

Appendix 1 - Overview of proposed policy changes

Draft Street Trading Policy

The Policy has been reviewed following a change in working practices since the introduction of the last policy in early 2011, and in order to incorporate feedback received since that time, from ward Councillors, the trade and community groups.

The current policy covers street trading and markets which are two distinct areas of licensing. The approval considerations and legalities of these areas are different and, during the review of the current policy, street trading and market licensing have been separated to provide clearer and more concise policy documents. This policy relates to Street Trading only.

General changes

There are several changes to the layout and format of the policy document in order to improve readability.

The Policy additions and changes are as follows:

Section 1 - Introduction and intention

New introduction and intention section combining current policy sections 1 & 2. This has also been expanded to set out the Council's intention clearly, particularly in para.1.3 where a vision for street trading is proposed. Para.1.6 states that a consultation will be carried out prior to final approval of the policy - Regulatory Services will carry out a 6 week consultation with relevant stakeholders once agreed by Cabinet.

Section 2 - Other Legislative Considerations

This is a new section which informs applicants and licence holders of their obligations under separate legislation.

Section 3 - Eligibility and Suitability Criteria for Applicants

Minor changes to the text of Section 4 in the current policy have been made in order to make it clearer for applicants.

Section 4 - Types of Authorisation

This section combines section 7.0 and 8.0 of the currently policy. It removes the requirement for holders of temporary licenses to hold such a licence for three years before a permanent licence will be considered. In addition, temporary licences are only issued for a maximum of six months; this means that applicants currently need to renew their licence twice per year.

This has created a burden on applicants and also on the Council's processing teams. Allowing applicants to apply for a permanent licence would halve the processing costs but still retain the current revenue from fees.

The street trading legislation allows Councils to issue permanent licences for periods between one and three years. The Councils will still retain the same enforcement powers to review, revoke and prosecute for licensing offences, with this change.

The new paragraph, 4.1, states that permanent licences will be available to applicants for pitch, shop front and table and chair licences and will be valid for one year.

Section 5 - Fees

This replaces section 6 of the currently policy, and has been revised to streamline the processing of applications. The street trading fee is a 'licence' fee, not an 'application' fee, and the currently policy requires payment of the fee on grant of the licence. This change allows for payment of the fee upon application.

Section 6 - Application Requirements

This is a revision of section 5.0 of the current policy. The application requirements have been reduced in line with the minimum requirements in the Act. Paragraph 6.1 details these requirements for applicants and this mirrors similar requirements for other licence application types, thus streamlining processes.

This section also includes an additional requirement relating to barriers surrounding a trading area. Paragraph 6.7 requires applicants of tables and chairs licences, to submit full details of the proposed equipment, so that officers can better assess any damage to the Highway, prior to the granting of the licence. Currently, licence holders of tables and chairs licences are required to comply with a condition relating to barriers but there is no requirement to submit details.

Section 7 - Special Provisions for Community/Charity Trading Licences

This is a new section to allow for a lighter touch approach to community or charity trading events. Whilst maintaining the minimum statutory requirements for temporary licence applications, the consultation period has been shortened to allow for late notice of trading activities. There is also provision for community/charity groups to request a waiver of the licence fee.

Section 8 - Consultation

This section has some text changes to Section 19 in the current policy. In addition the following policy changes have been made:

- Local traders and businesses have been removed from the list of consultees, as this is more effectively carried out through the trade associations and ward Councillors.
- A consultation period for Community/Charity trading licences has also been specifically addressed.
- The requirement for applicants to display a 'notice of application' has been removed to reduce the burden on applicants. This will also reduce officer time in processing the application. There is no requirement to display a notice in Street Trading legislation.

Section 9 - Assessing consultation feedback and objections

This has been simplified from Section 20 in the current policy.

Section 10 - Decision making

This section has been significantly revised from Section 23 in the current policy and now clearly sets out the Mandatory and Discretionary grounds for refusal. This makes the Council's decision making powers clearer.

Section 11 - Hearings

This is a revision of Section 22 in the current policy which clarifies the Council's hearing procedures.

Section 12 - Appeals

Text changes to Section 24 in current policy to make it clearer and more readable.

Section 13 - Conditions and Standards for Licence Holders

This is a new section incorporating Section 32 in the current policy. This clearly sets out the Council's expectations of traders and refers to the conditions contained in Appendix 3 (these conditions have not changed from the current policy).

Section 14 - Special provision for certain geographical locations

This is a new section giving the Council the option of imposing standard trading times and pitch sizes in certain areas. Any proposals for standardisation could be considered in line with any town centre improvements. If this section is adopted, the delegation of these powers would also need to be considered.

Section 15 - Delineation

This is a newly proposed section giving the Council the option to delineate certain trading areas. This could be for a number of reasons, but would define trading areas to make it easier for traders to identify their allocated area. It may also reduce levels of street trading enforcement. If this section is adopted, the delegation of these powers would also need to be considered. There is also a cost implication to the Council in terms of implementation, maintenance and removal costs (studs) if the permitted trading areas should change.

Section 16 - Duration of Licences

This is a revision of Section 25 of the current policy to incorporate a new proposal to issue permanent licences to traders for a period of one year. This removes the requirement for new applicants to hold a temporary for three years prior to being given a permanent licence. This will reduce the red tape currently associated with the application process for both applicants and Officers.

Section 17- Offences

This is a new section which outlines the offences relating to street trading activities.

Section 18 - Enforcement and Review Action

This section proposes minor text and layout changes to Section 26 in the current policy to improve the flow of this section and assist traders, Officers and the Licensing Sub-Committee.

Section 19 - Renewals

This is revision of section 10 in the current policy incorporating more detailed renewal application requirements to assist applicants.

Section 20 - Variations

This is an expansion of Section 11 in the current policy which sets out a procedure for applicants to make variations to their licences during the duration of the licence. The section also makes provision for fees to be charged to administer variations.

Section 21- Succession

Test changes to Section 9 in the current policy to make clearer to understand.

Section 22 - Lapsing of Street Trading Licences

A new section included to cover circumstances where licences may lapse. This is not addressed in the current policy.

Section 23 - Designation of Licence Streets

This section is the same as section 27 in the current policy with the addition of 23.4 and 23.5. These set out the circumstances where the Council may consider new trading locations that are not included in the current list of designated streets.

Section 24 - Exemptions

This is a new section which sets out the exemptions under the Act. This is not addressed in the current policy.

Section 25 - Commodities

This has very minor text changes relating to Section 30 in the current policy.

Section 26 - Motor Vehicles

This is a new section to outline the restrictions on selling motor vehicles, which are detailed in the Act, but not addressed in the current policy.

Section 27 - Ice Cream Traders

This is a revision of Section 31 in the current policy. The list of current prohibited locations can be found in the revised policy in Appendix 5. Consideration could also be given to expand this to include Council parks and green spaces.

Appendices

Appendix 1 - List of Designated Licensed streets

No change

Appendix 2 - Commodities

No change

Appendix 3 - Terms and Conditions for Street Traders

No change

Appendix 4 - Special Provisions (conditions specific to tables and chairs and shop fronts)

No change

Appendix 5 - Prohibition of Ice Cream Traders

To reflect the new housing development on the former RAF site, consideration may wish to be given to amending the Area of Uxbridge town centre where some trading is prohibited.

Draft Markets Policy

The Street Trading and Markets Policy has been reviewed following changes in working practices since the introduction of the current policy in 2011, also to incorporate feedback received, and to simplify processes.

The current policy covers both street trading and markets which are two very distinct areas of licensing. The approval, consideration and legalities of these two areas are different and during the review it was decided to separate the two areas to provide clearer and more concise policy documents. This proposed policy relates to Markets only.

General changes

There are several changes to the layout, format and wording of this document in order to improve readability.

Policy additions and changes are as follows:

Section 1 - Introduction and Intention

This is a new section which sets out the Council's vision, where markets are proposed.

Section 2 - Legislative Back ground

This is a new section which sets out the legislative framework under which markets are licensed.

Section 3 - A Single Licence for Markets

This is the same as section 13 in current policy. There are minor changes to text in final sentence to improve readability.

Section 4 - Occasional Street Markets

No change from section 14 in current policy.

Section 5 - Charity and Community Markets

This appears the same as section 15.0 in current policy with a minor change to point 15.0 (f) which now makes provision for a relaxation to the requirement to make an application three months prior to the event.

Section 6 - Approval in Principle

There is a minor change to section 16.0 in the currently policy, to reflect a change in the name of the administering team and to provide additional information in the final paragraph to assist applicants.

Section 7 - Applications and Supporting Information

This remains unchanged from section 17.0 in current policy.

Section 8 - Market Fees

There are minor changes to the text in section 18.0 of current policy, to reflect a change in name of the administering team.

Section 9 - Consultation and Advertisement

This is a revision of section 19.0 of the current policy. It has been rewording to make it easier to read. There is also the addition of Food Health and Safety team as a consultee where food items are proposed.

Section 10 - Consideration of Applications

Minor text changes to section 21.0 of current policy to improve readability.

Section 11 - Hearings

This is a revision of section 22 in the current policy which clarifies the Council's hearing procedures by providing more detail.

Section 12 - Decision-Making and Grounds for Refusal

This is the same as section 23.0 in currently policy, where it applies to Markets.

Section 13 - Duration of Licence

Appears the same as section 25 of current policy where it refers to markets.

Section 14 - Enforcement Action

This is a revision of section 26.0 in the current policy. It has been simplified to reflect the enforcement approach with respect to markets.

Section 15 - Other Legislative Considerations

Complete revision of 28.0 of current policy to reflect considerations specific to market licences.

Section 16.0 - Policy Review

This is as section 29.0 in currently policy. There are minor changes to text to reflect changes in officer titles.

Section 17.0 - Licence Conditions

These are unchanged from appendices 4, 7 and 8 in the current policy and can be found in Appendix one of the revised policy.

Draft Statement of Licensing Policy

The Council is required by the Licensing Act 2003, to review the Statement of Licensing Policy every five years. The current policy was revised in 2010 and adopted by Full Council in January 2011.

There have been a number of changes in legislation, most notably the deregulation of entertainment activities. Case law is also constantly influencing the interpretation of the legislation and shapes the way in which the Licensing Authority makes its decisions.

This policy relates to the Licensing Act 2003 only, which regulates alcohol sales, regulated entertainment and late night refreshment.

General changes

There are a number of changes to the layout and format of the policy document in order to make the document easier to read. Additional sections have also been included.

The Policy additions and changes are as follows:

Section 1 - Introduction and Background

New introduction and background section simplifying part of section 1 of the current policy and adding some detail about the number of authorisations currently in force.

Section 2 - Policy Statement

This is a new section incorporating the remainder of Section 1 in the current policy and adding paragraphs setting out the intention of the policy at 2.1 and 2.3.

Section 3 - Consultation

This is a duplication of the consultation section in the existing policy. The list of consultees has been revised mainly to refer to categories of consultees rather than individual consultees.

Section 4 - General Principles and the Role of the Licensing Authority

This is a reformat of Section 5 in the current policy, the wording remains the same.

Section 5 - Integration of Strategies and Avoidance of Duplication

This is a revision of Section 3 of the current policy and creating specific paragraphs for planning and noise nuisance. These sections have been given individual acknowledgement as they are specifically mentioned in the Government Guidance and are the areas where duplication is most likely. The list of suggested measures to deal with issues outside of the licensing regime has been removed as legislation in other areas is subject to change and each set of issues is best addressed on an individual basis rather than by way of a general policy.

Section 6 - Promotion of Equality

This is a duplication of Section 4 of the current policy. The wording remains unchanged.

Section 7 - Prevention of Crime and Disorder

This section currently features in section 6.2 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. It has also been updated to reflect current working practices with Police Licensing Officers.

Section 8 - Public Safety

This section currently features in section 6.3 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. It has also been updated to reflect current working practices with Health and Safety Officers and Officers of the London Fire and Emergency Planning Authority.

Section 9 - Prevention of Public Nuisance

This section currently features in section 6.4 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. New paragraphs have been added at 9.4 and 9.5 to specifically address nuisance caused by smokers and from the use of smoking shelters. This is due to an increase in issues associated with this activity since the introduction of the smoking ban and the current policy.

Section 10 - Protection of Children from Harm

This section currently features in Section 6.5 of the current policy and remains largely unchanged. There has been an addition in Para 10.5, of measures to protect children from harm in licensed premises. This sets out clearly the steps which applicants and licence holders may wish to include in their business operations and also steps which the Licensing Authority may impose where there are issues.

Section 11 - Public Health and Licensing

Since the introduction of the current policy in 2011, Public Health have become a 'Responsible Authority' meaning that they now get consulted on every licence application and can make representations against them. Section 11 is a new section to reflect the changes.

Section 12 - Licensing Committee

Currently featuring as Section 2 of the current policy, the wording remains unchanged however it has been located to a more logical location within the revised policy.

Section 13 - Authorisations and Applications

Section 9 of the current policy has been incorporated into Section 13 and additions have been made to give each type of authorisation specific acknowledgement. New additions at 13.8 and 13.9 have been included to state clearly the eligibility for permissions relating to Members Clubs, which was not included in the current policy. Para's 13.12-13.15 specifically acknowledges personal licence holders in their capacity as a 'Designated Premises Supervisor', previously not included in the current policy.

Section 14 - Representations

This replaces and incorporates Section 10 in the current policy. There have been a number of additions from Paragraph 14.5 detailing the Licensing Authority's expectations from those persons or bodies submitting representations. This has

been included because there have been a number of issues with representations and petitions being submitted in the incorrect format, or outside of the consultation period. Making these points clear in policy will assist persons wishing to make representations to do so in the correct way. A new paragraph 14.9 has been added to clarify the position regarding representations made on the basis of 'need'.

Section 15 - The Role of the Ward Councillor

A new section to clearly define the role of ward Councillors in the licensing process. Also incorporating Hillingdon's own procedure to consult with Ward Councillors for each premises licence application.

Section 16 - Decision Making and Licensing Hearings

A new section setting out the decision making powers of the Licensing Authority and the process and the way in which decisions are delivered at licensing hearings.

Section 17 - Licence Conditions

This section has been reduced from the current Section 11 as the Mandatory Conditions have gone through several revisions since 2010; these have therefore been taken out of the body of the policy and included in an Appendix. A new paragraph 17.3 also refers to the use of model conditions at the discretion of the Licensing Authority

Section 18 - Enforcement

A new section to address enforcement specifically referring to the 'Residents Services Enforcement Policy' and referring to the joint enforcement carried out with Police colleagues. This is not included in the current policy.

Section 19 - Reviews

This incorporates Section 12 in the existing policy but has been expanded to refer to the statutory consultation at paras 19.5 and 19.6. New paragraphs 19.7 - 19.9 have been added to refer to expedited review powers and reviews following closure orders, which were not included in the current policy.

Section 20 - Cumulative Effect

This section appears at Section 7 of the current policy and the wording remains largely unchanged.

Section 21 - Licensing Hours

This section appears at Section 8 of the current policy and the wording remains largely unchanged.

Section 22 - Exemptions

Section 13 (live music, dance and theatre) in the current policy has been removed. This is because most entertainment activities have been deregulated by government. Instead, Section 22 outlines, in brief, the exemptions relating to entertainment. It also makes reference to the need for authorisations where 'relevant entertainment' is provided at paragraph 22.4.

Draft Statement of Gambling Policy

The Council is required by the Gambling Act 2005 to review the Statement of Gambling Policy every five years. The current policy was revised in 2010 and adopted by full council in 2011.

In the intervening time there have been only minor changes to legislation and as such there are very few changes proposed to this policy. Text additions and changes are identified in bold and deletions struck through.

It should be noted, however, that there will be a more significant changes to gambling legislation that come into force From 6 April 2016 next year. Local operators will have to risk assess their premises and share these assessments with the Council.

Additionally, councils may (if they so wish) commission local area profiles detailing the effects of gambling with regard to areas / boroughs / communities. It is anticipated that these local area profiles will be used in a number of ways:

- by operators when risk assessing their premises;
- by local authorities when determining applications, imposing conditions or when considering saturation policies.

It is therefore proposed that a further review of the Gambling Policy is undertaken at a point when the updated regulations that are expected next year, are in place, and when the impact of the local area profiles and / or saturation policies will be fully understood.

Policy additions (shown in **Bold** in the draft policy) are:

- Part 4 - Local Area Risk Assessments and Local Area Profiles have been recently introduced by the Gambling Commission in February 2015, placing responsibility on applicants to assess and profile the area specifically around the proposed licensed premises.
- Para 5.10 - refers to 'primary gambling activity' this has been included due to recent case law involving betting premises and the use of high stake/high prize gaming machines.
- Para 5.12 - is an addition relating to relevant factors in the consideration of licensing 'separate premises' in the same building.
- Para 5.17 - makes clear the entitlement to grant a licence but expresses that this entitlement is not an obligation.
- Para 5.48 - clarifies that the restriction of betting machines is a power which can be used for premises licensed for the sale of alcohol only.
- Para 5.58 - this has been expanded to place greater emphasis on the Councils expectations in respect of Adult Gaming Centre licence applications.
- Para 6.15 - makes provision for plans to be submitted if they are not to scale.