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Merton Council

Licensing Committee

Membership

Paul Kohler (Vice-Chair)

Mike Brunt

Caroline Charles

Jil Hall

Samantha MacArthur

Edith Macauley MBE (Chair)

Gill Manly

Stephen Mercer

Robert Page

Michael Paterson

Martin Whelton

James Williscroft

Helena Dollimore

A meeting of the Licensing Committee will be held on:

Date: 28 June 2022

Time: 7.15 pm

Venue: Council chamber - Merton Civic Centre, London Road, Morden SM4 5DX

Merton Civic Centre, London Road, Morden, Surrey SM4 5DX

This will be followed by a meeting of the Licensing Committee (miscellaneous) to deal with any licensing matters which are not within the scope of the Licensing Act 2003.

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3616.

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Licensing Committee

28 June 2022

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

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LICENSING COMMITTEE

24 FEBRUARY 2022

(7.15 pm - 8.07 pm)

PRESENT Councillors Councillor Nick Draper (in the Chair),
Councillor David Simpson, Councillor Stan Anderson,
Councillor Pauline Cowper, Councillor Nigel Benbow,
Councillor Paul Kohler, Councillor Mary Curtin,
Councillor Oonagh Moulton, Councillor Janice Howard,
Councillor Stephen Alambritis, Councillor John Dehaney and
Councillor Russell Makin

ALSO PRESENT Richard Seedhouse (Democratic Services Officer)

ATTENDING REMOTELY Caroline Sharkey (Licensing Manager), Guy Bishop (Senior
Lawyer - Litigation and Licensing) and David Ryan (Licensing
Enforcement Officer)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

There were no apologies for absence.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting of 14 October 2021 were agreed as a correct record.

4 LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED), DRAFT STREET TRADING POLICY FOR LONDON BOROUGH OF MERTON (Agenda Item 4)

The Licensing Officer presented the Draft Street Trading Policy for London Borough of Merton, highlighting that a similar policy is to be presented in the London Borough of Richmond Upon Thames in June.

The Licensing Officer advised the committee that the draft policy sets out new standards and procedures that the Licensing Authority will follow in consideration of new applications for Street Trading applications. The applications are made under Part 3 of the London Local Authorities Act 1990, this includes Street Trading Pitches, Table and Chairs on the Highway, Market Stall Licences and Shop Front Display Licences.

The policy is seeking to replace the current regulations which the Council adopted in March 2009. The proposed Street Trading Policy is intended to give the Council a

framework from which to administer and regulate Street Trading ensuring a consistent approach. The policy will serve as a reference point for applicants, officers, other responsible authorities and the Licensing Committee. It will strengthen the decision-making process.

In response to questions, the Licensing Officer explained that the main differences in the policy since 2009 were to improve the application and decision-making processes rather than change the terms of the licences themselves.

No changes are to be incurred by existing licence holders, except where there is a requirement to improve Air Quality through the reduction of engine idling vehicles for the purpose of providing Street Trading activities. Applications for a zero-emission capable street trading vehicle will be favourably considered. Existing traders will be required to conform to new requirements for improving Air Quality by 1st January 2024.

The policy also makes clear what enforcement regulations and processes will exist to ensure street traders meet expected requirements. The policy maintains the requirement of 2m of access around street trading sites.

The Metropolitan Police and Highways Authority are key partners in advising on applications during the 28-day consultation period before a license could be granted. Licenses are issued for a maximum of 1 year in Merton. Traders are expected to remove street furniture when not open. New licenses tend to be limited to 6 months to allow opportunity to see how trading patterns impact the community, and if there are unresolvable issues, then licenses can be restricted or revoked when they come up for renewal, these decisions are appealable by the trader at the magistrates' court.

The policy would be reviewed in the future, at regular intervals or if/when the Government changes the law. Every 5 years, in line with other the licensing policies. Appendix 1 of the draft Street Trading Policy lists organisations that will be consulted, in addition to being published on the council website and in local press. The Licensing Officer agreed to add Residents Associations to the list.

RESOLVED: That the Licensing Committee approved for consultation on the draft recommended Street Trading Policy as laid out in appendix A and that Officers be instructed to report to the next Licensing Committee meeting on the outcome of the consultation.

Committee: Licensing Committee

Date: 28th June 2022

Wards: All

Subject: Report on the proposed draft Street Trading Policy under the London Local Authorities Act 1990 (as amended), following public consultation

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Edith Macauley, Chair of the Licensing Committee

Forward Plan reference number: N/A

Contact Officer: Caroline Sharkey, Licensing Manager, London Boroughs of Merton, Richmond upon Thames and Wandsworth Joint Regulatory Services Partnership and Guy Bishop, Principal Lawyer - Litigation and Licensing

Recommendations:

-
- A. Consider the comments received during the public consultation process on the draft Street Trading Policy, which took place between 11th March and 31st May 2022;
 - B. Approve the Street Trading Policy attached at Appendix A of the report (subject to any amendments required by this Committee);
 - C. To recommend if for adoption by full Council on 14^h September 2022.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The draft Street Trading Policy was presented to the Licensing Committee on 24th February 2022, where it was approved for public consultation. At that meeting, officers were instructed to report to the next Licensing Committee meeting on the outcome of the consultation.
- 1.2 Before determining its Street Trading Policy, the Authority is required to consult with the existing licence holders, the public, responsible authorities, persons who represent the interests of street traders and those who represent the interests of persons who are likely to be affected by street trading activities. The consultation took place between 11th March and 31st May 2022.

- 1.3 The comments received from the consultation have been collated and responded to as detailed in appendix B and C of this report. Online responses are produced in appendix B and direct responses in appendix C. Once approved the final Street Trading Policy will be put to full Council on the 14th September 2022 for adoption. If adopted the Street Trading Policy will be reviewed in future at regular intervals or when the Government changes the law. The maximum period recommended to review the Street Trading policy is every 5 years in line with other licensing policies.
- 1.4 The purpose of the proposed Street Trading policy is to provide a framework for the Council to administer and regulate street trading ensuring a consistent approach is taken. It also serves as a reference for licence holders, enforcement officers, relevant stakeholders and the Licensing Committee as to the Councils intended vision and approach to street trading activities in the London Borough of Merton. It will raise standards and bring consistency; all applications will still be considered individually on their own merits; but this will be done in accordance with the policy. It will also strengthen the decision making and support the Council's position should issues arise.

2. DETAILS

- 2.1 Street trading activities are regulated by Part 3 of the London Local Authorities Act 1990 (as amended) which provides Local Authorities in London with an authorisation process to control the following activities:
- Street Trading Pitches
 - Tables and Chairs on the Highway
 - Market stall licences
 - Shop Front Displays
- 2.2 Street Trading is a function of the Council. Under the Act the Council is responsible for granting, renewing, varying or revoking all street trading licences listed above. The Act allows the Council to make regulations prescribing the terms, conditions and restrictions on/or subject to which licences can be granted, varied, renewed or transferred.
- 2.3 Street Trading is often carried out on the public highway and the Council therefore has a duty to ensure public safety is protected from street trading activities. Street Trading is normally a commercial enterprise and those carrying it out ought to comply with the same rules that regulate other trading, including fair trading, minimising impact of their activities on the environment and the wider community.
- 2.4 Street Trading can also play a part in the cultural identity of the borough and contribute to the local economy. It attracts visitors and can make for vibrant towns and communities, while at the same time providing employment and opportunities for small enterprise. In regulating street trading activities, the Council acknowledges that a balance must be struck between the legitimate objectives of applicants and members of the public living, working or engaged in normal activity in the area concerned. Ensuring the public highway is not cluttered and minimum standards are maintained

- 2.5 At the Licensing Committee meeting on 24th February 2022, members were advised that a review of the Council's approach to Street Trading is considered long overdue. The current regulations which prescribe the standard conditions applicable to street trading licences in Merton were last adopted in March 2009. The Council has no formal detailed policy in relation to street trading. The decisions are made in line with best practice and the regulations.
- 2.6 The current system is considered to be out of date, restrictive for entrepreneurial business and not compatible with the modern trend in café culture. The current system does not take into consideration new ways of trading and the evolution of the hospitality sector with the implications of COVID. There is a need to meet local needs for service users such as alterations to working practices, utilisation of public realm and community-led markets.
- 2.7 The lack of a sound street trading policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This may leave the authority open to challenge by way of Judicial Review in relation to officer decisions and/or appeal of a Licensing Committee decision to the Magistrates' Court. This could adversely affect the Council's reputation.

3. CONSULTATION

- 3.1 The Licensing Committee approved the draft Street Trading Policy on 24th February 2022 for the purposes of public consultation.
- 3.1 Public consultation took place between 11th March and 31st May 2022.
- 3.2 The Licensing Authority consulted with the following key stakeholders and organisations:
- Existing Street Trading Licence Holders
 - Ward Councillors
 - Metropolitan Police
 - Highway Authority
 - Planning Authority
 - The Fire and Rescue Authority.
 - Persons/bodies representative of Street Trading Licence Holders
 - Environmental Health Section (Food and Safety Team)
 - Environmental Health Section (Noise and Nuisance Team)
 - Transport for London
 - Environmental Health (Air Pollution Team)
 - The Area Forums
 - Local business organisations
 - Town Centre Management/BID team
- 3.3 The draft policy was also posted on the Council's web site. All consultees were encouraged to respond by completing the on-line survey, e-mail at: licensing@merton.gov.uk, and by post.

- 3.4 During the consultation period, the Licensing Authority received eight responses to the consultation through the on-line survey. In addition, three responses were received directly.
- 3.5 A summary of the on-line responses, including free text comments, can be seen at Appendix B of the report. A précis of the comments received directly is attached as Appendix C to this report. In both cases a comment has been made, where appropriate, indicating whether amendments have been proposed to the policy and, if not, reasons given.
- 3.6 The majority of the people responding to the consultation were supportive of the new Street Trading Policy.
- 3.7 Of those who responded, a number raised concerns about street trading locations in relation to potential obstruction of the highway and the space left for pedestrians/disabled persons to safely pass. The proposed minimum space recommended in the policy is 2 metres clearance. These sizes reflect the requirements of the legislation to not cause undue interference or inconvenience to persons or vehicular traffic using the street. It should be noted that central government has recommended a minimum acceptable distance of 1500mm clear space between the obstacle and the edge of the footway.
- 3.8 The placing of Advertisement boards is regulated by the Council's Planning and Highways Sections. However, if complaints are received regarding obstruction of the highway due to street trading activities, licensing enforcement officers work in collaboration with colleagues from the Planning and Highways Sections to carry out the appropriate enforcement action.
- 3.9 Some of the respondents commented on the Council's approach to climate change and requested measures to be included in the Street Trading policy. Paragraph 7.6 of the policy proposes new measures for improving Air Quality as part of the Council's climate change strategy and action plan. The majority of designated sites for street traders in Merton use electricity bollards supplied by the Council when carrying out street trading activities.
- 3.10 It is not proposed to alter the draft Street Policy to any great extent.
- 3.11 A copy of the proposed final Street Trading Policy is attached at Appendix A.

4 Timetable.

- 6.1 Following this meeting, the final Street Trading Policy will be presented to Full Council meeting for adoption on the 14th September 2022. The Policy will come into effect on the 1st January 2023.

7. Financial, resource and property implications.

- 7.1 The costs will be met from within existing resources. The proposed Street Trading policy will facilitate more effective financial and administrative procedure

8. Legal and statutory implications.

- 8.1 Sections 21 - 41 of The London Local Authorities Act 1990 (as amended) regulates trading on the street. Under section 27(3) a Borough Council can make regulations prescribing standard conditions which are attached to a street trading Licence or can be added to a temporary street trading Licence. The legislation states in section 27(4) that before the regulations are made the Borough Council has to consult on them. Section 27(4), (5) and (6) prescribes how the consultation process is to be carried out, whilst requiring the conditions to be reasonable. Section 23 provides that standard conditions apply to any person authorised by a street trading licence or a temporary licence

9. Human rights, equalities and community cohesion implications.

- 9.1 These are statutory functions and are applied globally.
- 9.2 It is important that the Council carefully considers all the representations made during the consultation process.

10. Crime and Disorder Implications.

- 10.1 None for the purposes of this report

11. Risk management and health and safety implications.

- 11.1 Failure to discharge its duties under the Act and implement a Street Trading Policy/regulations to control street trading could damage the Council's reputation and expose it to the risk of judicial review.

12. Appendices – the following documents are to be published with this report and form part of the report.

- 12.1 Appendix "A" Final Street Trading Policy following consultation.
- 12.2 Appendix "B" Responses to the on-line consultation
- 12.3 Appendix "C" Precis of the comments received to the consultation sent in directly to the Council.

13. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.

- 13.1 London Authorities Act 1990 (As amended)
<https://www.legislation.gov.uk/ukla/1990/7/contents/enacted>
<https://publications.parliament.uk/pa/ld200405/ldprbill/003/05003--r.htm>
- 13.2 Consultation responses – directly received
- 13.3 On-line consultation responses

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LONDON BOROUGH OF MERTON



Street Trading Policy

Approved on:

In effect from:

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1. **Introduction**

- 1.1 Local Authorities may regulate street trading activities and apply local controls in their area. For the purposes of controlling street trading in the London Borough of Merton, the Council has previously adopted the relevant provisions of the 'London Local Authorities Act 1990 (as amended) hereafter referred to as ("The Act").
- 1.2 Street trading has always formed part of life in Merton. It provides valuable employment opportunities for local people as well as providing convenience for customers to the borough. The Council recognises the positive impact street trading can have on an area, and that it can add to the diversity of shopping opportunities and local neighbourhoods in which trading is carried out.
- 1.3 The Council is keen to create a street trading environment that compliments the street scene and premises-based trading, is sensitive to the needs of both residents, traders and workers, promotes consumer choice and enhances the diverse trading and business opportunities in the borough.
- 1.4 The Council wants to ensure that street trading both enhances the character and ambience of local environments and is provided safely for all Merton residents and visitors.
- 1.5 At present, the main hub of street trading in the borough is in Mitcham, Morden, Wimbledon Village and Wimbledon Town Centre. This includes shopfront licences, designated street trading sites and markets. There are also designated sites located in industrial areas which provide catering vehicles such as Weir Road, Willow Lane and Lombard Road.
- 1.6 There are currently 898 temporary street trading licences including markets, 32 permanent pitches and 32 Shop Front Displays in the borough. This does not include an additional 40 regular Shop Front Licences currently utilising the Pavement Licences brought in under the Business and Planning Act 2020 to assist the hospitality sector during the COVID-19 pandemic.

2.0 **Purpose**

- 2.1 The purpose of this policy is to provide a framework for the Council to administer and regulate street trading to ensure a consistent approach is taken. It also serves as a reference for Licence holders, enforcement officers, relevant stakeholders and the Licensing Committee as to the Councils intended vision and approach to street trading activities.
- 2.2 In regulating street trading activities, the Council aims to reduce the administrative burdens on applicants and Licence holders and also creating a clear, consistent and transparent process for traders.
- 2.3 This Policy sets out the regulatory framework, application process and conditions of licensing for the following activities:

- Markets/stalls
- Street Trading from Pitches
- Trading activities on private land within 7m of the public highway
- Shopfront and tables & chairs Licensing
- The revocation or prosecution for breach, of a licence
- Enforcement of the legislation

2.4 The Council will not deviate from this policy unless there is a good reason to do so and full reasons are provided.

3.0 Consultation

3.1 In preparing this Policy the Council has undertaken and had regard to the comments received following extensive consultation with statutory consultees, residents, businesses, Licence holders and other stakeholders. The consultation took place between 11th March 2022 and 31st May 2022. Details of those consulted can be found in Appendix 1.

4.0 Principles

4.1 Nothing in this Policy will:

- undermine the rights of any person to make an application under the Act for a licence and to have that application considered on its own merits; or
- override the right of any person to make objections or appeal against any decision

5.0 What is Street Trading?

5.1 The Council has determined that it will regulate street trading in the Borough under the London Local Authorities Act 1990 (as amended).

5.2 Section 21(1) of the Act defines Street trading as being '*the selling or exposing or the offering for sale of any article, and the purchasing of or offering to purchase any ticket, and the supplying or offering to supply any service, in a street for gain or reward*'.

5.3 For the purposes of this legislation a 'street' is defined in the same Section of the Act and includes 'any road or footway and other area within 7 metres of any road or footway, to which the public have access without payment'

5.4 Street trading licence' – means a licence granted under the Act and valid for not less than six months and not more than 3 years. The licence can only be granted in a designated street.

- 5.5 'Temporary licence' – means a licence granted under the Act valid for a single day or for a period not exceeding 6 months.
- 5.6 The Council has also determined to licence the use and the placing of tables and chairs on the highway under part II of the Act.
- 5.7 The Council has powers to designate a street as a 'licence street' and can prescribe the types of commodities or services which will be authorised by a licence.
- 5.8 The Council is permitted to charge fees and charges under Section 32 of the Act in respect of street trading licences and related costs.
- 5.9 Street trading without the required licence is an offence under section 38 of the Act and carries a maximum fine not exceeding level 3 on the standard scale, which is currently £1000.

Note: The placement of 'A' boards outside a premises are not covered by a street trading licence and must be agreed with the Highways Authority.

6.0 Other Legislative Considerations

- 6.1 Traders should be aware that this policy relates only to street trading activities and it is the responsibility of the trader to ensure that they are compliant with other legislation. Traders should consider whether their activities are likely to require authorisation and/or compliance with other regulatory regimes. For example; Control of Pollution Act 1974 and Environmental Protection Act 1990, Planning, Building Control, Food Safety, Health & Safety, Control of Waste, Highway Obstruction, Trading Standards, Late Night Refreshment/Entertainment/Alcohol Licensing etc.

7.0 Application process for a new licence

- 7.1 The application process for each of the street trading activities to which this Policy relates are set out on the Council's website www.merton.gov.uk and includes a specified application form, supporting information requirements and payment of the appropriate fee.
- 7.2 Applications will be subject to consultation in accordance with this policy.
- 7.3 Where an application receives relevant objections, the case will be referred to the next available Licensing Committee for determination. The applicant and anyone making an objection will be given the opportunity to speak at the hearing.

- 7.4 For all street trading licences involving the offering of food, applicants should be registered with their home authority and make their Food Hygiene Rating Score available to an authorised officer of the Council upon request. Businesses which have a poor Food Hygiene Rating of 2 and below will not be granted a Street Trading licence
- 7.5 Food hygiene certificates will be displayed within the vehicle/trailer/stall when trading is taking place.
- 7.6 **Improving Air Quality** – The Council will be asking new applicants to use street trading vehicles that meet the Euro 6 emissions standards where the engine is required to be kept running for the purpose of providing power in connection with the licensed Street Trading activities. Existing traders will be required to conform to this requirement by 1st January 2024. Applications for a zero-emission-capable street trading vehicle will be favourably considered.

8.0 Duration of Licences

- 8.1 The Council has powers to issue permanent licences for up to three years or for such shorter period as the borough council may determine. Temporary licences can be issued for one day or up to six months. The Council has determined not to issue street trading licences for longer than 12 months.
- 8.2 Where the street trading proposed will first require designation of the street, the trader will be recommended to initially apply for a Temporary Licence. This will give them the opportunity to trade while the licensing process for the street trading licence takes place (this can take up to 3 months) and enable the assessment of whether the street can be designated for street trading.
- 8.3 Applicants making an application for the first time will, if successful, be given a licence of 6 months duration in order to assess the longer term suitability of trading at the location. A subsequent street trading application by the same Licence holder may then be granted for one year at the Council's discretion. All permanent licences issued by the Council will not exceed a period of 12 months

9.0 Street Trading Activities

Trading from Pitches

- 9.1 Street Trading Licences are issued in order to control the location of trading activity and ensure pitches are located in suitable areas and do not cause nuisance or disruption to local businesses and are safe and accessible.
- 9.2 As part of the process of considering whether to issue a licence, the Council will make sure that trading locations do not cause obstruction to the highway, including lines of sight at junctions, and are positioned so as not to obstruct rights of way, entry to premises or cause nuisance to nearby residents. The Council will also consider the suitability of the proposed street trading in relation to the existing neighbouring retail outlets with the aim of ensuring the balance is kept between

encouraging new street trading and protecting the amenities of the neighbourhood. Conditions attached to licences will ensure these factors are controlled for the duration of the licence period.

9.3 Prospective applicants for Trading Licences are recommended to familiarise themselves with the Standard Conditions and to ensure that their proposed trading locations:

- Provide a minimum of 2m of space for pedestrians to pass safely
- Do not block access to existing premises (even if those premises are vacant)
- Are located such that they will not cause nuisance from smells, light or noise (including shouting)
- Allow for all trading materials and waste arising from activities to be removed by the Licence holder at the end of the trading period.

9.4 The Council has resolved to adopt a commodities list, given at Appendix 6, which details a number of types of goods or services that licence holder can be licensed to trade in.

Shop Front Licences - tables & chairs and shopkeeper displays

9.5 The Council regulates the placing of tables and chairs and shopkeeper displays on the highway through a licence issued under the Act.

9.6 Any person wishing to place such items on the public highway must first obtain a Shop Front Licence. This includes items such as tables, chairs, display units and barriers.

9.7 The display of goods outside the front facade of a premises or a seating area for patrons can greatly enhance the visual amenity and provide valuable additional sales space for businesses to advertise their goods for sale. However, inappropriately located shop front displays or seating areas can create problems for various members of the community e.g. people with disabilities, visual impairments, mobility difficulties and those using pushchairs etc.

9.8 Controlling the placement of these items helps to ensure that footpaths and walkways are kept clear of obstructions and everyone can move about safely. For example, it may be necessary for tables and chairs to be positioned in a consistent manner on busy streets so that a constant and direct path through areas is maintained.

9.9 When deciding whether a Shop Front Licence might be appropriate for their business, prospective applicants should familiarise themselves with the Standard Conditions to ensure the following requirements can be met:

- Provide a minimum of 2m of space for pedestrians to pass safely in front of any display of goods or seating area.

- Do not block access to neighbouring premises (even if those premises are vacant) or access to properties above your shop or premises.
- Will be removed at the end of the trading period permitted by the licence
- The area does not cause damage to the highway

Markets Operator

- 9.10 A Market Operator providing a market can co-ordinate the applications for market stall holders and documents required for each proposed market trader. Under the London Local Authorities Act 1990, the Council must consider a street trading licence for each proposed market trader. Each trader will be issued an individual market stall street trading licence and not the Market operator. Each market stall holder will be required to adhere to the conditions of their market stall street trading licence.

Local Authority run Markets

- 9.11 Mitcham and Morden are authority run markets that require traders to register in advance of trading. Once registered, traders will be charged daily licence and pitch fees. The full registration form and process are available via the Council's website.

10.0 Designation of Licence Streets

- 10.1 If the Council considers that street trading should be allowed or licensed in any area, it may pass a resolution designating any street or part of a street as a licence street under Section 24 of the Act.
- 10.2 In deciding if a street or site should be designated for street trading, the following may be considered;
- a. The presence of any existing or planned street furniture;
 - b. The proximity and nature of any road junctions and pedestrian crossing points;
 - c. The number of street trading sites already licensed in the vicinity;
 - d. Whether the proposed site for designation would impact on accessibility for members of the public i.e. pedestrians, pushchairs, wheelchairs etc.
 - e. Whether the safety of the public will be put at increased risk;
 - f. Whether the proposed site will leave the recommended clearance of two metres clear passage between the trading area and the edge of the kerb or footway;
 - g. Whether there will be a negative impact on the character or appearance of the area.
- 10.3 To pass a resolution to designate a licence street or rescind or vary a designation, the Council must conduct a 28 day public consultation. During this time the Council consults with the Police, Highway Authority or relevant corporation, Planning Authority, Ward councillors, the Council's Food and Safety team, the general public

and any other relevant body/interested party. For the Red Route, Transport for London (TfL) is the relevant Highway Authority.

- 10.4 The consultation period begins from when notice of the intention designate is published in a local paper. The Council will consider any relevant representations received, before making a decision.
- 10.5 A Street does not have to be designated as a licence street for street trading purposes where a Temporary Licence is issued.
- 10.6 The Council is able to consider new locations where a designation resolution has not previously been made. In these circumstances, the trader will be required to submit full plans of their proposals to the Council for consideration
- 10.7 Designation of new licence streets will not normally be considered for streets with parking restrictions and/or a speed limit of 40mph or more.

11.0 Types of Authorisations

Street Trading licences

- 11.1 A Street Trading Licence will usually be issued to applicants for pitch, shop front and tables & chairs licences; and will be valid for one year. Before a street trading licence can be issued, traders will be required to hold a temporary licence for a minimum period of 6 months.

Temporary Licences

- 11.2 Temporary licences will be issued to applicants for pitch licences where the trade is only proposed for one day to six months, or where the trading activity is part of an event or promotion.
- 11.3 Temporary Licences will also be available to applicants of pitch, shop front or tables & chairs licences who may wish to trade seasonally or for short periods of time. For example; where a business is going to be sold and a licence is only required for a short time or a seasonal extension to accommodate trade at specific times of the year.
- 11.4 Temporary licences may also be granted as part of an application for a full licence, allowing licensed activity during the consultation phase and to provide a test environment for a permanent licence

12.0 Special Provisions for Community/Charity Trading Licences

- 12.1 Community/Charity trading licences will be issued to organisations that are carrying out trading activity for the purpose of making a profit on an occasional or temporary basis.

12.2 The Council will consider individual applications for Community/Charity trading licences on a case by case basis and acceptance will be assessed in the following circumstances:

- fundraising activities,
- promotion of charity or other local cause,
- promotion of community services.

12.3 The licences will be applied for in the same way as Temporary Street Trading Licences.

13.0 Exemptions

13.1 The Council recognises that certain trading activities do not constitute street trading and are therefore exempt from the licensing regime. The following exemptions are outlined in the legislation:

- a) A person trading as a 'Pedlar' under the authority of a pedlars certificate granted under the Pedlars Act 1871, provided that the trading is only carried out 'house to house';
- 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 any enactment or order;
- c) Trading in a trunk road picnic area;
- d) Trading as a news vendor;
- e) Trading by a rounds man delivering milk and/or other perishable goods;
- f) Charity collections;
- g) The selling or offering for sale goods or services on private land adjacent to a shop provided that the trade forms part of the normal business of that shop. For example; a fruit/vegetable display outside a grocers' shop or Tables & Chairs for diners outside a café.

14.0 Motor Vehicles

14.1 It is an offence for traders to expose or offer for sale any motor vehicle on a public street without a licence This includes the selling or exposure or offer for sale of any motor vehicle in the course of a business if the vehicle is:-

- (a) exposed or offered for sale on the internet; and
- (b) kept on a street during the period when it is so exposed or offered for sale.

14.2 Where motor vehicles for sale are displayed on a street, this will be determined as an improper use of the highway for which the seller of the vehicle may be subject to legal action and the vehicle seized.

14.3 Persons operating motor vehicle trading activity from their residential address may need planning permission for the trading activity, and cannot display their vehicles on the public highway without a valid street trading licence.

15.0 Ice Cream Traders

15.1 Ice cream trading means the selling, exposing or offering for sale from a vehicle, goods which consist mainly of ice cream, frozen confectionery or other similar items.

15.2 Merton Council does not issue street trading licences in respect of Ice Cream trading unless on a designated street and at a static location.

15.3 Itinerant ice cream trading outside of the 15 minute exemption is an offence under the Act and covers the use of a vehicle whether that be a van, bike or similar. Trading on foot would also require a licence and is not covered by the exemption

15.4 Where the Council is considering the prohibition of ice cream trading in certain locations, it will pass a resolution under S37 of the Act.

16.0 Fees & Waivers

16.1 Street Trading licence fees will be set and reviewed from time to time by the Council and any changes to those fees will be advertised in accordance with the provisions of the Act.

16.2 The licence fee is split between a non-refundable application fee and an enforcement/compliance charge. The Council requires payment to be made at the time of application. Where a licence is refused for any reason, a refund will be given for the enforcement and compliance section of this charge. Traders renewing their licences will have the option of paying by Direct Debit during the licence year.

16.3 Where a licence is revoked for reasons beyond the Licence holders control, for example, where the highway has been redeveloped and there is no longer sufficient space for the trading activity to take place or where the Council has introduced a ban on certain commodities that were previously licensed, the Council will offer a partial refund of the licence fee. This will be calculated on pro-rata basis in whole months from the final trading day until the end of the licence year.

16.4 Where a licence has been revoked for reasons within the control of the licence holder, the Council will not issue a refund of the street trading licence fee.

16.5 Fee Waivers

(a) Fee Waivers for absences as a result of long term sickness/ill-health, or matters relating to maternity/paternity/adoption, or care giving, will be

considered on application to the Council in writing by the Licence Holder and may require official documentation as proof.

- (b) In the event that any conditions in (a) prevent a Licence Holder from trading, the Council may, upon application in writing from the Licence Holder, permit a named assistant to run the business during their absence.
- (c) Where a Licence Holder has been prevented from trading for any of the reasons set out below, the licensing authority may, at its absolute discretion, award a pro-rata waiver for the relevant period.
 - (i) Damage to the designated trading pitch, not caused by any act or omission or recklessness, of the trader to the extent where the Licence Holder is prevented from trading; or
 - (ii) Repairs that must be carried out to the surface of the street trading pitch or to utilities and services underneath it which prevent the Licence Holder from trading; or
 - (iii) Public realm or infrastructure improvement works affecting the location of the street trading pitch or its immediate vicinity to the extent where the Licence Holder is prevented from trading;
 - (iv) Obstruction of the pitch which cannot be removed to the extent where the Licence Holder is prevented from trading.
- (d) In many circumstances minor adjustments to the trading pitch, its location, the placement of stalls, the style of trading, etc. can allow the Licence Holder to trade without the need for fee waivers. The Licence Holder must take all reasonable steps to facilitate trading, including contacting the licensing authority for advice, before applying for a waiver of fees and charges. If minor adjustments are feasible and will result in a situation where trading can continue (whether partially restricted or not), the Licence Holder will not be entitled to a waiver
- (e) Licence charges will be payable for the first month of a period of certified absence.

17.0 Consultation for Licence Applications

- 17.1 Upon receipt and acceptance of an application, the Council will carry out a consultation with the relevant Ward Councillors, the Highway Authority, the Metropolitan Police, Environmental Health, Planning, and any trade representative i.e. Town Centre Management/BID team. The Council's Food Safety team will be consulted where the application is proposing to trade in food items.
- 17.2 Food traders will not be permitted to trade under licence without clearance from the Food Safety Team.
- 17.3 The purpose of the consultation is to seek assurances that the applicants' proposals to satisfy the requirements of the legislation and that they are suitable to be licensed. Through the consultation process, certain discretionary grounds for refusal or modification of applications may be identified.

17.4 Representations received after the end of the consultation period will not normally be considered. In exceptional circumstances the Council has discretion to consider late representations, if the application has not yet been determined. Such circumstances may be, but not limited to, where the representation was not received in time either through a technical fault or administrative error.

18.0 Assessing consultation feedback and objections

18.1 The Council will consider representations received as part of a designation/licence consultation, feeding into the final decision on grant or refusal

18.2 The Council will not consider any representations where they are; frivolous, vexatious or repetitious. Such objections are considered not 'relevant'.

19.0 Decision Making

19.1 The Council has powers to consider a wide range of matters on which to grant/refuse street trading licences. Any decisions made upon these grounds will be evidenced and justified after careful investigation into any responses received during the consultation process.

19.2 Certain grounds for refusal may present themselves through the application process. Where these grounds are identified, the applicant will be offered the opportunity to amend the application before it is determined.

19.3 The licence will be granted by officers authorised to do so provided that the necessary preconditions / requirements are met.

19.4 Where relevant adverse feedback has been received within the consultation period and discretionary grounds for refusal have been identified, the Council's Licensing Committee will be tasked with making determinations.

19.5 Where the application is to go before the Licensing Committee, the applicant will be expected to present the case and assist the committee panel with any questions. To facilitate this, the applicant will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented if they wish, whether or not the person is legally qualified. The Licensing Team will prepare a report for the Licensing Committee regarding the application. The report will be made available to the applicant at least five working days before the date of the meeting together with any relevant hearing procedure.

19.6 Where no representations are made within the notified timescale the council will proceed to make a decision on the application and will notify the applicant of this in due course.

19.7 An application may be refused on statutory grounds and /or criteria as outlined in this policy. A Licence may be revoked on statutory grounds and / or criteria as outlined in this policy.

- 19.8 Merton Council cannot be held liable for any costs incurred due to a refused application.
- 19.9 Where grounds for refusal do exist, the Council may still grant a modified version of the licence applied for. For example, it may be appropriate to reduce the days/times of trading activity, to reduce the size of the proposed trading area or add conditions.
- 19.10 Conditions attached to licences will be designed to ensure that these factors are controlled for the duration of the licence period.

20.0 Reasons for refusal of a licence

- 20.1 The reasons under which a Street Trading Licence application can be refused are set out in the legislation, however are summarised below. For full details please refer to Section 25 of the Act.
- 20.2. The Council will not grant a Street Trading Licence if any of the following apply:
- a) The applicant is under the age of seventeen.
 - b) The proposed trading location is not within a designated licence street.
 - c) The applicant is proposing to sell goods or services which the Council has resolved to ban.
 - d) There is not enough physical space within the proposed trading location and any trading activity would have an adverse impact on the surrounding area by causing obstructions to persons or vehicles using the street.
 - e) The applicant has made an application to trade in a location which does not satisfy the definition of a 'street' for the purposes of the legislation.
 - f) The applicant does not have permission of the land owner in the case of trading on private land covered under the definition of 'street'.
 - g) The applicant of a shop front licence is proposing to sell goods or offer services which are not sold or offered for sale within that shop.
 - h) There is insufficient width to allow a minimum 2m clearance on the highway.
 - i) That:
 - (i) the application is for the grant (but not the renewal) of a street trading licence; and
 - (ii) the only available position in the street is within the curtilage of or is contiguous with the frontage of a shop selling similar articles; and
 - (iii) the applicant is not the owner or occupier of the premises comprising the shop.
- 20.3 The Council may also refuse an application for a Street Trading Licence if:-
- (a) There are sufficient traders in the street, or at premises adjoining it, who are trading in the articles the applicant wishes to trade; or
 - (b) The nature of the articles, things or services in which the applicant wishes to trade would adversely affect the general amenity of the area;

- (c) The applicant has made a false statement in connection with the application
- (d) The applicant is unsuitable to hold a street trading licence;
- (e) The applicant has failed to avail himself of a previous street trading licence;
- (f) The applicant has had a licence revoked (or could have been revoked) on the grounds that fees or other charges due to the council were not paid
- (g) The applicant has failed to provide information required by the council to deal with the application;
- (k) The applicant has failed to provide suitable arrangements for storing the vehicle, stall or other items from which they propose to trade.

20.4 The determination of applications where no relevant adverse feedback has been received during the consultation period, will be determined by Officers delegated for the purpose, and may be changed from time to time as appropriate.

20.5 Other Considerations

The Council may also have regard to the other following factors when considering the impact on the local area of the proposed trading activity. This may result in additional conditions being imposed upon any licence granted:

- a) **Public Safety** – whether the street trading activity represents, or is likely to represent, a substantial risk to members of the public from the point of view of obstruction of the highway for emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that can be reasonably foreseen, that may occur when a trader is using the site.
- b) **Prevention of Crime and Disorder** – whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of an issue for traders wishing to operate as part of the night time economy.
- c) **Prevention of public nuisance or environmental damage** – whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance or environmental issues. Examples include; damage to street surfaces; noise; litter; refuse; vermin; fumes/odours etc.
- d) **Appearance of trading area** – Whether the street trading area is properly constructed and presented and enhances the aesthetic street scene of an area.
- e) **Needs of the area** – amongst other things, the Council will consider the demand for the articles for sale, and the geographical location of the proposed site.

21.0 Hearings

- 21.1 Where the Licensing Committee is to consider grounds for refusal of a licence application, the applicant will be provided at least 21 days' notice of any representation objection that has been made. Officers will aim to convene a hearing as soon as reasonably practicable after the 21 days' notice. The applicant will be advised in writing of the date, time and place when the application will be heard. The report will be made available to the applicant at least five days before the date of the meeting together with any relevant hearing procedure.
- 21.2 The applicant will be expected to present the case and assist the licensing committee panel with any questions. The applicant can be represented if they wish, whether or not the person is legally qualified. If the applicant fails to attend the hearing, the Licensing Committee may elect to hear the application in their absence. In such cases the Licensing Committee may make a decision based on written documents presented to them and submissions by any other party who do attend the hearing
- 21.3 Where a street trading licence is being considered for revocation, the Council is required to afford the licence holder an opportunity to address the Licensing Sub-Committee. The Council will give at least 21 days' notice of any revocation proceedings being brought against the licence holder.
- 21.4 Applicants will normally be notified of the decision within 5 working days from the date of the hearing and will also receive a written confirmation of the decision.
- 21.5 In certain circumstances, the Licensing Committee may defer their decision or they may adjourn a hearing. This will be dependent upon the severity and complexity of the case before them and it may be appropriate to gather additional information to aid the decision making process.

22.0 Appeals

- 22.1 Any person aggrieved by the Council's decision to refuse or revoke a street trading licence or is aggrieved by the terms and conditions on which a licence is granted, (other than the Council's Standard Conditions), may appeal to the Magistrates Court within 21 days of receipt of the written decision notice following the outcome of the Licensing Committee.
- 22.2 Applicants for temporary licences do not have any appeal rights, notwithstanding statutory rights to seek Judicial Review proceedings.

23.0 Conditions and Standards for Licence Holders

- 23.1 The council expects all licence holders to carry out their trading activities in accordance with the conditions imposed upon it.

23.2 In addition to the above information, the Council will also impose standard conditions on all street trading licences. Additional conditions may be added on a case by case basis. Standard conditions will be reviewed from time to time. The standard conditions can be found at Appendix 3.

23.3 The Council expects all licence holders to maintain their trading area in a proper manner and to ensure that any trading/display equipment is of a good quality and tidy appearance. The Council will offer assistance and advice to traders and applicants on how to improve the look and quality of their trading/display equipment.

24.0 Special Provisions for certain geographical locations

24.1 From time to time, the Council may consider imposing certain trading restrictions in certain geographical locations. For example, it may be appropriate to standardise trading times or maximum trading areas within very busy areas with a high concentration of traders. The Council may also determine to grant only Temporary Licences in a geographical area.

24.2 The Council will consider this action as part of town centre regeneration or as part of other town centre incentives.

24.3 Details of these special provisions are detailed in Appendix 3.

24.4 Where the Council is minded to impose new restrictions, it will consult with those traders affected to ensure transparency in the process.

25.0 Delineation

25.1 Where the Council issues a licence, it may be appropriate to define the trading area by delineating with studs or similar.

25.2 The Council will consider the following factors when deciding to delineate in certain areas:

- a) Whether there is a need to define the trading area to assist traders in keeping within their licensed trading area
- b) Where licence holders of pitch licences, and the Council's enforcement officers, need to easily identify a specified trading area.
- c) Where there is a high concentration of traders in a particular area and trading boundaries need to be defined

25.3 Delineation will be considered in consultation with the Council's Highways Service to ensure the appropriate materials are used. The cost for delineating trading areas will be borne by the trader.

26.0 Offences

26.1 Section's 34 & 38 of The Act outline the offences which include;

- a) Street Trading without a licence, including trading at a place/time not permitted by a licence
- b) Failure to comply with the street trading terms and conditions
- c) Making a false statement in connection with an application
- d) Obstruction of an authorised officer of the Council
- e) Failure to produce a valid street trading licence on demand

27.0 Enforcement

27.1 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licencing issues.

27.2 The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with the Regulatory Services Partnership Enforcement Policy which may be applicable. The action taken, which may be immediate, will be proportionate to the seriousness and nature of the non-compliance.

27.3 Enforcement commences with the issue of clear terms and conditions at the time an application for a street trading licence is made. Council officers will provide advice with respect to any issues surrounding the interpretation of licence conditions or other matters.

27.4 Factors that will be taken into consideration include, but are not limited to:

- a. seriousness of the breach
- b. The risk that the non-compliance poses to the safety, health or welfare of the public at large or to individuals;
- c. Evidence suggests that there was pre-meditation in the commission of an alleged offence;
- d. The alleged offence involved a failure to comply in full or in part with the requirements of this policy and / or the terms of the street trading licence;
- e. There is a history of previous warnings or the commission of similar offences;
- f. Aggravated circumstances such as obstruction of an officer or negative conduct;
- g. If the alleged offence, though not serious itself, is widespread in the area where it is committed;
- h. The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm;
- i. There has been a repetition of a breach that was subject to a formal caution or issue of a Fixed Penalty Notice;

- j. False information has deliberately been supplied and/or intention to deceive.

27.5 The Council may take the following types of enforcement action (in no particular order):

- a) Verbal/written warnings – e.g. a contravention and / or where Officer contact has not resolved the contravention;
- b) Simple cautions;
- c) Licence revocation/variation e.g. where fees go unpaid, a breach of a licence condition; conduct of the licence holder etc.
- d) Fixed Penalty Notices;
- e) Prosecution.

27.6 Where grounds for revocation and/or variation have been identified, the case will be considered by a Licensing Committee in the form of a licence review hearing.

27.7 The Licensing Team aims to work closely with other enforcement authorities when dealing with issues on the street.

27.8 If the Council considers that there is an issue of public order or threat to public safety in any particular instance, it will call for assistance from the Metropolitan Police

27.9 The Council may call for assistance from the Councils' CCTV control centre when dealing with such issues.

27.10 Standard conditions will be attached to every Street Trading Licence including Temporary Licences and these may be varied by the Council at any time.

27.11 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the location.

27.12 Officers will regularly inspect street trading areas to ensure compliance with the licence terms and conditions i.e. the trader is only trading in the licensed pitch area. In addition, all complaints of unlicensed street trading will be investigated

Any decision to prosecute an offence under this Act will be made in accordance with the Crown Prosecution Service Code for crown Prosecutors.

29.0 Licence renewals

29.1 When a licence is due for renewal a reminder will normally be sent to you, prior to the expiry of a licence, together with the relevant forms required for completion in order to renew the licence. This will normally be approximately two months in advance of the licence expiring.

- 29.2 The licence holder must apply to the Council for a renewal at least 30 days prior to the date of the current licence's expiry. If an application for renewal is not received, the licence will lapse.
- 29.3 The application process for renewal of each of the street trading activities to which this Policy relates are set out on our website www.merton.gov.uk and includes a specified application form, supporting information requirements and payment of the appropriate fee.

Reminders are sent purely as a matter of courtesy and it remains the responsibility of the licence holder to make a timely application and avoid licences expiring. The absence or non-receipt of a reminder does not stop a licence expiring.

- 29.4 When a permanent street trading licence is due to expire, it is the duty of the licence holder to ensure that any renewal application is submitted to the Council in good time.
- 29.5 All applications for licence renewals must be made in advance of the expiry of the current licence to allow for the application to be processed. Any renewals received outside of the legal framework may not be accepted, and applicants may need to apply for a new street trading licence.

30.0 Licence variations

- 30.1 The Council will allow traders to apply for variations to their licences within the duration of the licence or at renewal. Variations may include, but are not limited to; a reduction in the size of the trading area; the authorised trading times; the authorised commodities; the conditions imposed upon the licence.
- 30.2 Where a licence holder wishes to increase the size of the licensed area to larger than the designated area, a new full application will be required. Increase in licence size but still within the scope of the current designation may be considered under a variation.
- 30.3 Variations must be applied for, using the appropriate form and may be subject to the same consultation process as for new and renewal applications. The application process for variation of each of the street trading activities to which this Policy relates are set out on our website www.merton.gov.uk and includes a specified application form, supporting information requirements and payment of the appropriate fee.
- 30.4 A processing fee will be charged and should accompany the application form. Where a variation is sought for an increase in a shop front display area, the fee for any additional metres will be charged as well as the processing fee.
- 30.5 Where the variation is administrative, e.g. change of licence holder's address; change of assistant's details, a lesser processing fee will be charged.

30.6 Where grounds to revoke a licence have been identified, the Council may, instead, choose to vary the licence by imposing additional conditions or making restrictions on the licensed area or times. Any such variations will be imposed by the Licensing Committee when considering a case for revocation/variation.

31.0 Succession

31.1 Under the London Local Authorities Act 1990 (as amended), traders have the right of Succession, which permits the licensed trader to nominate a relative whom he/she desires the licence be granted to under the following circumstances;

- a) When the licence holder dies;
- b) When the licence holder retires, having reached the normal age for retirement;
- c) When the licence holder advises the Council that owing to ill health, he is unable to continue to operate the licence.

31.2 The Council will consider the circumstances of the individual trader when assessing succession rights. It is advised that the trader seeks their own independent legal advice on the matters involved before any assumptions about the entitlement can be made.

31.3 Holders of temporary licences are not entitled to succession rights.

32.0 Lapsing of Street Trading Licences

32.1 A Street trading licence will automatically lapse where permission to trade from the landowner ceases.

32.2 Where the Council is the owner of the land upon which the street trading activity is taking place, the Council may withdraw permission to trade where there are exceptional circumstances to justify a decision for example, street works and or/redesign of a street where it would no longer be possible to maintain the trading area.

32.3 Any licence not renewed within the required time frame will lapse, and a new application will need to be submitted and granted before trading can continue.

33.0 Commodities

33.1 Applications for street trading licences must be made in accordance with the Council's approved list of commodities and banned commodities (Included as Appendix 6). The Council will consider commodities that are not on the approved list at its own discretion.

33.2 The Council may amend this list in order to ensure fair trading opportunities to all traders in the relevant area. The Council may, from time to time, ban certain commodities in certain areas where there is a need to do so. If the Authority

amends the list of banned commodities, a twenty one day consultation with traders will be held in the affected area prior to a decision being made.

APPENDIX 1

CONSULTATION LIST FOR THE POLICY

- Ward Councillors
- Metropolitan Police
- Highway Authority
- Planning Authority
- The Fire and Rescue Authority
- Existing Street Trading Licence Holders
- Persons/bodies representative of Street Trading Licence Holders
- Environmental Health Section (Food and Safety Team)
- Environmental Health Section (Noise and Nuisance Team)
- Transport for London
- Environmental Health (Air Pollution Team)
- The Area Forums
- Local business organisations
- Town Centre Management/BID team.
- Residents Associations

APPENDIX 2

DEFINITIONS

In the street trading licence conditions unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

'The Act' means the London Local Authorities Act 1990 Part III as amended.

'The Council' means the London Borough of Merton.

'Advertisement' means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

'Approved Street Festivals' means those street festivals whereby the Council may issue Temporary Licences.

'Assistant'

(a) means a person employed by, and acting under the directions of a licence holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the licence holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner, supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

'Authorised Officer' means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

'Awning' includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall

'Child' means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

Designation the term to describe a legally defined licence street that permits trading subject to holding the appropriate licence. Can encompass a single pitch or an entire street.

Designated Site means a place in any licence street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

'Goods' means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

"Grant", unless the context otherwise requires, includes renew and renewal, and cognate words shall be construed accordingly;

"Ice cream trading" means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.

"Itinerant ice cream trading" means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to that location or any other location in the same street on the same day.

'Harassment' includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

'Licence' means a valid Street Trading Licence or a valid Temporary Licence.

Licensing Committee means a collective of Councillors who will review licence applications and decisions

Licence Street term used to describe a street that has been designated by the Council to allow street trading, subject to holding a licence

Licensed Street Trader

'Licence Holder' means any person who holds a Street Trading or Temporary Licence for street trading under Part III of the London Local Authorities Act 1990 as amended. To also include assistants acting on behalf of the named licence holder.

'Loading and Unloading' includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

Pitch term used to describe a street trading location

'Receptacle' includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use)

as a container for or for the display of any article or thing or equipment used in the provision of any service.

'Refuse' includes empty and discarded receptacles and any waste material.

'Stall' means any structure, box, table, stand or thing for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

'Shop Front Licence' means where the Council has granted a Licence to display goods from a stall on the footway immediately outside the shop premises, or for where the Council has licensed the placement of tables and chairs for customers' use on the street.

'Street' includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

'Street Furniture' includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.

'Street Trading' means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

'Street Trading Licence' means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years:

'Temporary Licence' means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

APPENDIX 3

STREET TRADING LICENCE CONDITIONS

Part III of the London Local Authorities Act 1990 (as amended)

Regulations Prescribing Standard Conditions for Street Trading Licences

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act.

The possession of a street trading licence does not confer any special rights for use of a vehicle, and in particular does not exempt the Licence Holder or any assistants from the requirements of parking and/or traffic regulations currently in force.

The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include but are not limited to General Health and Safety, Food Safety, Trading Standards, Fire Prevention, and Highways Regulations.

It is the responsibility of the Licence Holder to ensure compliance with the conditions. This includes making appropriate arrangements for assistants to comply with any requirement or restriction imposed by a condition.

Failure to comply with conditions of the Street Trading Licence or Temporary Licence may result in the trader being liable for prosecution. I.E. being issued with a *fixed penalty notice* (F.P.N.) and/or, revocation of licence

1. INSURANCE

- a) The Licence Holder shall be responsible for holding appropriate public liability insurance, with a minimum liability of at least £5 million throughout the period where the Street Trading Licence is in force.

2. DAYS AND TIMES

- a) The Licence Holder shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day.

3. CHARGES AND FEES

- a) Where the Council has agreed that Licence fees may be paid by instalments, the Licence Holder shall adhere to the schedule of payments specified by the Council, which may include additional fees specified in the Councils published fees, and any instruction to set up a direct debit where payments are missed.

- b) If the Licence Holder is not able to pay the fees due for a period of four weeks or more after they become due, they shall contact the Council in writing as soon as reasonably practical. The Licence Holder shall explain any circumstances that they wish to be taken into account prior to the Council beginning proceedings to revoke the licence.

4. LICENCE AND INSPECTION OF LICENCE ETC.

- a) The Licence Holder shall prominently display a copy of their Licence at the Licensed Site so that it is clearly visible.
- b) The Licence Holder shall produce the current Licence for inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

5. POSITION

- a) The Licence Holder shall ensure that only the Licensed Site prescribed in the Licence is used, (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 5(c) shall arise
- b) The Licence Holder shall inspect the Licensed Site whilst in use at least every hour to ensure that any receptacles or tables and chairs are not outside of the licensed area.
- c) If the licensed site is obstructed by roadworks or other hazard, the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence holder.

6. SIZE

- a) The Licence Holder shall not place or cause to be placed on the street, a stall or any other object that exceeds the dimensions prescribed in the Street Trading Licence.
- b) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.
- c) The sizes and numbers of receptacles, tables & chairs, parasols or other objects shall not exceed those prescribed in the Licence.

7. PERMITTED GOODS AND SERVICES

- a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.

- b) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- c) All commodities offered for sale will conform to the lists contained in Appendix 6 of the Street Trading Policy, and no commodities appearing in the banned list may be offered for sale. Special consideration will be given for items not included on any of the commodity lists in this document should applications be received.
- d) Commodities are divided into categories: Licence holders may trade up to three commodities from two categories on their street trading Licence

8. DEALING WITH THE PUBLIC

- a) The Licence Holder shall ensure that the public, Council officers and the Police are treated fairly and with courtesy.
- b) Admission or service shall not be refused to any person on the grounds of of any protected characteristics as defined by the Equality Act 2010, including gender, race, ethnic origin or the grounds of sexual orientation.
- c) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of any protected characteristics.
- d) The serving of customers shall not take place in the road.
- e) All goods offered for sale shall be clearly priced and sold in accordance with all relevant consumer protection laws or requirements
- f) A Licence Holder offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.

9. RECEPTACLES & CONSTRUCTION OF STALL

- a) Only those stalls and receptacles approved by the Council shall be used by the Licence Holder and assistants..
- b) Goods must not be placed directly on the street unless specified in the Licence.
- c) Stalls shall be constructed so as not to become unbalanced or otherwise unstable, and shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.
- d) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street, and shall not be bolted or otherwise secured to any street furniture or anything in the street.
- e) The Licence Holder shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they have the written consent of the Council. Such permission may restrict their use to the licence holder and assistants and prescribe the number of seats, their construction, size and positioning together with other conditions.

- f) The Licence Holder shall remove the receptacle and goods at the end of each trading day with the exception of those receptacles that have written consent from the Council to remain overnight on the designated pitch or other agreed location. Any receptacle left without permission may be removed and a cost recovery fee charged for removal and storage.
- g) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthestmost point from passing vehicular traffic.

10. ROOFING OF STALLS ETC.

- a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- b) The Licence Holder shall not permit the awning or roof of the stall to project outside the area of the pitch, except for 0.6m over the footway unless otherwise specified or restricted by a further condition of the Licence.
- c) The roof or awning shall be safely constructed and must not shed water over customers or passersby.
- d) The Licence Holder shall immediately remove any roof on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

11. ELECTRICITY SUPPLY ETC.

- a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power, for the operation of electronic scales, measuring equipment and cash registers and the testing of low wattage electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.
- b) Where the Council provides an electrical supply system to the stall, the Licence Holder shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.
- c) All electric power supplies shall have the appropriate consent from the Council before seeking installation of the supply by an electricity supplier.
- d) All electrical wiring and components shall comply with the basic Electricity Supplier Specification and be earthed and insulated accordingly.
- e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.
- f) Any suspended lighting shall be safely protected and shall not expose the public, Licensed Holders or assistants to any form of risk.
- g) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

- h) Licensed Holders shall ensure that electricity bollard supply covers and water points are secure at the close of each trading day.

12. GENERATORS , APPLIANCES ETC

- a) Mobile electrical generators, portable cooking appliances, bottled gas or other services shall not be used without the written consent of the Council.
- b) Electrical generators shall not be used at the location of Shop Front Licences
- c) When mobile electrical generators are permitted, they shall be so positioned that:-
- d) they do not present a danger to the public, and
- e) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and
- f) they do not cause a statutory noise nuisance or pollution nuisance, and
- g) any inflammable fuel is stored away from the stall in a container and position approved by the Council.
- h) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

13. Noise and Nuisance

- a) The Licence Holder shall not cause or permit a nuisance to be created by noise or smell from the Licensed Site or type of display.
- b) The Licence Holder shall not use a megaphone, amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- c) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

14. IMPROVING AIR QULITY - USE OF VEHICLES FOR STREET TRADING

- a) The Licence Holder shall only use vehicles that meet Euro 6 emissions standards where the engine is required to be kept running for the purpose of providing power in connection with the licensed Street Trading activities.
- b) The holder of a licence first issued prior to **XX 2022** will not be required to comply with this condition until 1st January 2024

15. LOADING AND UNLOADING

- a) Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion, unless that vehicle is used as the permitted receptacle for Street Trading.

- b) Any cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at appropriate storage facilities, and shall not be kept on the street.
- c) The Licence Holder shall not place, keep or use a vehicle at or near the Licensed Pitch in contravention of any legal parking or loading.
- d) Loading or unloading shall be abandoned, or vehicles moved, for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.

16. REMOVAL OF STALLS ETC.

- a) The Licence Holder shall remove the stall, including any associated furniture, and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties when reasonably required to do so by a duly authorised officer of the Council, a police officer or an officer of any other emergency service.
- b) Stalls, goods, tables and chairs etc., shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- d) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.

17. PROVISION OF STALL BY THE COUNCIL

- a) The Licence Holder shall use any stall provided by the Council.
- b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not willfully or otherwise cause to it any damage.
- c) The stall shall not be used for street trading or any other purpose elsewhere.
- d) The stall when not in use shall be placed within any storage unit provided by the Council for this purpose.
- e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- g) The Licence Holder shall make the storage unit available for inspection by an Authorised Officer of the Council and to enable its general maintenance.

18. REFUSE

- a) The licence holder shall ensure that all refuse arising as a result of their activities, including waste water and oil, is placed in suitable covered containers that are kept within the designated pitch exclusively for that purpose and that are approved by the Council. Such refuse containers shall be provided by the licence holder, unless otherwise provided by the Council specifically for the use by licence holders, and shall be kept as clean as is reasonably possible.
- b) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.

19. ATTENDANCE BY LICENSED LICENCE HOLDER

- a) The Licence Holder is required to make full personal use of the street trading licence, which means that the licence holder must personally attend at the stall during the hours and on the days that the licence authorises street trading to be carried on. A registered assistant can be present when the licence holder is temporarily unable to attend at the stall or if the licence holder can provide exceptional reasons as to why he or she was unable to be present for a longer period but a failure to make full personal use of the licence is a ground for revoking the street trading licence in its own right.
- b) Where, in accordance with Section 26 of the Act, the Licence Holder has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.
- c) The Licence Holder shall not sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.

20. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

- a) The Licensed Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be on a form prescribed by the Council.
- b) The Licence holder shall give any other information regarding assistants as required by the Council.
- c) The maximum number of assistants per licence should be no more than 5.
- d) A licence holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.
- e) A licence holder or Assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.
- f) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the licence holder.

21. ADMINISTRATION

- a) The Licence Holder shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.
- b) All notifications (excluding payments of weekly/monthly charges) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the licence holder.

STANDARD CONDITIONS SPECIAL PROVISIONS

Conditions Specific to Shop Front Licences

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to Shop Front Licences only.

- SF1. A copy of the licence must to be displayed in the window of the premises outside which trading is permitted. The licence is to be displayed so as to be clearly visible and legible from the street.
- SF2. Payment for goods or services shall be carried out within the shop premises and not within the licensed site or road.
- SF3. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the Public Highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
- SF4. No equipment, stall, container, or display or tables(s) or chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises, or to any part of the building to which the licence applies that is under separate occupation.
- SF5. Only those commodities or services sold or offered within the premises can be displayed outside, provided they are not excluded items as defined by the Councils regulations.
- SF6. Only those services provided within the relevant shop premises can be provided in the licensed area where a licence permits tables & chairs to be placed on the street.
- SF7. Only that equipment, stall, container, or display or tables(s) or chair(s) and containers which is suitable and fit for purpose shall be used by the Licence Holder for shop front trading or ancillary to shop front trading.
- SF8. Any barriers approved by the Council must be in place around the trading area during licensed hours. The barriers must be placed within the total space/area permitted by the licence and not take any more space than stipulated on the licence. They must be removed outside of the hours permitted by the licence.
- SF9. No Awning other than a parasol may be used as part of a stall for shopfront licences.

SF10. Mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.

SF11. Licence holders or assistants shall replenish Shop Front Licences from stocks held within the shop premises and not directly from any vehicle.

STANDARD CONDITIONS SPECIAL PROVISIONS

Conditions Specific to Local Authority Markets: Mitcham and Morden (Abbotsbury Road)

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to the Authority run markets at Mitcham and Morden.

- AM1. The market is open for trading between the hours of 8.30am and 5.30pm Monday - Saturday
- AM2. The Licence Holder shall only trade on the days agreed on their registration.
- AM3. The Licence Holder shall only trade from the agreed and allocated pitch.
- AM4. The Licence Holder only trade in those articles or services referred to on their registration.
- AM5. The Licence Holder shall sweep that part of the street from which they trade, and the area within a metre of their trading area at the end of each trading day. They shall keep that part of the street referred to on their registration in a tidy condition and to the Council's satisfaction.
- AM6. The Licence Holder shall ensure they have public liability insurance cover for £5,000,000 or hold a valid membership to the National Market Traders' Federation.
- AM7. The Licence Holder shall not use any equipment involving naked flames without the express permission of the Council.
- AM8. The Licence Holder shall not engage in any auction of any kind whatsoever.
- AM9. The Licence Holder shall only use the loading area (Mitcham) between 6am – 9am and between 3pm – 6pm.
- AM10. The Licence Holder shall removed their vehicle from the loading area as soon as unloading or loading has been completed, only returning at the close of trading.

APPENDIX 4

Permitted Commodities

Clothing
<ul style="list-style-type: none">• Women's clothing• Men's clothing• Children's clothing• Baby wear• Sportswear• Clothing accessories i.e. hats, scarves, ties, belts etc.• Underwear/nightwear• Footwear/slippers• Other items (must be specified)
Flowers
<ul style="list-style-type: none">• Cut flowers and plants• Uncut flowers and plants• Artificial flowers• Flower accessories i.e. pots, food, hanging baskets etc.• Seasonal i.e. Christmas Trees, Holly, Mistletoe etc.• Other items (must be specified)
Fruit and Vegetables
<ul style="list-style-type: none">• Raw fruit / vegetables• Other items (must be specified)
Pre-packed Groceries
<ul style="list-style-type: none">• Dried fruit, seeds, pulses, beans etc.• Cheese and dairy• Meat / fish• Bread / cake• Deli food i.e. olives, pickles, nuts etc.• Confectionary• Other items (must be specified)
Household Goods
<ul style="list-style-type: none">• Cleaning products• Laundry products• Cleaning utensils• Plastic storage and accessories e.g. crates, boxes etc.• Light bulbs• Other items (must be specified)
Toiletries and Cosmetics
<ul style="list-style-type: none">• Toiletries• Hair products• Make-up

- Perfume
- Other items (must be specified)

Kitchen / Dining

- Cookware
- Serve ware
- Glassware
- Tableware
- Other items (must be specified)

Soft Furnishings

- Cushions & throws
- Bedding
- Curtains and blinds
- Rugs & mats
- Dining linen
- Other items (must be specified)

Electrical & Audio/Visual

- Audio/amplification equipment
- Visual/display equipment
- Computer hardware and accessories
- Games consoles
- Musical instruments
- Cameras
- Electrical accessories
- Other items (must be specified)

Travel Accessories

- Luggage
- Sports bags
- Handbags
- Other items (must be specified)

Jewellery & Accessories

- Costume jewellery
- Precious jewellery
- Hair accessories
- Sunglasses
- Watches
- Other items (must be specified)

Stationary

- Office supplies
- Paper
- Greetings cards
- Wrapping supplies/gift bags
- Other items (must be specified)

Toys
<ul style="list-style-type: none"> • Children's Toys • Outdoor games and toys • Baby/nursery equipment • Other items (must be specified)
Tools, DIY and Gardening
<ul style="list-style-type: none"> • Tools • Garden tools • DIY supplies • Other items (must be specified)
Furniture
<ul style="list-style-type: none"> • Furniture including antiques • Other items (must be specified)
Sports Equipment
<ul style="list-style-type: none"> • Exercise equipment • Track & field • Golf • Sports equipment • Other items (must be specified)
Pet Supplies
<ul style="list-style-type: none"> • Pet food • Pet beds • Pet cages/hutches/tank/carriers • Grooming and care supplies • Other items (must be specified)
Arts and Crafts
<ul style="list-style-type: none"> • Art • Sculpture • Craft items • Handmade textiles • Other items (must be specified)
Textiles
<ul style="list-style-type: none"> • Fabric Haberdashery Yarn/Wool • Knitting/Sewing supplies • Other items (must be specified)
Miscellaneous
<ul style="list-style-type: none"> • Other items not in any category above (must be specified by the applicant)

Hot and Cold Food (ready to eat)

- Hot food - specify (prepared at the stall e.g. fish & chips, hot potatoes, kebabs, burgers, hot dogs, sandwiches, pies)
- Cold food - specify (prepared at the stall e.g. sandwiches, wraps, ice cream, ice lollies, salads, sushi)
- Hot drinks
- Cold drinks

Banned commodities

Banned Commodities

- Cigarettes, e-cigarettes, vapes and related items
- Medicines, drugs and other prescribed substances
- Drug related goods and paraphernalia
- Weapons/Firearms (including replicas) and ammunition
- Lottery tickets, raffles, tom bolas and other games of chance
- New and used motor vehicles (unless part of a forecourt licences)
- Second hand gas and electrical appliances
- Pets and livestock
- Containers of Liquid Petroleum Gas (LPG) including any which are part or fully discharged
- Explosives including shop goods (fireworks)
- Petroleum products including petroleum mixtures or solvents
- Goods of an inflammable, corrosive or otherwise dangerous nature.

Any other goods thought to be unsuitable by The Council

Special Consideration Commodities

The Council has determined that the following commodities will be given special consideration before holders of Street Trading Licences, Temporary Street Trading Licences or Speciality Markets are licensed to operate:

Special Consideration Commodities

- Alcohol and related items
- Sex Articles (as defined by the Local government (Miscellaneous Provisions) Act 1982)

APPENDIX B

Responses to the online consultation

Q1. Comments on draft Street Trading policy - 1 Agree with proposed changes - The proposed new condition requiring licence holders to use street trading vehicles that meet the Euro 6 emissions standards where the engine is required to be kept running for the purpose of providing power in connection with the licensed activity

Response	Number of respondents
Strongly agree	4
Agree	1
Disagree	0
Strongly disagree	0
Don't know	1

Q2. The proposed terms for Market Trading Operators

Response	Number of respondents
Strongly agree	2
Agree	2
Disagree	1
Strongly disagree	0
Don't know	1

Q3. The proposed Special Provisions for Community/Charity Trading Licences

Response	Number of respondents
Strongly agree	1
Agree	3
Disagree	0
Strongly disagree	0
Don't know	1

Q4. The key considerations that will be taken into account for Street Trading fees & waivers

Response	Number of respondents
Strongly agree	0
Agree	3
Disagree	1
Strongly disagree	0
Don't know	1

Q5. The decision-making process for Street Trading applications/review of existing licences

Response	Number of respondents
Strongly agree	0
Agree	3
Disagree	1

Strongly disagree	0
Don't know	1

Q6. The factors that the Council will take into account when considering a refusal of Street Trading licence

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

Q7. The revised standard conditions that the Council proposes to attach to Street Trading licences

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

Q8. The delineation process

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

Q9. The Enforcement approach

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

Q10. The proposed commodities list

Response	Number of respondents
Strongly agree	0
Agree	1
Disagree	2
Strongly disagree	0
Don't know	2

Q11. How clear you think the Policy is?	
Response	Number of respondents
Very clear	0
Somewhat clear	3
Somewhat unclear	2
Very unclear	1
Don't know	1

Q12. To what extent do you agree with the introduction of the draft Street Trading Policy?	
Response	Number of respondents
Strongly agree	0
Agree	4
Disagree	2
Strongly disagree	0
Don't know	1

Q13. Additional comments about the proposed new Street Trading Policy	
Comments	Response
<p>"The Council will not deviate from this policy unless there is a good reason to do so and full reasons are provided." The Council must adhere to this, otherwise it brings the Council's decision-making process, and the Council itself, into disrepute. I am not convinced that this has been the case in the past.</p>	<ul style="list-style-type: none"> • Section 2 of the draft Street Trading Policy sets the purpose of the policy. • Paragraph 2.4 states that the Council will not deviate from this policy unless there is a good reason to do so, and full reasons are provided. • It should be noted that this is the first proposed Street Trading Policy for the London Borough of Merton.
<p>I am supportive of the space requirements in section 9.9 of the policy. It should be noted that additional street clutter such as electronic advertising (which is subject to planning approval) will limit the ability of shops and restaurants to use street space.</p>	<ul style="list-style-type: none"> • The recommended space of 2m under Section 9 of the Street Trading Policy is in line with the National guidelines • The placing of Advertisements boards on the Highway is controlled by the Council's Planning and Highways Sections. Any restricted thoroughfare to pedestrians due to placement of 'A' boards outside the premises will be enforced by Officers from the Council's Highways Section collaboratively with the Licensing Enforcement Officers
<p>I don't understand the fees, some fees have increased while others haven't. Some of the fees seem very cheap (e.g., Mitcham and Morden market fees) and where fees have increased they don't seem to have increased enough given inflation rate. I wonder how commercially focussed the team is, what benchmarking has been done (not just with other councils but with private events that have stalls as they are much more than a tenner a day)</p>	<ul style="list-style-type: none"> • Street Trading fees and charges are set to recover the cost of administering the street trading licensing regime. The fees are set in accordance with a well-known case Hemmings v Westminster City Council (2015), which regulators of licensing regimes have to comply with. The Council is not required to make any profit from the fees set. Where fees charged result in a surplus, then this surplus would be used to reduce the fees charged in the following year. Deficits will similarly be recovered. • When setting the street trading fees and charges, London Borough of Merton must take into consideration its own true costs in delivering the service and not benchmarking against another Council's Street Trading fees
<p>Street trading should become easier and create a more Northcote style environment in main Wimbledon. NOT the village!</p>	<ul style="list-style-type: none"> • Applications for street trading licences will be granted if the applicant satisfactorily meets the application criteria and if no objections are received. • A street trading licence can be issued for any specified location provided the applicant satisfies the above requirements. Section 29 (3) of the London Local Authorities Act 1990 (as amended) specifically states that a person's address should not prevent them from obtaining a licence. This is consistent with other legislation brought in to provide balance and fairness to decisions.

(On behalf of Merton Cycling Campaign): We note there is no mention of cycling, active travel or climate in the policy. There is only a passing reference to accessibility. The policy needs to be assessed from a climate perspective if the council is to succeed in its aim to reduce carbon emissions. Trading can and should be as sustainable as possible, and the policy should be predisposed to sustainable business. And should be predisposed against unsustainable/polluting practices including patio heaters, outdoor heating, fossil fuelled power generation, use of motor vehicles etc.

Requiring trading vehicles to be Euro-6 compliant isn't enough. Euro-6 is not zero pollution or low-carbon. Better not to lock the policy to a standard that will become out-of-date: better to state compliance with best available current standards expected. Need a requirement for equipment to be powered by mains electricity, not fossil fuelled.

2m gap between a trading pitch and kerb is often insufficient for a usable footway. It depends on many factors, including expected foot traffic, any street clutter, hoardings, lampposts, parking bays, need to access cycle parking etc. If customers will stop in front of the pitch to shop, this reduces the effective available footway space.

Accessibility must be considered: wheelchair and mobility scooter access and the effect on people with visual impairments must be considered. Policy should talk about repurposing parking bays and road space to increase available footway space, and/or for use by traders.

Policy must guard against obstruction of shared-use footways, cycle tracks and cycle parking. A 2m gap is clearly not acceptable in such areas. Policy must safeguard future cycle provision:

Merton has massive lack of safe cycle infrastructure- this must change installing safe cycle infra must not be made more difficult by street trading: provision must be made in all agreements to be able to vary/relocate pitches/arrangements as needed.

- The Council has set out its [Climate Change Strategy and Action Plan](#). As part of this action plan, the Council has supplied electricity bollards for majority of Street Traders in Merton to use when carrying out street trading activities. The proposed additional condition for improving Air Quality for Street Trading activities is supporting the Council plans amongst its wider plans for improving Air Quality in Merton.
- Applications for street trading activities which supports climate change including zero emission capable street trading vehicles will be favourably considered.
- Section 9 of the draft policy sets out a minimum space of 2m for clear accessibility for pedestrians and disabled persons. The recommended space is line with [National guidelines](#). Section 9 of the policy (Paragraphs 9.2, 9.3, 9.7, 9.8 and 9.9) sets out the criteria for assessing proposed street trading locations to ensure they are suitable before any licence can be granted.
- The Licensing officers will carry out enforcement action if a street trader is found operating in breach of their street trading licence conditions.
- It should be noted that street trading licensing and highways issues are dealt with separately. Street Trading activities are controlled by the Licensing Section under the London Local Authorities Act 1990 (as amended). The repurposing of parking bays, road space, placing of 'A' boards on the highway and cycle infrastructure is controlled by Highways Section.

The main problem I have with the new policy is the width of footway that has to be left clear is only 2.0 metres, regardless of the road. This width is inadequate on the majority of roads where licences are likely to be sought, i.e., main roads / high streets. Wimbledon (Village) is a good example of how unpleasant the pavements are when licences are inappropriately given to allow use of the footway so that the space remaining squeezes pedestrians and pushchair users into an inadequate space. Please review and revise your policy so that Merton exceeds (in favour of pedestrians) the Mayor of London's guidance at <https://tfl.gov.uk/corporate/about-tfl/how-we-work/planning-for-the-future/encouraging-cycling-and-walking>, especially <https://tfl.gov.uk/cdn/static/cms/documents/pedestrian-comfort-guidance-technical-guide.pdf>. No licence should be granted for a main road, including all A and B roads, if the unobstructed footway width (so net of obstructions such as lamp posts etc) is less than 3.0 metres, and in many cases, more than this. People want to stroll along high streets at leisure and not feel like they are negotiating a Northern Line tube carriage.

2. Related to 1., I am dismayed that A-boards are regulated by Highways (according to S 5.9 of the proposal). Again, using Wimbledon as the example, Wimbledon is dreadful because of the number of A-boards, many of which effectively halve the unobstructed width of the footway. The plethora of A-boards detract hugely from not only the look of the area but the permeability, and definitely deter one from wanting to walk down the high streets. The licensing committee should seek to regulate A-boards instead of Highways, and then only permit A-boards for temporary advertising, with a general assumption that licensing of an A-board should be denied.

3. For Enforcement, an additional clause should be added that all costs associated with Enforcement, regardless of how minor, are to be borne by the licence holder.

- Please refer to the response above.

APPENDIX C

Direct responses to consultation

Number	Organisation	Issue	Summary of comments	Response
1.	RSP, Environmental Health Pollution Practitioner (Air Quality)	Improving Air Quality	<p>Euro 6 emission standards for vehicles is strongly supported by Environmental Health and will help to significantly reduce local emissions in some circumstances (i.e., where vehicles are vintage/old, usually with diesel engines). This is particularly important since some of the customers will be vulnerable receptors (children), queueing to buy ice creams very close to the source of emissions. Emissions contain NO2, PM10 and PM2.5 harmful to human health. This supports LB Merton’s Air Quality Action Plan which encourages the uptake of low emission vehicles through such policies as emissions-based parking for residents, encourages the switch to electric vehicle through the roll out of electric vehicle charge points (EVCP) borough wide and controls emissions from building sites through NRMM (non-road mobile machinery) enforcement.</p> <p>When Licensing come to review LBRUT this will need revising so that, in addition, all static mobile food vendors/ice cream vans “will be required to plug into an electrical source to avoid running the engine, unless the vehicle is a zero emissions vehicle, for the purpose of providing power in connection with the licensed Street Trading activities”.</p> <p>I see payment to the Council for power supplied is covered in Appendix B 12b. This is good news and has been queried by the Richmond/Wandsworth Energy Management Team</p>	Noted
2.	Michael Turner Policy and Strategy Manager Merton Centre for Independent Living	Disabled people access	The response is on behalf of Merton Centre for Independent Living - the only user-led pan-disability Deaf and Disabled people’s organisation in the borough. We are run and controlled by and for Deaf and Disabled people. We support Deaf and Disabled individuals across the full spectrum of impairment including physical and sensory impairments,	Noted.

			<p>mental health, long term health conditions, learning difficulties and neurodiversity. Our work includes an information and advice service, campaigning, co-production and policy.</p> <p>This means we only need to give a brief response as most of the policy is about issues of concern to traders. We very much welcome the policy's requirement (9.2) for a minimum of 2 metres space for pedestrians and the specific recognition (9.7) of the problems caused for Disabled people when space is restricted below 2 metres.</p> <p>What is of concern, which may be beyond the scope of what you are able to consider directly in the consultation, is that other aspects of the streetscape including A boards, the positioning of permanent advertising and other obstructions are covered by different laws and regulations. It seems that where tables and chairs and displays of goods are combined with these other factors that the space becomes limited. Another factor in places is mopeds providing home deliveries from take away outlets being parked on the pavements, which while legal seems to push the idea of whether they are causing an obstruction in many cases, particularly where there is a group of them. A good example of where this happens is the section of Wimbledon Broadway near the theatre.</p> <p>We believe it is appropriate for council to consider how these issues combine to create access barriers when granting licenses and in enforcement</p>	<p>Section 9 of the draft policy sets out a minimum space of 2m for clear accessibility for pedestrians and disabled persons. The recommended space is in line with National guidelines. Section 9 of the policy (Paragraphs 9.2, 9.3, 9.7, 9.8 and 9.9) sets out the criteria for assessing proposed street trading locations to ensure they are suitable before any licence can be granted.</p> <p>The placing of Advertisements boards on the Highway is controlled by the Council's Planning and Highways Section. Any restricted thoroughfare to pedestrians/disabled persons or obstruction to the highway due to placement of 'A' boards outside the premises would be enforced by Officers from the Highways Section collaboratively with the Licensing Enforcement Officers (if the premises has a street trading licence in force)</p>
3.	<p>Alan Gibbs Policy and Research Officer to the Conservative Group Democracy Services Corporate Services Department</p>	<p>In support of the draft Street Trading Policy</p>	<p>Sent on behalf of Merton Conservatives Merton Conservatives support the draft street trading policy and urge the council to continue to engage with residents to ensure future policy reflects their concerns.</p>	<p>Noted.</p>

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