

To: General Purposes Licensing Committee
Date: 30 November 2022
Report of: Head of Regulatory Services and Community Safety
Title of Report: Street Trading Policy Review

Summary and recommendations	
Purpose of report:	To update the Committee on progress with the Street Trading Policy Review Programme 2022-23 and seek approval for the draft Consultation Version to go out to public consultation.
Corporate Priority:	Enable an Inclusive Economy; Support Thriving Communities
Policy Framework:	Council Strategy 2020-24
Recommendation(s):That the General Purposes Licensing Committee resolves to:	
<ol style="list-style-type: none">1. Note the current position and remaining proposed stages in the Street Trading Policy review timeline.2. Approve the draft Street Trading Policy Consultation Version at Appendix A to go out to public consultation.3. Note the proposed consultation arrangements.4. Recommend the proposed amendments to the Council's Constitution (Appendix B) to Council for adoption.	

Appendices	
Appendix A	Draft Street Trading Policy Consultation Version
Appendix B	Proposed amendments to the Council's Constitution

Introduction and background

1. At its meeting on 26 September 2022, the General Purposes Licensing Committee resolved to note and endorse the proposed Street Trading Policy Review 2022-23 timeline set out below:

October/ November	Extraordinary meeting of General Purposes Licensing Committee for consideration of pre-
------------------------------	---

2022	consultation draft Street Trading Policy
December 2022 – January 2023	Public consultation on revised Street Trading Policy
Monday 06 February 2023	Consultation responses and proposed final version of revised Street Trading Policy considered by General Purposes Licensing Committee. Recommendation that the Committee recommends the Policy to Council for adoption.
Monday 20 March 2023	Council meeting

2. Officers have drafted changes to the existing Street Trading Policy to form the proposed consultation draft of the revised Street Trading Policy as detailed in the report, to include:
 - Correcting errors or inconsistencies
 - Improving clarity
 - Incorporating changes to other related regimes, policies and procedures
 - Updating references made to related documents
 - Other significant changes set out in this report
3. Following the public consultation period, the Council is required to respond to comments from current Street Trading Consent holders, Consent process consultees and other stakeholders. The proposed final version of the revised Street Trading Policy will then be presented to the General Purposes Licesning Committee for consideration, with a recommendation that it recommends the policy to Council for adoption.
4. The Committee is recommended to approve the draft Street Trading Policy Consultation Version at Appendix A to go out to public consultation and recommend the proposed amendments to the Council's Constitution as shown at Appendix B to Council.

Proposed Draft Consultation Version

5. The proposed draft consultation version of the revised Street Trading Policy is set out at Appendix A. Significant changes are set out in the report.
6. Significant changes to the existing policy are included within the proposed consultation draft with a shaded background in order to assist Members and consultees in identifying them.

Sustainable Street Trading Motion (referred to Committee)

7. In the Committee's consideration of the report of the Head of Law & Governance submitted to its meeting of 26 September 2022, the Committee resolved to:
 - *Request that officers update the proposed consultation draft of the Street Trading Policy to reflect the points highlighted in the motion.*
8. The points highlighted in the motion have been incorporated into the proposed Consultation Draft (Appendix A) and are set out below:
 - *Seeking and integrating feedback including with traders on the Environment; Air quality; Littering; and Sustainable energy during the policy consultation process.
 - Updating standard street trading consent conditions so they include a:
 - Ban on single use plastic and polystyrene in street trading;
 - Ban on the sale of plastic and helium balloons;
 - Requirement and guidance on the use of sustainable food packaging, utensils, drinks containers and bags
 - Head of Regulatory Services and Community Safety exploring options to update standard street trading consent conditions so that they include a requirement to provide a litter bin for recycling.
 - Encouraging and providing guidance to street traders:
 - To adopt sustainable sourcing of food and drink;
 - To use sustainable sources of energy for their trading activities;
 - To deal with customers' rubbish responsibly; and
 - On the benefits of sustainable street trading.

**this point will be implemented within the consultation process rather than being reflected in the draft consultation version.*

Interim Framework for Street Trading Renewal

9. In the Committee's consideration of the report of the Head of Regulatory Services and Community Safety submitted to its meeting of 19 May 2022, the Committee resolved to:
 - *Endorse an interim approach to be applied to those street trading renewal applications which are in arrears and stand to be referred to Sub-Committee for breach of a condition of street trading consent. This approach being temporary and pending review of the Street Trading Policy and changes to the Constitution.*
10. The interim approach was that: *where street trading renewal applicants are in breach of conditions to their consent, as a result of being in arrears, renewal applications will only be referred to the General Purposes Licensing Casework Sub-Committee for consideration in cases where the trader has not agreed a formal Payment Plan with the Council's Finance Team or settled their debt in full. It is suggested that, in cases where a Payment Plan has been agreed but a trader has*

faltered on payments, that case will be referred to the General Purposes Licensing Casework Sub-Committee.

11. Since the meeting on 19 May 2022, officers have developed an escalation process for debt management, to form a proposed permanent approach. It is proposed that the Head of Regulatory Services and Community Safety be given discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal. This is subject to the proposed Constitution amendment set out at paragraph 19.
12. The proposed approach would allow cases in arrears to first be investigated by the Finance Team in liaison with the Business Regulation Team and for steps to be taken in tandem to help the debtor to manage their arrears. This would divert some cases which were in arrears away from Sub-Committee attendance, meaning only those cases of arrears which were not being managed would be referred to the Sub-Committee for decision.
13. Where management of arrears is unsuccessful it is proposed that a report be submitted to the Head of Regulatory Services and Community Safety who may use delegated powers to amend or suspend a Street Trading Consent for up to 28 days, with referral being made to the General Purposes Licensing Casework Sub-Committee for decision on subsequent action.
14. The proposed escalation process would be enabled by proposed changes to the Council's Constitution set out in the report.

Proposed arrangements for new applications, renewal applications and enforcement matters

15. The Council's Constitution (Part 5.7) currently delegates authority to the General Purposes Licensing Casework Sub-Committee to:
 - *Decide Street Trading applications that are for longer than three months.*
 - *Decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year or where there is competition for a vacant approved site.*

The Head of Regulatory Services and Community Safety has responsibility for everything else.

16. The current Street Trading Policy provides that the Head of Regulatory Services and Community Safety can approve street trading consents for up to three months.
17. Officers consider that it would bring greater certainty to new Street Trading Consent applicants, who may be considering significant capital outlay for vehicles, equipment etc. and improve street trading services as a whole, if the Sub-Committee decided all new applications. It is therefore proposed that an amendment to the Constitution (5.7) be recommended to Council, such that the General Purposes Licensing Casework Sub-Committee decides all new Street Trading applications (see Appendix B).
18. In line with the current Constitution wording, officers recommend that renewal applications continue to be decided by the Head of Regulatory Services and Community Safety, unless there has been a complaint about the trader, or the trader has broken the conditions of their street trading permission in the past year, or where there is competition for a vacant approved site.

19. Officers recommend that an amendment to the Constitution (5.7) be recommended to Council, such that where a Consent holder is in breach of condition as a result of being in arrears, the Head of Regulatory Services and Community Safety has discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal.
20. The Council's Constitution and the current Street Trading Policy do not confer powers to suspend, vary or revoke Street Trading Consents to either the General Purposes Licensing Committee or the General Purposes Licensing Casework Sub-Committee where there is a breach of condition.
21. Officers recommend that an amendment to the Constitution (5.7) be recommended to Council, such that the General Purposes Licensing Casework Sub-Committee may decide on cases referred by the Head of Regulatory Services and Community Safety whether to suspend, extend a period of suspension, end a suspension, vary, or revoke a Street Trading Consent (see Appendix B).
22. These recommended changes are reflected in the draft Consultation Version.

Special Events

23. Section 7.2 of the current Street Trading Policy refers to trading at charity or small community events and focuses, for charging purposes, on whether profits from individual stalls are donated to charity. Exemption from charges applies to those stalls but not to traders attending for commercial gain. Officers are aware that commercial traders are often invited to such events to encourage the success of the event and that it is the overall organising body rather than individuals that determines how profits are used.
24. Benchmarking with other councils supports a shift in focus away from individual traders towards the event as a whole. A change to the wording for this section of the policy is therefore recommended, as shown in Section 7.2 of Appendix A.

Consultation Exercise

25. Officers have developed a Public Involvement Project Brief in accordance with the Council's toolkit for this purpose and in liaison with the Council's Consultation Officer and Public Involvement Board. Two consultation processes are envisaged:
 - Street Trading Consent holders and other key stakeholders including relevant Council teams, Thames Valley Police and Oxfordshire Highways will be contacted by email and asked to respond to a questionnaire and the proposed policy via the Council's online consultation portal.
 - Members of the public will be invited to do likewise via the Council's online consultation web pages.
26. It is proposed that the consultation will run from Monday 12 December 2022 to Friday 13 January 2023. The Committee is recommended to note the proposed consultation arrangements.

Financial implications

27. The Council is entitled to make reasonable charges for its licensing services, based on the costs of performing those functions. The Street Trading Policy Review 2022-23 is expected to deliver a Policy which will enhance the operation and

management of the Street Trading service so that fee income is proportionate to costs.

Legal issues

28. The Street Trading Policy Review brings an opportunity to check on current legislation and best practice and ensure that the Council meets legal requirements. Officers consider that there are no legal issues arising from the proposed changes set out in this report.
29. It is proposed that a recommendation to Council be made to amend the Council's Constitution, as set out in the body of the report.

Report author	David Stevens
Job title	Principal Lead Officer, Business Regulation Team
Service area or department	Regulatory Services & Community Safety
Telephone	01865 252556
e-mail	dstevens@oxford.gov.uk

Background Papers: None