

Cheltenham Borough Council
Cabinet – 11 February 2020
Adoption of revised Street Trading Policy

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mike Redman, Director of Environmental & Regulatory Services
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The council's current street trading policy was approved on 12 February 2016. In May 2019 the Cabinet Member for Development and Safety approved a draft policy for consultation.</p> <p>Consultation has now been completed and this report seeks approval from Cabinet to adopt and implement the revised street trading policy.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the amendments to the current policy; 2. Note the consultation feedback and officer comments; 3. Adopt the revised policy for implementation.

Financial implications	<p>There are no financial implications of the amendments to this policy.</p> <p>Contact officer: Andrew Knott, Andrew.Knott@publicagroup.uk, 01242 264121</p>
Legal implications	<p>Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows licensing authorities to control street trading activities within their area. Cheltenham Borough Council designated the whole of the borough a consent area. The proposed new street trading policy must be in accordance with the powers granted in Section 3 and Schedule 4 of the LGMP Act 1982.</p> <p>Contact officer: Vikki.Fennell@tewkesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>There are no HR implications of the amendments to this policy.</p> <p>Contact officer: Clare Jones, Clare.Jones@publicagroup.uk, 01242264364</p>
Key risks	As outlines in Appendix 2

Corporate and community plan Implications	As outlined in the report
Environmental and climate change implications	As outlined in the report
Property/Asset Implications	N/A Contact officer: Dominic.Stead@cheltenham.gov.uk

1. Background

- 1.1 The authority's current street trading policy was approved by Cabinet on 12 February 2016.
- 1.2 The current policy sets out a commitment to keep the policy under review and proposes revisions where they are deemed necessary, but in any event to review the policy at least every three years.
- 1.3 In accordance with the above, a review of the current policy was undertaken and Cabinet is asked to consider the policy revisions, consultation feedback and approve the draft revised policy for adoption.
- 1.4 A copy of the draft revised policy is attached at **Appendix 2** for reference.

2. Statutory Framework

- 2.1 The authority has adopted schedule 4 of Local Government (Miscellaneous Provisions) Act 1982 ("the Act") to apply in the borough. Schedule 4 of the Act enables the council to control street trading in the borough.
- 2.2 As part of the adoption, the authority has designated all streets in the borough as consent streets meaning that no street trading can take place anywhere in the borough without the authority's consent.
- 2.3 There is no statutory responsibility on the authority to adopt a policy but it is considered good practice as it clearly sets out the authority's approach to local street trading regulation and provides guidance to licence holders, prospective licence holders and Members.

3. Policy Review

- 3.1 The authority's current policy approach prescribes a number of permitted trading locations and goods that can be sold at these locations. Whilst this approach was the right one in 2016, the public realm has changed, as has the authority's approach to managing it.
- 3.2 Accordingly, the revised policy seeks to adopt a more flexible approach. The draft revised policy still allocates permitted trading locations (called "zones") but, instead of also prescribing goods to be sold there, it provides flexibility for traders to approach the authority with proposals.
- 3.3 Street licensing "zones" provide a number of advantages over the existing policy:
 - They cover a wider footprint than the previous plots, and therefore can accommodate more street trading. This also provides back-up options to those traders who miss out on a particular area if it is already booked.
 - They open up areas that are currently used for street trading, but are not actually a plot. This may encourage new street traders to make applications in these areas.
 - They cluster street traders closer together. This gives them presence, rather than isolation, and may encourage greater footfall.
 - They provide applicants with more flexibility in choosing a particular area within a zone.
 - They are high profile locations within the town centre.
 - Zones help to reimagine particular areas of public realm. Within zones, there is an opportunity to move street furniture items to accommodate street trading – particularly for

market events.

- 3.4 Trading applications will be determined against revised assessment criteria as outlined in the revised policy (4.2).
- 3.5 In addition, the authority also proposed a number of changes to the current policy in respect of:
- 3.5.1 The sale of real fur;
- 3.5.2 Environmental credentials of street traders and trading activities; and
- 3.5.3 Revising consultation periods.

4. Consultation

4.1 Consultation on the revised policy was undertaken between June and August 2019. A copy of the consultation feedback and officer response is attached at **Appendix 3** of this report.

4.2 Consultation was undertaken with:

- Existing consent holders
- The Licensing Committee
- Members of Cheltenham Borough Council
- Parish Councils
- Director of Environment
- Gloucestershire Highways
- Head of Planning
- Public Space Design Team
- Conservation & Heritage Manager
- Cheltenham Business Improvement District
- Chief Officer of Police
- The residents of Cheltenham

4.3 A number of specific issues have arisen from the consultation feedback, of note:

- a) Ban on the sale of real fur – A number of respondents noted that whilst a ban is right, it needs to be enforced properly to be effective. One respondent raised in particular issues around training to differentiate between fake and real fur and penalties for breaches of any such ban.

It is proposed that the authority amends the standard conditions attached to consents to include a new condition that will place the onus on the consent holder to ensure that they do not sell or permit the sale of real fur when relying on a trading consent issued by the authority.

This will allow the council the discretion to review and / or revoke consents in cases where this condition has been breached.

- b) Phasing out the use of single use plastics – The proposal to phase out single use plastics associated with street trading presents a more complex picture. Respondents to the consultation have pointed out that whilst they support the principle of it:
 - a. alternatives are not always better or accessible
 - b. examples of certain alternatives not being easily recycled or not recyclable at all
 - c. increased carbon footprint for alternatives
 - d. the need to phase in any such ban particularly for smaller businesses.

4.4 Whilst the authority is still firmly of the view that phasing out single use plastics is appropriate, the practical implications of this requires more work and research. It is proposed therefore that officers bring back a policy in respect of this to Cabinet at a later date in 2020 for consideration.

5. Reasons for recommendations

5.1 To ensure the authority’s regulation of street trading activities remains relevant and continues to support the changing nature of public realm improvements around town.

6. Alternative options considered

6.1 Cabinet can decide not to approve the revised policy document. However, this is likely to result in an outdated policy document and regulatory environment.

6.2 Alternatively, Cabinet can decide to make changes prior to approving the revised policy document.

7. How this initiative contributes to the corporate plan

7.1 Continuing the revitalisation and improvement of our vibrant town centre and public spaces.

7.2 Achieving a cleaner and greener sustainable environment for residents and visitors.

8. Performance management – monitoring and review

8.1 The performance of the policy will be measured against the stated aims of the policy.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Revised policy 3. Consultation feedback
Background information	<ol style="list-style-type: none"> 1. Cheltenham Borough Council street trading policy adopted 12 February 2016 2. Draft revised street trading policy document approved for formal consultation, 30/05/2019, Cabinet Member for Development & Safety

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If Cabinet does not approve the proposed revised policy, it will result in an outdated policy document and regulatory environment for street trading.	Director of Environment	May 19	2	3	6	Accept	Report recommendations		Licensing Team Leader	
	If Cabinet does not approve the proposed revised policy, the council could face legal challenges to its policy adoption and regulation.	Director of Environment	May 19	2	2	4	Accept	Report recommendations		Licensing Team Leader	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											