



Street Trading Policy

Draft for Adoption

Text in Red – Proposed Additions
Text in Green – Proposed Deletions

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1.1 Introduction

Stroud District Council has adopted powers under the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading in Stroud District through a street trading consent scheme.

This policy sets out the Council's approach for managing street trading in the district and the process for applications and making decisions.

The Council's current Street Trading Resolution was adopted by the Council's Community Services and Licensing Committee on 25th June 2020 and came into effect on 1st August 2020

<https://www.stroud.gov.uk/media/1286786/street-trading-resolution-1-august-2020.pdf>

The Council's Street Trading Policy was reviewed in 2023 and it will be considered for adoption by the Council's Community Services and Licensing Committee on 22nd June 2023.

This policy will come into effect on 1st September 2023

Street trading consents are processed and issued by the Council's Licensing Section.

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1.2 Objectives Of This Policy

1.2.1 The objectives of this policy are to:

- a. Recognise the important service that is provided by street traders and the contribution they make to the local economy.
- b. Ensure the safety of customers and other persons using the locations where street traders are located.
- c. Prevent crime and disorder and public nuisance.
- d. Prevent unnecessary obstruction.
- e. Ensure that traders are suitable persons, and that public are not at risk including children and vulnerable adults.
- f. Balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by the street trading activities.
- g. Provide consistency and transparency in the way in which the Council deals with street trading.
- h. Provide applicants and consent holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.

1.3 Review of The Policy

- 1.3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Committee that deals with licensing matters after appropriate and relevant consultations have taken place. Minor amendments that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Environmental Health.

2 WHAT IS STREET TRADING?

2.1 Definitions and Resolution

2.1.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the **selling or exposing or offering for sale any article, including a living thing, in a street.**

2.1.2 The Act states that **a street includes any road, footway, beach, or other area to which the public have access without payment.**

2.1.3 Stroud District Council made a resolution on 25th June 2020. to designate all land within Stroud district that falls within the above definition of “street”, as consent streets. The resolution includes all highways land but excludes any land in the ownership and control of a public authority or a registered charity.

2.1.4 In paragraph 2.1.3 ‘ownership and control’ means having a sufficient estate or legal interest in the area of land to enable the relevant Public Authority or registered charity to restrict and regulate the use of that area in the public interest. “Public Authority” means Gloucestershire County Council or Stroud District Council or any Parish or Town Council.

2.1.5 This resolution means that street trading consent is needed for trading on:

- Streets, laybys, pavements, or any land including verges controlled by Gloucestershire Highways unless there is payment for entry.
- Streets, laybys, pavements, or any land, including verges which are privately owned, and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

2.2 Exemptions from Needing Street Trading Consent

2.2.1 The following are exempted in the legislation and do not need street trading consent:

- a. A pedlar who holds a pedlar’s certificate under the Pedlars Act 1871 issued by a police authority.
- b. A market that is granted through a charter or order.
- c. A news vendor selling periodicals or newspapers.
- d. Trading at a petrol station.
- e. Trading at a shop or in a street adjoining a shop as part of the business or shop.
- f. Trading as a roundsman who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundsmen.

2.3 Exemption for Individual Charity Stalls With A Street Collection Permit

2.3.1 Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent. Please contact the Licensing Team for further information on applying for street collection permits.

2.4 Indoor Market Areas

- 2.4.1 Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

2.5 Events with an Entrance Fee

- 2.5.1 Events that have an entry fee do not constitute street trading and do not need street trading consent.

2.6 Community and Charitable Events

- 2.6.1 Community and Charitable events on land owned by Gloucestershire County Council, Stroud District Council, a Town or Parish Council or a registered charity do not need street trading consent in accordance with the terms of the Council's Street Trading resolution.
- 2.6.2 Community and charitable events, open to the public, that are held on other land or on public highways (and do not have an entrance fee) will need to apply for a street trading consent. There is provision to apply for a short-term community or charitable event consent (see paragraph 3.3.3) The fee can be waived if criteria are met (see paragraph 7.1.9).

3 TYPES OF CONSENTS

The Council issues the following four types of street trading consent:

3.1 Static Unit Consent

- 3.1.1 Static Street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall must be removed each day at the end of the trading period.
- 3.1.2 A static street trading consent may be granted for any period not exceeding 12 months.

3.2 Mobile Unit Consent

- 3.2.1 Mobile Street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van.
- 3.2.2 A mobile street trading consent only permits trading within Stroud District Council's area. If the unit goes into areas outside of Stroud District, it will also need consent from the relevant authority.
- 3.2.3 A mobile street trading consent may be granted for any period not exceeding 12 months.

3.3 Short Term Consent

- 3.3.1 Short Term Single Traders - Short term consents are issued to traders who only want to trade in a particular location for a few days. The consent will normally only be granted for a period between 1 and 7 days.
- 3.3.2 Short Term Events – Short term consents will cover a number of stalls/traders and may be granted if the following apply:
1. The trading stalls are part of an organised event with an organising group committee/individual and;
 2. The event is no more than 7 days.
- 3.3.3 Short Term Community and Charitable Events - These may be granted if the criteria in 3.3.2 apply and the primary purpose of the event is for the benefit of the community or fundraising for a charitable cause.

3.4 Market Consent

- 3.4.1 Market street trading consents are issued to markets that do not operate under a Market Charter or Order.
- 3.4.2 A market consent will cover a number of stalls.
- 3.4.3 The market must meet the criteria set below.
- It has a nominated organiser.
 - It has the approval of the local town or parish council and the chamber of trade.
 - It adds value to the town's trade through the provision of specialist products.
 - It does not operate in detriment to the local community.

- 3.4.4 If the application is made by an organisation, they must nominate a named individual who will be responsible for managing use of the consent.
- 3.4.5 The market consent applicant will provide a management plan as part of the application process, and it will be expected that the market will operate within the terms of the management plan. Where there are changes to the operation of the market the management plan should be updated and submitted to the Licensing Section.
- 3.4.6 The consent will be issued for a maximum of 12 months and can be renewed.
- 3.4.7 The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.
- 3.4.8 The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the informal market and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly if access is needed for emergency vehicles.
- 3.4.9 The consent holder will be required to keep records of all traders that trade under the consent including date, location, name or company name, address, vehicle registration if relevant and contact details.
- 3.4.9 As part of the application process the Council will consult all businesses in the vicinity of the informal market. If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.
- 3.4.10 It should be noted that markets may incur other fees and charges from Stroud District Council if the land used belongs to Stroud District Council. This will be in addition to the street trading consent fees.

4 CHOOSING A TRADING LOCATION/PITCH

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading pitch or site. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. The Council does not hold a list of available trading pitches. However, there is a list on Stroud District Council's website of sites that have been refused: <https://www.stroud.gov.uk/business/licensing-permits/street-trading>.

4.1.2 A suitable pitch must meet the following criteria:

- Be safe for other street users including traffic and pedestrians.
- Be safe for customers using the street trading unit.
- Not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians.
- Not cause any potential for nuisance to residents and other businesses for example noise and/or smell.
- The goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity.

4.1.3 In particular, account must be taken of the following:

- Access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units.
- Locations close to residential properties are unlikely to be suitable due to the potential noise and smell nuisance to residents.
- Lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by.
- There should be suitable parking spaces for customer and trading vehicles.
- Units should not cause loss of parking spaces to residents or businesses.
- Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises.

5 OTHER MATTERS TO CONSIDER BEFORE MAKING AN APPLICATION

5.1 Suitability of The Applicant

5.1.1 Applications cannot be considered from anyone under the age of 17.

5.1.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:

(a) Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

(b) Refusal or neglect in paying fees due to the council for in relation to a street trading consent.

5.1.3 Where the DBS basic criminal record disclosure provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:

- whether the conviction is relevant;
- the seriousness of the offence;
- the length of time since the offence occurred;
- whether there is a pattern of offending behaviour;
- whether that person's circumstances have changed since the offence occurred;
- the circumstances surrounding the offence and the explanation offered by that person.

5.1.4 Annex B is a list of the offences that the Council considers relevant to a street trading consent application.

5.2 Goods for Sale

5.2.1 **Food** - Traders wishing to sell food items must be registered as a food business with the Council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with Council in whose area the food preparation is undertaken.

5.2.2 **Vehicles on The Side of The Road** -This refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle. This authority may take enforcement action under street trading legislation against the person who is advertising vehicles for sale on the public highway if a street trading consent is not held. For the purposes of this part of the policy public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the Police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005.

5.2.3 **Alcohol** - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the Licensing Section for further advice.

5.3 Assistants/Employees

- 5.3.1 You will be required to check the right to work of any persons you employ to assist you under your street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.
- 5.3.2 The Council will require the name, address, date of birth, national insurance number, a DBS basic criminal record check (not more than 1 month old) and a photograph of all persons ~~who assist~~ working on the unit, without the consent holder or other approved assistant present, on a regular basis. The DBS basic criminal record check must be updated every 3 years. For the purposes of this policy, we would consider a regular basis to be more than ~~14-28~~ days a year. An approved assistant is one that has provided the information above to Stroud District Council and been approved as a suitable person to operate the unit without the consent holder present. Where the DBS basic criminal record check identifies relevant offences as listed in Annex B of this policy, consideration will be made as to whether the Council will authorise the person to be an approved assistant.

5.4 Waste

- 5.4.1 A street trading consent holder is responsible for disposal of refuse and must not use Council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.
- 5.4.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

5.5 Trading Hours

- 5.5.1 An application should specify what hours the applicant wishes to trade. Evening and night time hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or conditions imposed.
- 5.5.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours to set up the trading vehicle and there will be 30 minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Market consent holders will be permitted 90 minutes prior and after trading times to set up and close the market.
- 5.5.3 Traders who wish to serve hot food and drink between 23:00 and 05:00 will also need a licence for late night refreshment under the Licensing Act 2003. Please contact the Licensing Team for further information.

5.6 Planning Permission

- 5.6.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site, it is unlikely to require street trading consent but will require planning permission. Please contact the Planning Section for further advice.

5.6.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

6 HOW TO APPLY FOR STREET TRADING CONSENT (All consent types)

6.1 Advice for New Applicants

- 6.1.1 On receipt of an application the Council will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation. There is no consultation fee for short term consents.
- 6.1.2 The consultation process will normally take at least 28 days and a decision will then be normally made within 14 days. Short term consents will have a shorter consultation period of 14 days and a decision will normally be made within 7 days. There is normally no consultation for short term community and charitable event consents.
- 6.1.3 Once a decision is made to grant a street trading consent there is a consent fee. This can be paid in instalments by prior arrangement. However, the first instalment must be paid before trading can commence.

6.2 Submitting an application

- 6.2.1 The following must be submitted with the initial application:-
- a. Application form.
 - b. Notice of Intention.(Not required for short term consents)
 - c. Proof of eligibility of the applicant to work in the UK (where applicable).
 - d. Plan showing the proposed trading location with position of the unit(s) shown in red. (Not required for mobile units or short-term community or charitable event consents).
 - g. Written permission from a landowner if the street trading activity is to be carried out on any land owned privately.
 - h. **In the case of an application for a market consent, a market management plan.**
 - i. Payment of a non-refundable consultation fee to cover initial administration and consultation costs (not required for short term consents).
- 6.2.2 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made:
- a. Third party public liability insurance up to ~~£10,000,000~~ £5,000,000. **(Market street trading consents third party public liability insurance up to £10,000,000)**
 - b. A DBS Basic Criminal Record check that is not more than 1 month old for the applicant and any person/s that will be working the unit without the Consent holder or other approved assistant present on a regular basis. See 5.3.2 for definitions. **In the case of a market consent a DBS Basic Criminal Record check that is not more than 1 month old for the Nominated Market Organiser.** DBS Basic Criminal Record checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190. (Not applicable to short term consents).

- c. One passport style photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to market and short-term consents).

6.3 Consultation

Consultation Static Consents and Market Consents

6.3.1 On receipt of a valid static or market application the Council will consult with the following:-

- Gloucestershire Constabulary.
- Gloucestershire Highways.
- The relevant Town/Parish Council(s).
- The Stroud District Councillor(s) for the Ward(s) concerned.
- Environmental Health Officers at Stroud District Council.
- The Planning Authority.
- Where appropriate local residents and businesses within 100 metres of the proposed site.
- Neighbourhood Wardens.

6.3.2 The application will be advertised on the Council's website.

6.3.3 The Council will allow 28 days from the date that the application is received for people/relevant bodies to make comments in relation to the application.

Consultation - Mobile and Short Term Consents

6.3.4 On receipt of a valid mobile or short-term consent application the Council will consult with the following:-

- Gloucestershire Constabulary.
- The relevant Town/Parish Council.
- Relevant Ward Councillor(s).
- Environmental Health Officers at Stroud District Council.
- Neighbourhood Wardens.

6.3.5 The Council will allow 14 days from the date that the application is received for people/relevant bodies to make comments in relation to the application.

6.3.6 There is normally no consultation for short term community and charitable event consents. However, there is discretion to consult with any relevant parties if it is considered appropriate in the public interest.

6.4 Determining New and Variation Applications

6.4.1 The Licensing Manager and Senior Licensing Officer have delegated powers to issue or refuse or add conditions to an application for a short-term consent.

6.4.2 ~~The Head of Health and Wellbeing~~ The Licensing Manager and Senior Licensing Officer have delegated powers to issue ~~or refuse~~ a new, variation or renewal application for a static, mobile or market consent, following the consultation period, in cases where no valid objections have been received or all valid objections have been withdrawn .

- 6.4.3. The Licensing Manager has delegated powers to refuse an application for a static, mobile or market consent where there are objections from the Highways Authority or Police on the grounds of public safety.
- 6.4.4 The Licensing Manager may add conditions to a consent, in addition to the standard conditions laid out in this policy, if appropriate to address concerns raised in withdrawn objections or any other relevant matter.
- 6.4.5 The Licensing Manger and Senior Licensing Officer may deem an application invalid if the applicant has not met the criteria laid out in this policy.
- 6.4.6 Objections will be deemed valid if they relate to the suitability of the site and/or the applicant taking account of, but not exclusively, the criteria in this policy. The decision as to whether an objection is valid will be taken by the Licensing Manager or the Senior Licensing Officer. Where appropriate Licensing Officers will attempt mediation to try to resolve any issues and to enable parties to come to an agreement.
- 6.4.7 Where valid objections to an application are received, and the matter cannot be resolved by Officers, the matter will be referred to a Licensing Panel who will hold a Licensing Hearing to consider the application and the objections (except in cases there are objections by Highways and/or Police on the grounds of public safety in which case the decision to refuse can be made by Officers if appropriate). The panel will also consider any letters of support received during the consultation period. The hearing procedure is laid out in Annex C.
- 6.4.8 The applicant will be informed in writing or by email of the referral of the application to a Licensing Panel and will be and notified of the date when the application will be considered and invited to attend. Persons making objections will also be notified of the date of the hearing of the application and invited to attend.

6.5 Street Trading Plates

- 6.5.1 On grant of a street trading consent a street trading identification plate (except for short term consents and informal market consents) will be issued. The plate must be displayed in the relevant unit/vehicle where it can be clearly seen by the public at all times the unit/vehicle is trading. If the plate is lost or damaged the consent holder must contact the Council as soon as possible. A charge will be made for a replacement plate.

7 FEES AND CHARGES

- 7.1.1 A list of the current street trading consent fees and charges is available on the website or by contacting the Licensing Team.
- 7.1.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to determine suitability of the site. The consultation exercise will not commence until this payment is made.
- 7.1.3 Once a decision is made to grant a consent the full consent fee or an agreed first instalment of a payment plan must be paid before the consent will be issued.
- 7.1.4 Annual consents will expire on 31st March every year. Where the initial application is made part way through the year the fee for the first year will be pro-rata.
- 7.1.5 Fees for annual consents may be paid either:
- In full by 1st April each year.
 - Monthly by direct debit.
 - Quarterly.
- 7.1.6 Quarterly fees will be due on the following dates:
- 1st January.
 - 1st April.
 - 1st July.
 - 1st October.
- 7.1.7 If agreed payments are not made to the Council by the due date, the consent issued by the Council ~~may be revoked or a renewal refused~~ will be suspended and trading must cease until any outstanding payments have been made. If agreed payments continue to not be made, or there are repeated non-payments, Licensing Officers may refer the matter to a Licensing Panel who may revoke the consent or refuse a renewal application.
- 7.1.8 The fees will normally be reviewed on an annual basis and published on the Council's website.
- 7.1.9 Street trading fees may be waived in relation to community and charitable events at the discretion of the ~~Head of Health and Wellbeing~~ Licensing Manager or Senior Licensing Officer. Each event will be judged on its own merits. However, the following criteria will be considered:
- The street trading is part of an organised event with an organising group/committee/individual.
 - The primary purpose of the event is fundraising is for the benefit of the community or for a charitable cause.
 - Stalls are pre-booked.
 - Whether any consultation is considered necessary on the grounds of public interest.

7.2 Payment Methods

- Debit or credit card by telephone to the Licensing Section between normal office opening hours or card payment online for payment of an invoice www.stroud.gov.uk

- Invoice - For renewals only, you will be sent an invoice with your renewal reminder.
~~Direct debit where a payment plan has been agreed.~~

8 RESPONSIBILITIES OF THE CONSENT HOLDER

- 8.1.1 The consent holder must act in accordance with the conditions attached to the consent.
- 8.1.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets, and the consent does not grant exclusive rights of occupation or ownership of a specific location.
- 8.1.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:
- Always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property.
 - Other relevant legislation such as the Food Safety and Hygiene (England) Regulations 2013, the Health and Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with.
 - A consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any antisocial activity.

8.2 Changes to The Unit

- 8.2.1 You must contact the Licensing Section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.

8.3 Changes of Assistants

- 8.3.1 A consent holder must provide the Licensing Section with a photograph and basic criminal record disclosure that is not more than 1 month old for any new persons that **work on the unit without the consent holder or other approved assistant present** on a regular basis. See paragraph 5.3.2 for definition of assisting on a regular basis.

9 RENEWAL

9.1.1 Applications to renew an existing street trading consent must be made at least 14 days prior to the expiry of the existing consent.

9.1.2 A renewal application may be refused if there are street trading consent fees outstanding or the renewal application is made late. **A renewal application may also be refused if the applicant has not been regularly trading at the site for the previous 6 months, without reasonable cause.**

9.1.3 The following must be submitted with a renewal application:

- Renewal Application Form
- Renewal Fee
- Copy of current third party liability insurance up to £5,000,000 (£10,000,000 for market consents)

9.1.4 **Additional Requirements at Renewal Every 3 Years:**

- ~~• A Basic Criminal Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 1 month old.~~
- A DBS Basic Criminal Record check that is not more than 1 month old for the consent holder and any person/s that work on the unit without the Consent holder or other approved assistant present on a regular basis. See 5.3.2 for definitions. In the case of a market consent, a DBS Basic Criminal Record check that is not more than 1 month old for the Nominated Market Organiser. DBS Basic Criminal Record checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190.
- 1 recently taken passport style photograph of the consent holder and any persons that assist on a regular basis. (Not required for market consents)
- Up to date photograph of the trading unit. (Not required for market consents)

10 TRANSFER OF CONSENTS

- 10.1.1 Street trading consents are non-transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application. The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within 5 working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

11 VARIATION OF CONSENTS

- 11.1 A street trading consent may be varied to change the conditions attached to the consent. This includes conditions relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:
- a. Variation Application form.
 - b. Notice of Intention.
 - c. Written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately.
 - d. Photograph of the new/changed unit if applicable.
 - e. Payment of the non-refundable consultation fee.
- 11.2 Consultation will be in accordance with the new application process. However if the variation is minor the consultation may be reduced at the discretion of the Licensing Officer.

12 CONDITIONS ATTACHED TO CONSENTS

- 12.1 When granting or renewing a street trading consent the Council may attach such conditions to it as they consider reasonably necessary.
- 12.2 Street trading consents will usually be granted subject to the standard conditions detailed in **Annex A** to this Policy.
- 12.3 Where appropriate, additional conditions may be added to a specific consent.

13 REVIEWS AND REVOCATION

- 13.1 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation. **Where Officers feel that the revocation of a consent may be appropriate based on any matters in this policy or any other matters considered relevant, they will refer the matter to a Licensing Hearing panel for a review of the consent. The outcome of the review could be revocation of the consent. A Licensing Hearing will then be held in line with the provisions in Annex C.**
- 13.2 **Where it is considered that the matter of concern could have impact on the safety of the public, or on any matter considered appropriate, the Licensing Manager can revoke the consent with immediate effect. The Licensing Manager will issue a revocation notice to the Consent holder and give reasons for the immediate revocation. In this circumstance the Consent holder must cease trading immediately. The consent holder can request, within 21 days of receiving the immediate revocation notice, that a Licensing Panel review the immediate revocation decision. A Licensing Hearing will then be held in line with the provisions in Annex C.**

14 APPEALS

- 14.1 The Act does not provide an applicant or a consent holder with any direct right of appeal to the Courts against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.

~~If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the Licensing Section within 28 days of being notified of the decision. The decision will be reviewed by the Strategic Director of Place. The review of the decision will take account of the reasons for the original decision and the representation, or any further evidence put forward by the applicant/consent holder/other party.~~

- 14.2 **An applicant can appeal to a Licensing Panel at Stroud District Council against conditions attached to a static, mobile or market consent, by an Officer, within 21 days of grant of the consent.**

- 14.3 An applicant can appeal to a Licensing Panel at Stroud District Council against a refusal by an Officer to issue a static, mobile or market consent on the grounds of an objection by Highways or the Police relating to public safety, within 21 days of receiving the refusal notice.
- 14.4 A consent holder can appeal to a Licensing Panel at Stroud District Council against an immediate revocation by an Officer within 21 days of receiving the immediate revocation notice. A consent holder can appeal to a Licensing Panel at Stroud District Council against an immediate revocation by an Officer within 21 days of receiving the immediate revocation notice.
- 14.5 An appeal should clearly set out the reasons for making the appeal. All appeals should be sent to: E-mail: licensing@stroud.gov.uk By post: Licensing Team, Stroud District Council, Ebley Mill, Ebley Wharf, Stroud, GL5 4UB. On receipt of a valid appeal, arrangements will be made to have the appeal heard by the Licensing Panel in line with the hearing procedure and timescales laid in Annex C.

15 COMPLAINTS AND ENFORCEMENT

15.1 General Principles

15.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

15.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

15.1.3 Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

15.2 Offences

15.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Stroud District area:-

- Engaging in street trading in a consent street without Consent.
- Breaches of a condition in relation to trading location or unit or trading period.
- Breaches of a condition attached to the granted Consent.

15.2.2 A person guilty of the above offences may be liable on conviction to a fine of up to £1000.

15.3 Complaints

15.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

15.3.2 If a complaint is found to be justified then the following actions may be taken:

- Verbal warning.
- Written warning.
- Simple caution.
- Prosecution.
- ~~Revoke the Consent~~ Review of consent by Licensing Hearing Panel who may take any of the actions above or may revoke the consent.
- Immediate revocation by the Licensing Manager if considered that the public are at risk with option for consent holder to appeal the immediate revocation decision to a Licensing Hearing Panel.

ANNEX A

STANDARD CONDITIONS APPLICABLE TO HOLDERS OF **STATIC, MOBILE AND SHORT-TERM** STREET TRADING CONSENTS

THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

- 1 Street trading can only take place in accordance with the times and permissions of the consent.
- 2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30 minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times.
- 3 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation the holder in respect of such revocation.
- 4 The consent holder shall return this consent to Stroud District Council immediately on revocation or surrender of the consent.
- 5 Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.
- 6 A consent cannot be sub-let.
- 7 Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, a valid identification plate that has been issued by the Council. (Static and Mobile Consents only).
- 8 The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder.
- 9 The consent holder shall at all times maintain a valid Third-Party Public Liability Insurance Policy of at least ~~£10,000,000~~ £5,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
- 10 The consent holder shall keep his trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 50 metres radius from the trading location over which the public have access.
- 11 No waste matter shall be discharged into or allowed to enter any highway drain or water course.

- 12 Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless explicit written consent has been given by the ~~Head of Health and Wellbeing~~ **Licensing Manager**.
- 13 The consent relates only to the unit described in the application or as defined on the certificate of consent.
- 14 The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the written permission of the Licensing Manager.
- 15 The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the **Licensing Manager**. Signage may also require planning permission.
- 16 Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.
- 17 No street trading unit shall be located, and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street.
- 18 The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.
- 19 The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of.
- 20 The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.
- 21 If, and when required, the consent holder shall present the street trading unit to an officer of the Council for inspection.
- 22 The Council reserves the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.
- 23 Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Council. The Council **will suspend a consent if the fee is not paid and** reserves the right to revoke or refuse to renew a street trading consent for non payment of fees.
- ~~24 The consent Holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.~~
- 24 **The consent holder and any persons assisting shall at all times when carrying on street trading activities behave in a professional, honest, polite and courteous manner. The**

consent holder and any persons assisting shall not behave or carry on street trading activities in such a way as to cause annoyance or upset to the customer, other consent holders, the occupier or person in charge of any shop or business in the vicinity, any resident in the vicinity, or any other person using the street.

- 25 Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

STANDARD CONDITIONS APPLICABLE TO HOLDERS OF MARKET STREET TRADING CONSENTS

THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

1. The market can only operate in accordance with the times and permissions of this consent.
2. The market consent holder will be permitted 90 minutes preparation time prior to the start of their trading hours in order to set up the market and there will be 90 minutes to close down and pack up. Market units are not permitted to trade during set up and closing times.
3. A market consent may be revoked at any time by the Council and the Council shall not be in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
4. The market consent holder has responsibility to ensure that all persons operating stalls under the market consent have the right to work in the UK. Failure to ensure this may lead to revocation of the consent.
5. The market consent holder shall at all times maintain a valid third-party public liability insurance policy of at least £10 million covering the market to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
6. The market consent holder will have market management plan that will be kept up to date and provided to the Council on request. The market should be operated in accordance with the market management plan.
7. The market consent holder shall ensure that the market traders keep the market trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this consent. (NB: for these purposes the term 'surrounding area' refers to all public land that is open to the air, within a 50 metres radius from the trading location over which the public have access).
8. No waste matter shall be discharged into or allowed to enter any highway drain or water course.
9. The market consent holder shall not operate markets units, or cause or permit to be so operated, on any privately-owned land unless there has been obtained the owner's written permission to do so.
10. No market units shall be located, and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street or cause any nuisance or annoyance by reason of the street trading activities.

11. Every market unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The units must not be left on site when not in use.
12. The market consent relates only to the market units described in the application or as defined on the certificate of consent. The units may not be replaced or altered without the written permission of Stroud District Council's Licensing Manager.
13. The display of advertising signs, other than on the market units themselves, is prohibited unless the appropriate permission has been given.
14. The market units shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.
15. The market consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the market units have the means and opportunity to visit suitable toilet facilities when necessary. The Market Consent Holder shall ensure that the facilities available are made use of.
16. The market consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from the market trading. The Consent Holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.
17. If and when required, the market consent holder shall permit an officer of the Council to inspect the market.
18. The Council reserves the right to refuse to renew a market street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.
19. Street trading shall not be carried on at any time unless the appropriate fee for market consent has been duly paid to the Council.
- ~~20. The Consent Holder shall ensure that the market traders at all times conduct business in a clean, honest, civil and business-like manner without interfering with the business of other traders and consent holders.~~
20. The market consent holder shall ensure that the operators of the market units behave in a professional, honest, polite and courteous manner. In the event of a complaint the market consent holder shall record the complaint and take appropriate action. The market consent holder shall ensure that the operators of the market units do not behave or carry on street trading activities in such a way as to cause annoyance or upset to the customer, other traders, the occupier or person in charge of any shop or business in the vicinity, any resident in the vicinity, or any other person using the street.
21. Nothing contained in these conditions shall relieve the market consent holder or his employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

The Council may vary or make additions to the Conditions applying for any or all street trading consents, at any time.

ANNEX B

RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

a. Dishonesty

A street trading consent will not be granted unless 7 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

b. Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

c. Drugs

A street trading consent will not be granted unless 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

d. Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

e. Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

f. Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

g. Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction unless 5 years have lapsed.

h. Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

i. Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

ANNEX C

Licensing Hearings

1. The role of the Hearing panel is to: -
 - a) Determine applications to which objections, as defined in section 6.4 of this policy, have been made.
 - b) Hear appeals from applicants against the imposition of a condition on a Street Trading Consent by an Officer
 - c) Hear appeals from applicants against the refusal of a static, mobile or market consent by an Officer where there have been objections from the Highways or the Police on the grounds of public safety.
 - d) Review a street trading consent if recommended by an Officer with a view to possible revocation.
 - e) Hear appeals against the immediate revocation of a Street Trading Consent by an Officer.

2. Timescales

Licensing Hearings are normally held within 20 working days from:

- a. The end of the consultation period for new or variation applications with valid objections
- b. The time that an appeal is made by the applicant or consent holder.
- c. The time an Officer decides that a review of a Consent is appropriate.

The Council will aim to give applicants, consent holders and other parties at least 10 clear working days' notice prior to the date of the hearing.

3. The parties at a hearing will be:

- a. The Panel made up of three ward councillors from the Council's Community Services and Licensing Committee who will have received specific training in licensing hearings.
- b. A legal officer who will advise the panel on legal points.
- c. A Licensing Officer will present a hearing report.
- d. The applicant or consent holder.
- e. Any other relevant party who has evidence to submit such as objectors or parties giving support.

4. All of the above parties will be provided with the hearing papers electronically, which will include the Licensing Officer's report, in advance of the date of the hearing.

5. Where there are objections to an application or any information against or in support of the application or where consent is being reviewed the applicant or consent holder will receive details of the objections and other information prior to the hearing. Objections and other information may be redacted to remove personal details if appropriate. The full unredacted objections, or other information will be provided to the Licensing Panel prior to the hearing. The objections or other information will not be circulated to any other parties unless appropriate.

6. Where the applicant/consent holder or other relevant party wishes to provide extra documentary evidence or other information, they should, where possible, provide this by email to licensing@stroud.gov.uk or in writing to the Licensing Section at least 1 working day before the hearing.
7. Hearings are normally held in public unless there are matters to be considered that are of a confidential nature. Hearings will normally be held in person at Stroud District Council Offices or another venue if appropriate but may be held remotely if all parties agree.
8. The applicant or consent holder or any other party can be represented by a solicitor or supported by a friend or colleague. The details of persons representing such be notified to the Council prior to the hearing by emailing the details to licensing@stroud.gov.uk or putting in writing to the Licensing Section.
9. The Licensing Panel will follow a set procedure that will be notified to all parties in advance of the meeting, along with any Officer reports that will be presented at the meeting.
10. The hearing will not normally be able to proceed if there are not 3 members of the Panel at the meeting.
11. If the applicant/consent holder or any party does not attend the hearing the Chair of the Panel has the discretion to postpone the hearing or to continue with the hearing in the absence of the applicant/consent holder or other party.
12. Further evidence produced by any party, not submitted in advance of the hearing will only be accepted at the discretion of the Chair of the Panel.
13. If during the hearing any party wishes to consult privately with their representative such as their solicitor, the Chair has the discretion to allow a short period of time for them to do so.
14. If the proceedings are, in the opinion of the Chair, being disrupted by the behaviour of any party attending the hearing, the Chair may (as an alternative to adjourning the hearing) remove that party from the hearing.
15. After the Panel has heard from all parties attending, the hearing meeting will end, and the Panel will retire to a private meeting to deliberate and make a decision. The Legal Officer will be in attendance to provide legal advice however no other parties are entitled to be present during the deliberation.
16. If during deliberation the Panel need to ask any further questions of any person, they will contact that party direct. Any further information resulting from that query will be included in the decision notice if appropriate.
17. The Panel have up to 5 working days to make a decision. The applicant/consent holder will be notified by email or in writing of the decision.

18. The Panel will issue a decision notice that will detail the decision and the reasons for coming to that particular decision.
19. The Licensing Panel will always strive to ensure when it is considering an application or consent that all persons get a proper and fair hearing through:
 - a) Considering each application/consent on its merits.
 - b) Using this policy to assess applications/consent where it is felt appropriate.
 - c) Dealing with applications, reviews and appeals in a balanced and impartial manner.
 - d) Ensuring that the rules of natural justice are applied in any hearings held.
 - e) Giving all relevant parties adequate time to present their case, ask questions of Officers and Members of the Panel and present information for consideration in support of their case, appeal or objection.