



HILLINGDON

LONDON

Markets Policy 2016

The Food Act 1984
(As amended)

Draft

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Appendix 1 - Terms and conditions for market licences

1.0 Introduction and intention

- 1.1 This policy is intended to provide a framework for the Council to administer and regulate market trading, to ensure a consistent approach is taken. It also serves as a reference for licence holders, relevant stakeholders and enforcement officers as to the Council's intended vision and approach to market trading activities.
- 1.2 The Council is keen to create a thriving market environment which is sensitive to the needs of traders and residents, one which promotes consumer choice and enhances the trading and business opportunities in the borough.
- 1.3 The Council will not deviate from this policy unless there is an unavoidable reason to do so.
- 1.4 In the development of this policy, the Council has consulted with licence holders, partner agencies and other stakeholders
- 1.5 The policy proposes a simplified process for licensing of street markets and community events and offers a simple prior approval process to support applicants, so that their proposals have the greatest chance of success, when a final application is made.

2.0 Legislative Background

- 2.1 The Council is “invoking its market rights” under the Food Act 1984 (as amended) in the Borough. The Food Act 1984 allows a local authority to designate a market place within its area and the days and hours during which markets may be held.

3.0 A Single Licence for Markets

- 3.1 The Council will consider market applications on a case by case basis for street markets proposed within the borough boundary, to which there is a free public access, and which may have multiple stalls or pitches to sell a variety of commodities.
- 3.2 The Council will regulate markets under a single licence, as per Part III of The Food Act 1984. Markets held in the following locations are exempt from the market provisions of the Food Act 1984:
 - a) Any Council park or green space.
 - b) Any private building.
 - c) Enclosed shopping centres.
 - d) Any school / community / church hall or similar.

- 3.3 The licence issued will authorise a number of traders in a particular area, on predetermined days or dates (a market), or where trading takes place from a stall, a series of stalls or pitches, on an occasional or one-off basis.
- 3.4 The market licences may be granted to a private market operator(s), resident's associations or similar, or community/charitable groups.
- 3.5 The Council enforces its market rights in the interests of public safety, and so will determine the area, size of stalls etc and their general layout as well as relevant timings for trading to take place. Officers will assist market operators in planning their event and offer advice.

4.0 Occasional Street Markets

- 4.1 Occasional street markets can encourage economic activity and enhance shopping areas by offering variety and by increasing visitor numbers.
- 4.2 A market operator or a group of traders may apply to the market authority for a licence to hold an occasional street market, for commercial trading purposes. This is a market which takes place on specified dates or days.

5.0 Charity and Community Markets

- 5.1 It is recognised that regulation can sometimes have unwanted impacts on residents, businesses and community groups based in the borough. To minimise these burdens, specific arrangements for local community and charitable group events are outlined below.
- a) A charity or community group may apply for a licence to hold a market for the purpose of supporting a community event e.g. a fun day, or Christmas event.
 - b) Applicants for a charity or community market must identify community or charitable benefit, or provide evidence of charitable status and intention.
 - c) Charity or community applicants should apply to the Council for a waiver of market application fees. The Council will consider any applications for waivers on a case by case basis, and in light of the paragraph 5.1b).
 - d) Where a charity or community event market includes trading by commercial businesses, a waiver of fees should also be applied for; however, the Council may decide to charge a portion of the fee to cover the cost of licensing those commercial businesses. Applications will be assessed on a case by case basis, but such events should mainly be community based, benefiting the social and economic wellbeing of an area.

- e) Licensees must ensure that the terms and conditions that come with the market licence are adhered to by the individual traders, that they have adequate insurances, that they are food registered where appropriate.
- f) Charity or community market operators will be required to make their market applications at least three months prior to the market event taking place. This requirement may be relaxed if there is good reason to do so, and at the Council's discretion.
- g) Where road closures are required, any initial 'approval in principle' will be entirely subject to subsequent approval by the Highway Authority. Evidence of the Highway Authority's approval will be required as part of the market application.

6.0 “Approval in Principle”

6.1 The Council wants good, well promoted, markets and events to go ahead. To save wasted effort, increase convenience and to ensure that applications have the smoothest possible journey to approval, Regulatory Services will give support in the form of “approval in principle”.

- a) Where early applications are made, not including full details of traders and their commodities, the Council may approve the application in principle, pending full details of the traders and their commodities being submitted, at least two weeks prior to the market event.
- b) Operators or organisers will be encouraged to hold early meetings with licensing officers to discuss proposals and the Council's requirements, and agree layouts before a full application is made. No fee is to be charged for these meetings. However, it is anticipated that most events will need one, or more meetings to agree matters.

6.2 Any approval in principle issued by the Council will be subject to other legislative requirements for example, road closures, parking suspension, alcohol licensing. Approval times for these authorisations should be considered before submitting a market licence application.

7.0 Applications and supporting information

7.1 The Council will expect applications for Market Licences to be as thorough and complete as possible. The Council may seek references from boroughs in which the market has previously operated prior to the determination of the licence.

7.2 Market operators must make applications using the Council's own form and should provide the following information and documents as part of the application:

- a) Two standard full face passport photographs.
- b) Evidence of public liability insurance for a minimum of £2 million cover.
- c) Proof of address.
- d) Identification that includes a photograph of the applicant; (such as a new style photo driving licence).
- e) Plan of the proposed market showing location, sizes and layout of stalls/pitches.
- f) Evidence of or proposals for a trade waste disposal agreement or similar.
- g) Photographs/images showing the appearance and style of stall / pitch.
- h) A list of stall / pitch traders and what they want to sell - the commodities – this may be given a minimum of two weeks before the event in the “approval in principle” process.
- i) The trading name of the operator, the name of the stall, business address and contact details
- j) For food traders, the name and number of the local authority where they are food registered.

7.3 The Council may be able to accept alternative supporting documents, by agreement.

8.0 Market Fees

8.1 Market operators for occasional street markets are required to pay a fee in line with the Council's current fee schedule.

8.2 Applicants for charity / community markets should apply to the Council's Regulatory Services team for a waiver / reduction of market licence fees. Information on current market licence fees can be found at www.hillingdon.gov.uk/licensing

9.0 Consultation and advertisement

9.1 Upon receipt and acceptance of an application, the Council will carry out a consultation with the relevant Ward Councillors, the Council's Highways Service, the Council's Enforcement Officers and any trade representative in the locality such as, Chamber of Commerce or Town Centre Management. The Council's Food Safety team will also be consulted where the application is proposing to trade in food items.

9.2 The purpose of the consultation is to seek assurances that the applicant's proposals 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.

9.3 The consultation period will last for 21 consecutive days starting with the day after the application has been received and validated.

9.4 Assessing consultation feedback and objections

9.41 Where the Council receives feedback or an objection to an application consultation, it will carefully consider whether that feedback/objection may influence the Council's discretionary decision making powers.

9.42 Any feedback or objections received which is not within scope for consideration, will not be accepted by the Council.

9.43 The Council will not consider feedback or objections where they are; frivolous, vexatious or repetitious. Such objections will be considered as 'not relevant'. The decision in this respect will be delegated to the Deputy Chief Executive and Corporate Director for Residents Services who may sub delegate the matter to an appropriate senior officer.

9.44 The Council recognises that sometimes there will be existing traders in the locality of an application who are dissatisfied with the prospect of an additional trader in the area. However, competition and trade are matters for the local market or trading environment and will not normally be considered by the Council, notwithstanding the Council's discretionary powers for refusing licences.

10.0 Consideration of Applications

10.1 Applications which have not been subject to relevant objections will be considered by officers authorised for the purpose of determining market applications.

10.2 If relevant objections are received during the consultation period for a licence application, a Licensing Sub-Committee will determine the application. Where applications are heard by a Licensing Sub-Committee, the Committee may exercise its discretion on accepting late representations where they have been received outside of the consultation period.

11.0 Hearings

11.1 Where grounds for refusal are presented, the Licensing Sub-Committee will consider the licence application by way of a licensing hearing. Officers will aim to convene a hearing within twenty working days following the end of the consultation period, or as soon as reasonably practicable.

- 11.2 Where a market 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 twenty one days notice of any revocation proceedings being brought against the trader.
- 11.3 The Licensing Sub-Committee, constituted for the purpose of determining market licences, shall be made up from Members of the Licensing Committee as constituted under the Licensing Act 2003.
- 11.4 Applicants will normally be notified of the decision verbally on the day of the hearing and can expect a written decision within five working days of the decision.
- 11.5 In certain circumstances, the Licensing Sub-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.

12.0 Decision Making & Grounds for Refusal

- 12.1 All uncontested applications will be considered by officers authorised for the purpose of determining market applications. Where relevant objections are received to an application, a Licensing Sub-Committee will determine the application, unless all parties agree that a hearing is not necessary.
- 12.2 The complete application process may take up to three months and this is to take into account the twenty one day consultation period, and also, if required, the arrangement of hearings of the relevant Licensing Sub-Committee. Where there are no relevant objections to an application, the Council aims to determine applications within one month of receipt of a fully completed application.
- 12.3 Standard conditions will be attached to every market licence and these may be varied by the Council at any time. Specific trading conditions may also be attached to a market licence by the Licensing Sub-Committee and/or Officers using delegated powers.
- 12.4 In considering applications for the grant or renewal of a market licence the following factors will be considered, and may be discretionary grounds for refusal.
- (a) Public safety - Whether the market trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction of the highway to emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that may occur when a trader is using the site.

- (b) Prevention of crime and disorder - whether the market trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of a problem for licences operating late in the evening.
- (c) Prevention of public nuisance or environmental damage - whether the market trading activity represents, or is likely to represent, a substantial risk of problems from damage to street surfaces, or from noise, litter, refuse, vermin, fumes, odours or antisocial behaviour, particularly in residential areas.
- (d) Appearance and suitability of the stall or vehicle from which trading takes place - the stall or vehicle must be of a good quality design, of good appearance and meet the criteria, including size, laid down in the standard licence conditions. It is advised that applicants provide photographs or sketches including dimensions of the stall with all new applications.
- (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.
- (f) History of the applicant - the suitability of the applicant must be considered. Previous failures, without reasonable excuse, to comply with licence conditions or failure or neglect in paying licence fees may result in a licence being refused, revoked or not renewed.
- (g) Pedestrian or vehicular access – whether there is sufficient space for pedestrians and vehicles (including pedestrians using mobility aids and parents with pushchairs/buggies) to continue to use the public highway safely and unhindered.

12.6 Occasionally, if some grounds for refusal do exist, the Council may still decide to award a licence – but this could be for a shorter period than required, or to allow trading only in certain commodities.

13.0 Duration of licence

13.1 Market licences will be issued for a period in accordance with the application and / or any Licensing Sub-Committee decision made to alter the licence period.

14.0 Enforcement Action

14.1 Any breach of the conditions relating to Market Licences will be investigated and enforcement action will be taken in accordance with the Residents Services Enforcement Policy where necessary. A history of enforcement action may be considered as part of any application process.

15.0 Other legislative considerations

15.1 Market traders should be aware that this policy relates only to street market 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; Planning, Building Control, Food Safety, Health and Safety, Control of Waste, Highway Obstruction, Trading Standards, Late Night Refreshment / Entertainment / Alcohol Licensing.

16.0 Policy review

16.1 This Policy may be reviewed by Cabinet. Changes to elements of this Policy may be made by the Deputy Chief Executive and Corporate Director of Residents Services, acting in consultation with the Leader of Council.

17.0 Licence Conditions

17.1 Market Licences are issued with standard, and other, conditions attached. These are effectively the rules by which licensees must operate. The purpose is to allow trading to be carried out safely, responsibly and in harmony with the surroundings, other traders and residents.

17.2 A full list of licence terms and conditions can be found at Appendix 1.

Appendix 1

Terms and Conditions for Market Licences

1. PITCH SIZE

The licensed area must be within the dimensions shown on the licence, or any relevant pitch limits marked out on the ground by the Council. An awning may be permitted to extend 30 cm (12 inches) at the front of the pitch/market area, but no articles are to be suspended from the awning beyond the permitted pitch/market area.

2. COMMODITIES / ITEMS TO BE TRADED OR SOLD

Only those commodities or groups of specified on the licence may be sold from the licensed market place.

3. ADVERTISEMENTS

No advertisement shall be displayed on the licensed market place for goods, commodities or services other than those licensed for sale or provided on that market place.

4. DAYS AND TIMES OF TRADING OR BUSINESS

Trading may only take place on the days and during the times specified on the market licence. The Council shall advise market operators of any extension of trading times for specified trading periods when and as relevant.

5. REFUSE OR WASTE

It is the market operator's responsibility to ensure that all litter and waste generated by their licensed activity is collected for recycling or disposal, in ways that are compliant with relevant legislation. This can mean storage in suitable bins or containers within the licensed area until collection can take place by a registered carrier of waste.

To prevent blockages, odours or nuisance to others, road gullies or surface water drains may not be used for the disposal of food based liquid wastes or other noxious substances.

6. PORTABLE GENERATORS

Generators shall be positioned so that they do not present problems for other street users or traders. Generators shall be checked and certified for safety by a competent person and shall be erected in a secure location and barriered to prevent interference by members of the public.

7. STREET CLEANLINESS

The market operator must keep the immediate licensed area and the area within 5 metres in any direction from the licensed area, free of any wastes or spillages resulting from the trading activity, throughout the trading day. When trading is finished or upon leaving the site the market operator must leave it in a clean condition.

8. PRODUCTION OF LICENCES ON REQUEST

All licensed traders shall produce their licence when requested to do so by an authorised officer the Council or a police officer.

9. SAFETY OF EQUIPMENT

Electrical equipment should be tested by a competent person at intervals recommended by the competent person. Records should be kept of all inspections and tests together with any defects and/or remedial works, so as to demonstrate compliance.

10. USING A MAINS VOLTAGE ELECTRICAL SUPPLY

Market operators using a mains electrical supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the market operator and the electricity supplier will be required to provide the Council with certification for the safety of the electricity supply.

11. INTERFERENCE WITH ELECTRICAL SUPPLIES

A market operator will be subject to suspension of a licence if they tamper with, or use an electricity supply belonging to the Council without a prior arrangement to do so. A market operator causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement.

12. PITCH EQUIPMENT, OR TRADING STALLS

Pitch equipment or stalls should be easily and quickly assembled and removed. The Council reserves the right to inspect for stability and safety and to ensure that they are fit for purpose. Any obviously dangerous item must be made safe or immediately removed on request. It is the market operators responsibility to ensure that items and structures are put up and taken down safely, are properly designed, well sited and in a good, clean condition.

13. GENERAL CONDUCT

Any market operator and/or any assistants employed by them shall conduct themselves in a decent manner and ensure that all members of the community are fairly treated and shown courtesy and respect. Trading activities should not give rise to noise inappropriate to the area, or cause other nuisance.

14. NOTIFICATION OF LOCATION FOR STORAGE OF FOOD COMMODITIES, PITCH EQUIPMENT, OR TRADING STALLS etc.

Traders in foodstuffs must notify the Council in writing of any change of address or addresses at which the pitch equipment stalls etc (the "receptacles") and any commodities are stored. Such notice must be given within 7 days of the change. Checks may be made to confirm details and suitability.

15. EMPLOYMENT OF CHILDREN

A licensed trader shall not employ any person under the age of 17 years in any capacity in the course of his trade or business.

16. ASSISTANCE TO COUNCIL OFFICERS

A trader shall give immediate assistance to Council officers when requested to do so. In dealing with an emergency, this might mean moving a stall or equipment away from the area, quickly.

17. FOOD RELATED TRADING

Food traders shall comply with the necessary food hygiene, food hygiene training and food registration requirements as required by the Council's Food, Health & Safety Team.

18. VEHICLES

No person shall bring a vehicle into the market place during market hours unless in case of emergency;

19. FIRES, EXPLOSIVES & HYDRANTS

No stall shall cover or obstruct a fire hydrant. Clear access must be maintained at all times; No person shall light a fire in the market place; No person shall keep or sell any explosive or highly flammable substance in the market place;

20. PRINTED MATTER

No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter unless prior consent has been obtained from the market authority;

21. INSURANCE

The market operator shall ensure that each trader is able to demonstrate adequate public liability insurance cover of £2million minimum.

22. FOOD RELATED TRADING

Food traders shall ensure that their home authority has up to date registration information as may be necessary. Traders subject to routine food hygiene inspections shall meet Food Hygiene Rating equivalent to 3 'generally satisfactory' as a minimum requirement.

Standard Licence Conditions for individual Market Traders

- 1) Every Market Trader shall;
 - a. Ensure that the stall/pitch is properly cleansed before and after market hours as often as may be necessary during those hours;
 - b. Ensure that all refuse accumulated in connection with the stall is placed in a bin or container provided *or* approved by the Council for that purpose;
 - c. As often as is necessary, ensure that the contents of the bin or receptacle are removed to an area designated by the Council for that purpose
- 2) Traders shall have in place the following documentation at the time of trade and must produce them if requested to do so by an authorised officer of the Council;
 - a. Food hygiene documentation (where the traders commodity is food)
 - b. Valid public liability insurance of £2million minimum
- 3) The use of gas cylinders is permitted only where;
 - traders have checked the valves and hoses of gas cylinders for defects before bringing them into the licensed market place, and;
 - the cylinders are in safe working order