

Cheltenham Borough Council

Cabinet – 17 April 2012

Approval of draft "Policy on Measures to Control Street Scene Activities in Cheltenham - Street Trading, Objects on the Highway and Charitable Collections" for consultation

Accountable member	Cabinet Member Housing and Safety - Councillor Klara Sudbury
Accountable officer	Director of Culture and Wellbeing – Sonia Phillips
Accountable scrutiny committee	Social & Community Overview and Scrutiny Committee
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The Council is responsible for the regulation and control of street trading, objects on the highway and charitable collections in the borough.</p> <p>This report seeks approval from Cabinet to approve a revised draft policy for the purpose of consultation.</p>
Recommendations	That Cabinet RESOLVE to approve the draft “Policy on Measures to Control Street Scene Activities in Cheltenham - Street Trading, Objects on the Highway and Charitable Collections” for consultation.

Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>
Legal implications	<p>The Council is responsible for the regulation of a number of activities within the borough of Cheltenham. Although there is no statutory requirement to have a policy in place to facilitate the discharge of these functions a policy will assist the Council in fairly and properly exercising its power in relation to determining applications. It will also assist applicants and holders of consents and/or permissions in understanding the procedures adopted by the Council.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>There is a responsibility to ensure that relevant employees are made aware of any significant changes to the policy.</p> <p>Contact officer: Donna Sheffield, donna.sheffield@cheltenham.gov.uk, 01242 77 4972</p>
Key risks	As outlined in Appendix 1

Corporate and community plan Implications	Cheltenham is able to recover quickly and strongly from the recession Attract more visitors and investors to Cheltenham
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1. Background

- 1.1 Cheltenham Borough Council is responsible for controlling street trading, charitable collections and objects placed on the highway within the borough of Cheltenham.
- 1.2 The legislation covering each of these activities provides the Council with a wide ranging discretion when setting policies for the control of these activities.

Current Policy

- 1.3 The Council's current policy on the licensing of street activities and objects on the highway was approved by Council on the 27th January 1997 and was further reviewed in 1998/99 and amended by Council on the 1st March 1999.
- 1.4 A copy of the Council's current policy is attached at **Appendix 2**.

The Need for Revision

- 1.5 The need to revise the Council's current adopted policy has been driven by a number of factors;
1. The current policy is limited in scope to the town centre without clearly delimiting the town centre. There is therefore a need to extend the scope of the policy to cover the entire borough and secondly to clearly define the town centre.
 2. Despite the fact that the current policy has been in place since 1999 it has been unable to effectively deal with the proliferation of unlicensed 'A' boards in the borough.
 3. The Council's priorities, plans and strategies for the borough have changed since 1999.
 4. There have been changes in law and guidance that need to be reflected in the Council's policies.
 5. The need to have clear and transparent policies governing all street activities and objects on the highway. There has been criticism that the Council's current policies are not sufficiently clear in terms of objectives and principles to be applied when determining applications. This has in the past adversely affected the Council's reputation.
 6. To enable the Council to provide effective control measures to manage all street activities and objects on the highway and to ensure that they meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town.
 7. To implement recommendations made by Cheltenham & Cotswold Audit Partnership. (para 4.4)
- 1.6 **Cabinet is therefore asked to approve the draft policy for the purpose of consultation.**
- 1.7 A copy of the draft policy is attached at **Appendix 3**.

2. Street Trading - Background

- 2.1 Cheltenham Borough Council resolved to adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which allowed the Council to control street

trading activities in the borough.

- 2.2 As part of that resolution, all the streets in the borough were designated consent streets which means that no street trading can lawfully take place anywhere in the borough without the Council's consent.

Street Trading Draft Policy – Proposed Policy Changes

- 2.3 A number of changes to the Council's current policy on street trading are proposed in the draft policy. A schedule of the proposed changes is attached at **Appendix 4**.

3. Charitable Collections – Background

- 3.1 Cheltenham Borough Council has responsibility for regulating certain charitable collections in the borough. These are any collections that are charitable in nature taking place on any public road ("street collections") and collections for charity by means of going from house to house ("house to house collections").

- 3.2 Cheltenham is a very popular location and choice for street and house to house collections in particular over the Christmas period and during the Cheltenham Festival when the Council receives significantly more applications than there are collections days available. This has caused the Council particular difficulty especially with regards to determining these applications.

- 3.3 It is important therefore that the Council manages these activities properly to ensure equal access to collection dates but also to ensure that these activities do not obstruct the free passage of the highway, adversely affect the attraction and the shopping experience or adversely affect the Council's reputation.

Charitable Collections Draft Policy – Proposed Policy Changes

- 3.4 A number of changes to the Council's current policy on charitable collections are proposed in the draft policy. A schedule of the proposed changes is attached at **Appendix 4**.

4. Objects on the Highway - Background

- 4.1 Cheltenham Borough Council has entered into an Agency Agreement for the provision of highway services with Gloucestershire County Council which delegated certain powers under the Highways Act to Cheltenham Borough Council.

- 4.2 Certain provisions made under that agreement delegate powers to the Council to licence objects to be placed on the highway. These normally include, although are not limited to, 'A' boards and tables and chairs.

Objects on the Highway Draft Policy – Proposed Policy Changes

- 4.3 A number of changes to the Council's current policy on consent for objects to be placed on the highway are proposed in the draft policy. A schedule of the proposed changes is attached at **Appendix 4**.

- 4.4 Following an internal audit of the Licensing Section in 2011, the audit report made the following recommendations;

1. "The Council needs to finalise and approve a consistent set of policy rules for the granting of all new and existing A-board licenses, so that there is i) no ambiguity and consistent decision making can be effectively, achieved and ii) license fee collection fully reinstated."
2. "In order to reduce approval costs the responsibility for approving new or existing A-board licenses should be delegated to licensing officers on a day to day basis and only referred to

Licensing Committee or Sub Committee on appeal.”

5. Reasons for recommendations

5.1 To ensure that the Council can effectively control street trading, charitable collections and objects placed on the highway within the borough of Cheltenham.

6. Alternative options considered

6.1 Cabinet can resolve that a revision of the Council’s current policy is not necessary although this is not considered a desirable option.

6.2 Alternatively, Cabinet can resolve to approve the draft policy for consultation subject to any changes it considers necessary. However, a thorough review of the current policy has been undertaken and the proposals in the draft policy are considered the most practical way forward for the Council to control these activities most effectively.

7. Consultation and feedback

7.1 If Cabinet is minded to approve the draft policy, a 12 week consultation will be undertaken in line with Cabinet Office recommendations.

7.2 In determining the policy, consultation will be undertaken with the following people, bodies and stakeholders:

- Gloucestershire Constabulary
- Gloucestershire Highways
- Gloucestershire Fire & Rescue Service
- Cheltenham Business Partnership
- Charity Commission
- Cheltenham Crime and Disorder Partnership
- Environmental Health Department
- Planning Department
- Members of the Council
- Community Protection Manager
- Integrated Transport & Sustainability
- Cheltenham Borough Council Directors
- Parish Councils & Neighbourhood Groups
- Cheltenham Chamber of Commerce
- Existing Consent Holders
- The public, via the Council’s website

7.3 A further report will be submitted to Cabinet following the consultation. This report will outline any comments made and any amendments to the draft policy as a result of the consultation.

7.4 Adoption of the policy will be a function of Council and recommendation to adopt will be sought from Cabinet when the further report is brought back to it post-consultation.

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<p>Appendices</p>	<ol style="list-style-type: none"> 1. Risk Assessment 2. Policy for Town Centre Street Activities: Street Trading & Objects on the High way (Revised Version 1999) 3. Draft "Policy on Measures to Control Street Scene Activities in Cheltenham - Street Trading, Objects on the Highway and Charitable Collections" (including appendices A to H) 4. Schedule of Proposed Policy Changes 5. Additional Conditions to be added to the Pool of Standard Conditions that may be imposed for a Street Trading Consent 6. Additional Conditions of Permission to place Object(s) on the Highway
<p>Background information</p>	<ol style="list-style-type: none"> 1. Service Documents 2. Policy for Town Centre Street Activities: Street Trading & Objects on the Highway. (Revised Version 1999) 3. Internal Audit Report (Final) Licensing 2011-2012 (Final Issue Date: 27/09/2011).

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-4	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	Failure to review the Council's current policy could adversely affect the Council's reputation for the reasons mentioned in the report.	Senior Licensing Officer		2	4	8		Adoption of revised policy.	On adoption	Senior Licensing Officer	
2	Failure to review the Council's current policy could result in the Council being unable to effectively control the activities that fall within the scope of this review.	Senior Licensing Officer		2	4	8		Adoption of revised policy.	On adoption	Senior Licensing Officer	
3	Failure to review the Council's current policy will result in the Council being unable to fully recover its cost of administering and enforcing the activities that fall within the scope of this review.	Senior Licensing Officer		3	5	15		Adoption of revised policy.	On adoption	Senior Licensing Officer	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-4 (4 being the greatest impact)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (6 being most likely)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											