

**Report of:** Head of Environmental Health

**Report to:** Central, South & West Area Committee

**Date:** 10<sup>th</sup> October 2006

**Report No:**

**Title of Report :** Street Trading Enforcement in the City Centre

### Summary and Recommendations

**Purpose of report:** To advise Committee on the current Street Trading enforcement issues and offer options for improvement.

**Key decision:** No

**Portfolio Holder:** Councillor Jean Fooks

**Deputy Responsibility:** Environment Scrutiny

**Ward(s) affected:** All

**Report Approved by:** Environmental Health Business Manager  
James Pownall – Legal  
Andy Collett- Finance

**Policy Framework:** Approved Street Trading Scheme

**Recommendation(s):**

Committee are recommended to determine whether to:-

1. Provide funding for a temporary pilot period to cover at least weekend street trading enforcement.
2. Support the forthcoming bid for funding the extension of the Street Trading resource to cover at least 6 out of 7 days per week.
3. Ask the Council's legal officers to explore the process of obtaining a local Act of Parliament to prohibit peddling, offering services and other related street activities in Oxford.

### **Introduction**

5. This report is in response to the Committee's expressed dissatisfaction with the level of enforcement of street trading in the City Centre, particularly at the weekend.

6. Oxford City Council introduced a Street Trading Consent Scheme in 1986.
7. The scheme is in place to regulate trading from the City Centre and its suburbs.
8. The scheme requires anyone selling items to hold a Street Trading Consent issued by the City Council's Environmental Health Service. The consent allows the trader to trade from a fixed site.
9. There are currently 30 sites in the City, which are available on an annual basis for the sale of a variety of goods.
10. There are 3 sites for ice cream vans, 16 sites allocated for evening sales from hot food vans and 11 fixed sites on the pavement for stalls to sell goods.
11. There are also two weekly let sites at Bonn Square and in Cornmarket Street.

### **Current Enforcement Resources**

12. The budget for street trading enforcement provides a half post (0.5 fte) staffing resource to cover the enforcement of the street trading scheme. For the last 15 years, these hours were traditionally worked from Wednesday to Friday with occasional weekend and evening work as required and possible within budgetary constraints.
13. The post-holder's responsibilities traditionally included monitoring the authorised street traders, and regular patrols to detect and discourage itinerant traders and pedlars.
14. The post was vacated by the last postholder on retirement in December 2005, limited basic coverage being provided by a few Environmental Health staff with knowledge of this specialist work area.
15. In July 2006 a specialist contractor was engaged to cover this work area. Owing to vacancies elsewhere in the service, this post is temporarily funded to provide full time cover from Monday to Friday. This arrangement will come to an end when a permanent post holder is appointed as the funding currently used would not be available on a permanent basis. There is currently no regular weekend working.
16. Increasing demands and added responsibilities over the years mean that a full time post is required. Over the last few years, the demands on the Street Trading Officer have increased significantly as new duties have been assigned with no increase in resources. Additional duties now include the monitoring of Charitable Street Collections, enforcing the requirements of the Pavement Café scheme and enforcing the

byelaw governing touting & leafleting. All these activities require a greater presence on the street than is currently possible with the resource available.

### **Principal Enforcement Issues**

17. There is currently no regular weekend working by the Street Trading Officer.
18. The presence of street traders in the City Centre has grown significantly at the weekends so there is now more of a perceived problem with unwanted street trading activities at the time when there is no regular enforcement presence.
19. A significant number of complaints arise over what is perceived as “illegal street trading”, all of which require investigation. In many cases, it is found that the trader is in fact trading under the legitimate authority of a Pedlars Certificate. Any person in possession of a Pedlar’s Certificate who is trading in accordance with the Pedlars Act is free to trade within the City – all the requirements of the Council’s street trading scheme are overridden by the provisions of the Pedlars Act. The basic requirements of the Pedlars Act are that a pedlar travels from place to place, stopping to make a sale and does not return to the same location to trade for a period of 10 – 14 days.
20. With Oxford being a popular tourist destination, it attracts a large number of pedlars and, as can be appreciated, a relatively small number of pedlars regularly returning to the City every two weeks can create the impression of constant trading taking place.
21. There is also the problem that any person who offers a service, as opposed to selling an article, is not covered by the street trading controls and this may also give the impression that illegal trading is not being discouraged as there are those services which fall into the definition of “service” rather than “sale”.
22. A byelaw was introduced in 2004 which aimed to prevent touting, offering services, leafleting etc. Again, this area has grown in enforcement need and through the summer officers regularly find 2 or 3 different individuals per day undertaking such activities. In the same way as for pedlars, Oxford attracts a high number of individuals advertising services so there can be a perception that little enforcement is taking place when in fact there are a large number of different individuals who are being dealt with and dissuaded from returning to the City.
23. There are also problems with enforcement of the byelaw when it comes to determining exactly what is and is not covered and individuals have started to find these loopholes and use them to their advantage. For example, the byelaw refers to persons advertising services in such a manner as to “cause obstruction or give reasonable grounds for

annoyance to any person”, obstruction and annoyance being open to debate depending on the circumstances of the case. The current approach is to use the byelaw to actively discourage such traders but it is doubtful whether it could be used to secure a conviction in many of the cases that are encountered on a day to day basis.

### **Options for Improving Enforcement & Control of Street Trading**

24. There are two principal means of improving the current situation:-

- a. Provide additional resources to enforce existing street trading controls
- b. Improve the legal framework to give additional strength to enforcement powers

#### **a. Additional Resources**

25. It is recognised that although currently there is more staffing resource applied to street trading enforcement than ever before it still leaves significant gaps in the service, particularly the fact that there is no cover over the weekend.

26. In order to alleviate this problem, a bid for additional staffing cover is currently being proposed to increase the resource available for street trading to cover 6 out of every 7 days of the week from April 2007. If approved, this will allow cover throughout the working week and provision of some cover at weekends, as demand requires. Obviously this process will take some time to complete so it is not an immediate solution to the current weekend deficit.

27. There has also been the suggestion that Central, South & West Area Committee may be willing to provide funding to extend the street trading cover over the weekend period. It has been calculated that for a 7hr working Saturday the cost would be £153 per day and for a 4 hour working Sunday the cost would be £117.

#### **b. Improving Legal Framework**

28. With regard to improving the existing legal framework there is the possibility of having a local Act of Parliament that would close many of the loopholes in the current legislation.

29. Recently two City Councils, Liverpool and Leicester, had their own Acts passed, which prevented peddling entirely in their City Centres and only allowed for pedlars to make visits from house to house in the spirit of the original Act. One way forward in combating this problem would be to have a similar Act passed to prevent any peddling in the City Centre. The pedlars who are just trading from Cornmarket could be reported for the consideration of prosecution for illegal street trading.

30. This will make it a strict offence for any of these activities to take place and should make enforcement a more straightforward process.

31. However, there is a significant cost involved in obtaining such an Act and preliminary figures of between £30 – 50,000 per authority have been mentioned whilst researching this possible course of action. This cost covers the expense of obtaining legal advice and using parliamentary agents to steer the Act successfully to its conclusion. If a number of local authorities were to join forces with regard to this course of action, the cost could be shared but if only Oxford City Council pursued this action it is likely that the costs would be higher than the £50,000 estimate.

### **Recommendation**

32. Central, South & West Area Committee are recommended to determine whether to:-

1. Provide funding for a temporary pilot period to cover at least weekend street trading enforcement.
2. Support the forthcoming bid for funding the extension of the Street Trading resource to cover at least 6 out of 7 days per week.
3. Ask the Council's legal officers to explore the process of obtaining a local Act of Parliament to prohibit peddling, offering services and other related street activities in Oxford.

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 **background papers:** None