

To: General Purposes Licensing Casework Sub-Committee

Date: Monday 11 April 2022

Report of: Head of Regulatory Services & Community Safety

Title of Report: Street Trading Renewal Applications Overview

Summary and recommendations	
Purpose of report:	This report refers to the framework for making decisions about Street Trading Consent Renewal, advising the Sub-Committee on how applicant suitability has been checked and that cases requiring Sub-Committee consideration have been identified and reported separately to this meeting.
Corporate Priority:	Enable an inclusive economy Support thriving communities
Policy Framework:	Street Trading Policy 2020
Recommendation(s): That the General Purposes Licensing Casework Sub-Committee notes the contents of this report.	

Introduction and background

1. During financial year 2021-2022 39 Street Trading Consents were issued. Of these, 38 Consent Holders have applied for Consent Renewal. Officers have processed applications which, for the first time this year, have included DBS checks.
2. During the annual application process for Street Trading Consent renewal this year officers have become aware of breaches to existing Consent Conditions held by some renewal applicants. They have also received a renewal application from a Street Trader who has an unspent conviction which was not declared in their application. This report sets out the over-arching policy and legal framework within which the Sub Committee may decide applications for renewal.
3. Under the Council's Street Trading Policy 2020 (The Policy) it is for the General Purposes Licensing Casework Sub-Committee to decide applications to renew Street Trading Consent when there has been a complaint about the trader or the trader has breached the conditions of their Street Trading Consent in the past year. The Policy also requires that the suitability of applicants for new or renewed Consent be considered.

4. Separate case-related reports are also being presented to this meeting so that individual cases may fully be considered. Due to their content the case-related reports are exempt from publication pursuant to Part 1, Schedule 12A, Paragraph 3 of the Local Government Act 1972.

Determination of Applications for Consent

5. The Policy requires that, for new Street Trading applications and in the absence of representations, the application will be referred to the Council's General Purposes Licensing Casework Sub-Committee who will use the criteria listed in The Policy to make their determination of the application. A range of Criteria are listed, with each case being assessed on its merits and individual circumstances, where appropriate, may be taken into consideration. When there are representations, the Responsible Head of Service acting under delegated powers may refuse an application.
6. Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the General Purposes Licensing Casework Sub-Committee.

Suitability of Applicants

7. The Policy requires that when determining an application for the grant or renewal of a Consent, the Council will consider all relevant information relating to the suitability of the applicant and any employees including whether they have been cautioned or convicted of any offences of: Violence; Dishonesty; Drug related offences; Sexual offences; Public Order offences; Food Safety or Health and Safety offences; or any offence resulting in a sentence of imprisonment.
8. All applicants are asked to make a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974. The application requirements for 2022/23 have also included submission of a DBS report.

Payment of Fees

9. General Consent Condition 24 applies to all Street Trading Consents and requires that Street Trading Consent Fees are payable in advance and are billed quarterly (or at other agreed pre-agreed intervals).
10. During 2020-2021 when Street Trading was prohibited by COVID-19 regulations or where customer numbers were significantly reduced the majority of the street traders did not apply to renew their consent. Those that did apply for a consent when businesses were allowed to trade were charged a pro rata fee for the period that they traded and due to the continuing impact of the pandemic this approach was extended into quarter one of 2021-22. From quarter two the normal quarterly charging system has been applied.
11. The majority of Consent Holders have maintained fee payments up to date. Some have fallen behind and have responded to offers to approach Finance to agree Payment Plans, in accordance with the Council's Corporate Debt Management Policy.
12. A small number of Consent Holders have not taken up these offers or have not been able to reach agreement. Details of the background and current Street Trading account status for these Consent Holders are set out in accompanying reports. An officer update will be given at the meeting if there are any changes to this status.

13. A failure to pay Street Trading Invoices on time is a breach of General Consent Condition 24.
14. A failure to pay the Council's Street Trading Consent fees is listed in The Policy as relevant information relating to the suitability of the applicant for the purposes of determining an application.

Financial implications

15. This report includes reference to debts incurred as a result of non-payment or under payment of Street Trading Fees. It outlines the relationship of these kinds of debt to the Suitability of applicants for Street Trading Consent renewal as set out in The Policy.

Legal issues

16. This report relates to the determination of applications for Street Trading Consent renewal. It does not relate to any proceedings for legal offences nor for the recovery of debt in the Civil Courts.

Human Rights Act Considerations

17. Article 1 of the first Protocol of the European Convention on Human Rights provides that every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. However a street trading consent is not generally considered to be a possession in law and the protection in Article 1 is therefore not directly engaged.
18. Nevertheless, with the advice of Law & Governance and in the interest of fairness, the Sub-Committee should consider whether any proposed action would be proportionate, in the public interest and subject to the conditions provided for by law.

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