

HIGH PEAK BOROUGH COUNCIL

Report to Licensing Committee

7th March 2019

TITLE:	Street Trading Policy 2019/2021
EXECUTIVE COUNCILLOR:	Councillor Tony Kemp - Executive Councillor for Tourism, Regeneration & Licensing
CONTACT OFFICER:	Alicia Patterson Head of Environmental Health
WARDS INVOLVED:	(All Wards)

Appendices attached:

- Appendix A - Street Trading Policy 2019-2021 (updated with recommendation from Head of Environmental Health)**
- Appendix B - Written Consultation Response received**

1. Reason for the Report

The report confirms the consultation responses received to the draft Street Trading Policy 2019-2021 which was approved by the Committee at its meeting held on 29 November 2018.

2. Recommendation

- 2.1 That the Committee notes the consultation responses received.
- 2.2 That the Committee approves the amendments proposed at section 5.4 of the report to the Policy.
- 2.3 That the Committee approves the amended Street Trading Policy 2019/2021.

3. Executive Summary

- 3.1 On 1 October 2008 the Council re-designated the streets in High Peak in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and introduced a Street Trading Consent Policy to provide a transparent framework for the decision making process, and to ensure that the system operated within constitutional arrangements.

- 3.2 It is a requirement that licensing authorities regularly review and update policies to reflect changes in legislation, local circumstances and safeguarding issues. The last policy review was carried out in 2014.
- 3.3 The Street Trading Policy is governed by the Local Government (Miscellaneous Provisions) Act 1976. At its meeting held on 29 November 2018 the Committee approved a revised draft Policy for consultation with existing street traders and the public.

4. **The proposed Street Trading Policy**

- 4.1 For the purpose of clarification the Committee may wish to note that the following are not street trading 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 shop or in a street adjoining premises so used and as part of the business of the shop;
 - (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;
 - 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;
 - i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions Act 1916.).

The reference to trading as a news vendor in (d) is a reference to trading where:

- (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
- (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres; or
 - (iii) stand on the carriageway of a street.

5. Consultation

- 5.1 A consultation exercise was undertaken between December 2018 and January 2019. A copy of the proposed revised policy was made available to view on the High Peak Borough Council website, in addition a hard copy was available at the Buxton and Glossop Reception. All existing street trading vendors and event organisers were individually consulted on the proposals.
- 5.2 The Council has received a number of positive verbal responses in support of the proposed policy.
- 5.3 The Council has received one written consultation response (submitted by two individuals) which is attached in full at Appendix B of this report. In summary, the points within the response are noted below:-
- The proposals are not permitted under DHCLG guidance on cost recovery for fees, contradicting guidance from DHCLG to local authorities where fees can only be levied on a cost recovery basis.
 - The proposal published does not carry the revised tier structure and omits fees.
 - The exemption is only available to registered charities or CIC. This is far too restrictive an exemption. Very few event delivery groups are registered charities or CICs and so are not exempt from the proposed charges.
 - The Council's systems are not fit for purpose and it is not an appropriate response to pass responsibility for the administrative burden on to volunteers. There are problems with Apple and Android phone compatibility for forms and online fee payments cannot be processed efficiently.
 - The proposal does not take into account volunteer time to comply with the new regime and could inadvertently result in a decrease in the number of events delivered in High Peak and volunteers willing to deal with the administrative burden.
 - The proposed licensing policy puts high street regeneration at risk of stagnation.
 - Strategically, this proposal is not in line with a new regional focus on food tourism by Marketing Peak District and Derbyshire Peak District and ignores the huge contributions that food and drink make to the national tourism offer.
 - The new demand for licensing fees from private events held in premises not owned by HPBC (if they are not ticketed events), does not seem to be

in compliance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

- 5.4 In response to the above consultation responses it is proposed that the fee structure for Special Events is amended at pages 7 and 8 of the draft Policy to include a Category 1 of up to 10 Traders to address the concerns raised regarding this. It is confirmed that the proposed fee structure is based on cost recovery and not income generation for the Council and it is proposed to amend the policy to confirm this. Finally, it is proposed that the definition of charitable organisations be extended to include organisations which are not formally registered but which can demonstrate that their activities are entirely charitable in nature, subject to the ability to evidence this by way of detailed accounts within 6 weeks of the event taking place.

6. **Options and Analysis**

- 6.1 To amend the draft Policy as proposed together with any further amendments. (Recommended)
- 6.2 To note the consultation responses received and not to amend the Policy. (Not recommended)

7. **Implications**

7.1 Community Safety - (Crime and Disorder Act 1998)

The successful implementation of the Street Trading Policy should have a positive impact on community safety and assist in the reduction of crime.

7.2 Workforce

None.

7.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

7.4 Financial Considerations

The failure of the Council to review and consult on our policies on a regular basis may result in a judicial review being brought against the Council.

7.5 Legal

High Peak Borough Council has adopted Section 4 of the Local Government Miscellaneous Provisions Act 1982, as a result all street trading in High Peak requires a Street Trading Consent. Responsibility for street trading matters within the Council sits with the Licensing Committee.

7.6 Sustainability

The aim of the Street Trading Policy is to improve the economic, environmental and social well being of the area.

7.7 Internal and External Consultation

A consultation will take place with existing Street Traders and consultees.

7.8 Risk Assessment

The Street Trading Policy will be monitored during the five year period and can be reviewed at any time if considered necessary and appropriate.

Mark Trillo
Executive Director (People) and Monitoring Officer

**Web Links and
Background
Papers**

**Location
High Peak Borough Council
Buxton**

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