

REPORT TO EXTRAORDINARY LICENSING COMMITTEE

Date of Meeting: 30 November 2020

REPORT TO EXECUTIVE

Date of Meeting: 1 December 2020

REPORT TO COUNCIL

Date of Meeting: 15 December 2020

Report of: Service Lead- Environmental Health & Community Safety

Title: Amendment to Street Trading Policy and Terms of Reference for the Licensing Sub-Committee

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 This report details, and seeks approval for, the changes that are being proposed to the Street Trading Policy from 1 January 2021.
- 1.2 This reports also sets out proposals to amend the Terms of Reference for the Licensing Sub-Committee.

2. Recommendations:

2.1 That the Licensing Committee

- a) approves the amendment to the Street Trading Policy as shown in Appendix A to read as follows, commencing from 1st January 2021:

- Section 6.3 which currently reads as follows "*All relevant representations relating to the grant of a consent will be referred to the Licensing Committee for consideration as part of the determination*" is proposed to be amended as follows:

- All relevant representations relating to the grant of a consent will be referred to the Licensing Sub-Committee hearing the application, for consideration as part of the determination.
- b) Supports the proposal for the following addition to the Council's Constitution terms of reference for the Licensing Sub-Committee:-

To determine whether to grant or refuse a street trading consent

2.2 That Executive:

- a) Notes and supports the proposed amendment to the Street Trading Policy
- b) Supports the proposal for the following addition to the Council's Constitution terms of reference for the Licensing Sub-Committee:-
To determine whether to grant or refuse a street trading consent.

2.3 That the Council

- a) adopts the amended Street Trading Consent Policy as set out in Appendix A of this report
- b) approves the following addition to the Council's Constitution terms of reference for the Licensing Sub-Committee:-
To determine whether to grant or refuse a street trading consent.

3. Reasons for the recommendation:

- 3.1 The above proposed amendment in conjunction with proposed changes to the Council Constitution would mean that in future Street Trading Applications would be able to be determined at Licensing Sub Committee Hearings.
- 3.2 As we are able to organise more frequent Licensing Sub-Committee hearings than is currently the case for full Licensing Committee Meetings (presently scheduled for five meetings per calendar year), this would enable the Licensing Authority to deal with street trading applications in a more timely manner, and provide a more flexible timeframe for both applicants and Officers alike.
- 3.3 Other Licence applications such as Licensing Act 2003 and Taxi matters are already dealt with via Licensing Sub-Committees, and as such the above proposed amendment would ensure that the same consistent approach is also applied to the determination of street trading applications.

4. What are the resource implications including non financial resources.

- 4.1 The proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.
- 4.2 There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements.
- 4.3 Any future costs in relation to the production of the policy will be met by income from fees.

5. Section 151 Officer comments:

There are no financial implications for Council to consider contained within this report.

6. What are the legal aspects?

- 6.1 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area as 'consent streets' for street trading purposes, with exception of a number of streets in the city centre, which are designated 'licenced streets or prohibited streets'.
- 6.2 As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties. However, since the proposed policy change will help to ensure that street trading consent applications are heard in a more-timely manner by trained Licensing Committee Members (via a quorate Licensing Sub-Committee), such a prospect seems unlikely.

7. Monitoring Officer's comments:

The Monitoring Officer has no additional comments.

8. Report details:

- 8.1 Since the start of the Covid-19 crisis and its subsequent economic impact, the Licensing Team have seen an increase in interest in Street Trading Consents as food businesses in particular, look to diversify in response to the crisis.
- 8.2 It is hoped that the proposed policy amendment will assist applicants affected by the crisis by determining their applications at more frequent Licensing Sub-Committee Hearings.

9 How does the decision contribute to the Council's Corporate Plan?

- 9.1 The proposed Policy amendment will assist in ensuring that Street Trading Consent Applications are heard in a timely manner, and thereby lend support to a robust, business friendly economy.

10 What risks are there and how can they be reduced?

- 10.1 As with all proposed changes to policy, there is a risk of the policy change being challenged via Judicial Review. However, the proposed policy change is both reasonable and workable, and as such the risk of legal challenge is considered low.

11 Equality Act 2010 (The Act)

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
 - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the

authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4 In recommending this proposal, there are no equalities impacts that are identified.

12 Carbon Footprint (Environmental) Implications:

- 12.1 No direct carbon/environmental impacts arising from the recommendations.

13 Are there any other options?

- 13.1 The Licensing Committee may reject the proposed amendment to the Street Trading Policy, and instead continue to hear applications at the Full Licensing Committee.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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