposed amendments are minor in nature and do not trigger any issues relating to human rights, equalities or enforcement.

The provisions relating to consulting/advertising are in the discretion of the Council and are not governed by the Local Government (Miscellaneous provisions) Act 1982 (the legislation). The proposed changes are similar to those required under the Licensing Act 2003 and are therefore appropriate.

A Street Trading Licence or consent cannot be lawfully used without the landowners consent and it is therefore proportionate for such permission to be required to be in place at the point of application.

The legislation does not prevent decisions being made at officer level for the refusal to grant a street trading licence or consent.

The legislation does not specify the regularity of any CRB check although there is a ground for refusal of a licence on the basis that the applicant is unsuitable by reason of having been convicted of an offence. The proposal for a check every 3 years is in line with the requirements of taxi drivers and is therefore proportionate.

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**Legal advice given by:** Ashley Clark, Solicitor

**Financial:**

There are no direct costs associated with implementing these changes. At the current time the service has not identified any cashable savings associated with changes to work allocation. If the policy is approved, the service will review the resource allocation further and any future savings will be reported through the monthly monitoring forecasts or future budget proposals if applicable.

**Finance advice given by:** Annabel Scholes, Interim Finance Transformation Lead

**Land**

Not applicable.

**Personnel**

Not applicable.

**Appendices:**

Equalities Impact Assessment Relevance Check

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background Papers:**       None