

City of Wolverhampton Council Street Trading Policy

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CITY OF
WOLVERHAMPTON
COUNCIL

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1.0 Introduction

The City of Wolverhampton Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as “the Act”.

The Council recognises the contribution street trading can make to the local economy and to the facilities offered to people who visit, live and work in Wolverhampton. Street trading supports the City of Wolverhampton Council’s priorities:

- Thriving economy in all parts of the city
- More local people in good jobs and training

The aim of this Street Trading Policy is to create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, and preventing crime, disorder, and nuisance.

This policy will be reviewed in 2024/25 and then formally every five years; where any significant amendments are considered necessary, these will be made by the Authority function of the City of Wolverhampton Council after appropriate and relevant consultations have taken place. Minor amendments that do not impact on the aim and objectives of the policy, e.g., due to changes in legislation, review of design brief etc will be made in line with the delegation scheme.

An Equality Assessment on this policy has been undertaken.

2.0 Purpose of the Policy

This policy sets out the criteria and guidance that the City of Wolverhampton Council (hereafter referred to as “the Council”) will use as the regulatory framework for street trading. This policy also clarifies the requirements around special events and occasional markets. It gives prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them. The aim of this policy is to ensure that we deal with applications in a consistent, fair, and proportionate way.

The policy recognises the importance of street trading to the local economy and the character of the area whilst trying to ensure that location and activities do not cause obstruction, nuisance, or annoyance.

3.0 Definition of Street Trading

Street trading is defined in paragraph 1 of Schedule 4 of the Act as: *"the selling or exposing or offering for sale of any article (including living thing) in a street"*. The Act defines the term 'street' as including: *"Any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980"*.

The broad definition of 'street' ensures that other 'streets' located on private land such as gardens, car parks, forecourts etc are captured under the legislation and are included within the scope of this policy.

The Act in paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

- a pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871
- anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment, or order
- trading in a trunk road picnic area provided by the secretary of state under section 112 of the Highways Act 1980
- trading as a news vendor
- trading carried on at a premises used as a petrol station
- trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop
- selling things or offering or exposing them for sale as a roundsman



4.0 Why Do We Have Street Trading?

Street trading encourages a vibrant and prosperous economy. It provides valuable employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has a low start-up costs, minimal overheads, and existing customer footfall. Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit and vegetables, household goods and other services for local communities, those travelling to work, and the visitors to Wolverhampton.

Street trading supports The City of Wolverhampton's priorities of:

- Thriving economy in all parts of the City
- More local people in good jobs and training

The introduction of this policy will promote the ethos of the licensing objectives introduced by the City of Wolverhampton Council:

- Public safety
- Prevention of crime and disorder
- Prevention of public nuisance
- The protection of children from harm

5.0 Types of Streets

Streets may be designated as either 'prohibited', 'licensed' or 'consent streets' for the purpose of street trading. Definitions:

Prohibited Streets

If a street is designated as a prohibited street, then a criminal offence is committed by any person engaging in street trading in that street. There could be several reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader or the Council may wish to restrict trading in a particular location. There are currently no prohibited streets in Wolverhampton.

Licensed Streets

A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required. There are no licensed streets within Wolverhampton.

Consent Streets

Designating a street, a consent street, enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council. All streets within Wolverhampton are designated as consent streets.

6.0 Street Trading Within Wolverhampton

The City of Wolverhampton Council has designated all streets within Wolverhampton as consent streets. This enables trading to take place on all streets within the City, subject to approval by the City Council. Although the City Council will consider all applications for street trading to take place in any street within Wolverhampton there are pre-determined consents for several sites around the City. A list of the sites and their location can be found on the [City of Wolverhampton Council website](#).

This policy refers at times to the City Centre. This is defined as the area of the City within the inner ring road (A4150) Where an applicant wishes to trade on private land or land that is not Highway Maintained at Public Expense (HMPE), a consent will not be granted by the Council unless the applicant provides written permission from the landowner showing they have permission to trade.

Street trading consents are issued by the City of Wolverhampton Council.

7.0 Types of Street Trading Consent

Annual Street Trading Consents

This consent enables the consent holder to trade up to seven days a week at a particular pitch within the City Council area. Annual street trading consents may run from 1 April until 31 March the following year. Consents can be applied for part way through the year, but they will only run until 31 March. An annual consent will not be granted for periods of less than four weeks.

This type of consent permits trading Monday to Sunday 07:00 hours until 18:00 hours (or, until 21:00 hours during Christmas late night shopping). Annual evening consents permit trading Monday to Sunday 21:00 hours until 05:00 hours.

Temporary/Occasional Street Trading

This type of consent will last for one trading day, for a particular pitch in Wolverhampton and permits trading 08:00 hours until 18:00 hours. No more than 30 consents will be issued per pitch, per trader, per financial year.

Peripatetic Consents

This type of consent is for the sale of food or drink by means of a mobile unit such as an ice cream seller. This consent permits trading Monday to Sunday 08:00 hours until 20:00 hours.

No trading is permitted within 50 metres of:

- any entrance or exit to an educational establishment
- any retail shop or unit
- any religious premise or building
- or any licensed premises

This consent is not valid within the perimeter of any Council park, recreation ground or open space.

Not more than one consent holder is permitted to trade in a particular street at any given time.

No trader may remain static for more than 60 minutes in one location and must not return to the location within two hours.



8.0 Key Considerations when Assessing an Application

The following criteria apply to all types of street trading:

Public Safety

- The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction. This includes consideration of access and egress on to site, any potential breach of Traffic Regulation Orders and any breach of a Statutory Authorities apparatus.
- All locations will require an officer visit before a consent can be issued.
- Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.
- Applicants will be required to provide risk assessments in relation to their businesses.
- Risk assessments must take into consideration flammable substances, storage of flammable substances etc.

- The risk assessment will include control measures identified to reduce the risk of the vehicle being used as a measure of attack and measures to mitigate against violent persons.

Prevention of Crime and Disorder

- The proposed activity should not present a risk of crime and disorder.
- Risk assessments must also take into consideration the handling of cash and the time of trading.
- Any utensils or cutlery must be kept safe and away from access to it by members of the public.

Prevention of Nuisance

- Activities at the site must not cause a nuisance, annoyance, or disturbance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If at any time the City Council receives complaints that a nuisance, annoyance or disturbance is occurring, the Council is duty-bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including withdrawal of the consent. Information will be shared with partner agencies for safeguarding purposes.
- A refuse bin suitable to contain the type and quantity of waste produced must be kept on site for static consents.
- The refuse bin will be the responsibility of the applicant or employees to clean at the end of each trading day.
- It will be the responsibility of the applicant to arrange waste removal and disposal (including the disposal of cooking oil) in accordance with current legislation.

Visual Amenity

- The Council expects a high standard of presentation and appearance from its street traders. Consideration as to any visual obstruction or clutter resulting in the detriment to the street scene or local environment.
- The appearance of the unit must be clean and tidy and free from any rust or damage.
- Units must be clean at all times.
- The recommended pitch size is approximately 2m x 1.5m.
- Any potential damage to highway surfaces, planters, trees and any other street furniture will be considered.

Needs of the Area

- The sufficiency of other trading outlets selling the same or similar goods/products within 200 metres will be taken into consideration when deciding applications.
- The suitability of the tradeline for the allocated pitch.
- Planning criteria concerning the compatibility of street trading with the street environment.

Protection and Promotion of the Public's Health in Wolverhampton

- When assessing each application, a key consideration will be how the health of the public in Wolverhampton can be protected and promoted as far as reasonably practicable.
- Particular attention will be paid to the promotion of the health of children and young people in Wolverhampton.



Suitability of the Applicant

- A basic disclosure check will be required for the applicant and any employees, which may be no more than one month old when submitted to the Council. **Appendix D** outlines the guidelines on the relevance of convictions when applying for a street trading consent.
- Proof of right to work in the UK will be required.
- An applicant's history of street trading will be taken into consideration e.g., whether previous street trading consents have been used appropriately, whether deadlines have been adhered to and the reliability of the applicant in paying fees and charges.
- Whether any applications to other local authorities have been refused or revoked.

If trading in food or drink:

- provide a declaration that you have registered as a food business.
 - provide evidence of current training to a level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Food Hygiene Certificate for the food business operator and those staff who have a supervisory role in the preparation and handling of open high-risk foods.
 - applicants will be inspected by our Environmental Health Team once consent has been granted.
- applicant's will be required to obtain a minimum 4-star rating from the Environmental Health team, should you not receive the minimum star rating, your consent may be revoked/refused (this includes temporary traders).
 - applicants will be expected to have an awareness of the CIEH's guidance on outdoor and mobile catering if selling food.

Additional Workers

- Any additional persons working from the unit must have submitted an additional worker form to the Markets Service.
- An additional worker will be someone who will be working for more than seven days.
- Additional workers will be required to provide evidence of right to work in the UK and two passport sized photographs.
- Additional workers will be required to apply for a basic disclosure check two weeks after starting employment.
- All additional workers must pay a fee for an Identification badge (ID) to be issued to them after two weeks of starting employment. Before that time, additional workers will be required to wear a badge temporarily identifying them as a new worker.
- ID badges must be worn and visible to members of the public whilst trading.
- The Markets Service must be notified in writing on circumstances where temporary cover of trading has been arranged, this cannot exceed seven days.

Suitability of the Trading Unit

- The design and appearance of the unit must be agreed by an officer from the Council before consent will be granted.
- The vehicle, trailer, or unit (now referred to as a 'unit' within this policy) to be used should be of a high-quality design (that complies with the Council's design brief – **Appendix B**), build, be harmonious with the character of the locality, add to the quality of the street scene and comply with the legal requirements for the activity proposed.
- The design brief will apply to all annual consents that are requested for longer than 12 weeks.
- The design brief does not strictly apply to annual consents of less than 12 weeks or for occasional consents or special events. However, the design brief should be used for guidance.
- A high-quality design means: materials used are of high quality; a design that that is attractive and may be unique.
- The unit may be inspected by an Officer from the Council prior to consent being issued.
- The unit will comply in all respects with any legal requirements relating to the activity proposed.
- The unit shall be of such a design that it facilitates timely and efficient removal. The unit must be removed each evening unless it is permitted to remain in situ.
- The unit shall be of robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- Units and ancillary equipment and stock must be contained within the unit.
- Towing bars should be either removeable, retractable or suitably covered to avoid becoming an obstruction of the highway or a trip hazard.
- Prior to any consent being issued or in cases where a consented trader wished to change the unit, prior approval must always be sought from the Council. Proposals must include all display equipment and any attached, projecting, or free-standing elements.
- Applicants who wish to use a contained vehicle for street trading will be required to submit a valid MOT certificate on application and renewal.
- A risk assessment will be undertaken, and control measures identified to reduce the risk of the vehicle being used as a measure of attack.
- Contained vehicles are required to provide valid motor vehicle insurance to cover the period of the consent.
- Trailers or mobile vehicles that have had Gas, LPG or electric installed must provide gas safety certificates and electrical installation certificates.
- Where the proposed street activity is from a fixed position (static site), a map of the exact location for the unit will be required detailing the size of the unit.



- The map should be to a scale of at least 1:1250 scale clearly outlining the proposed trading location in red and its proximity to other similar retail outlets (shops etc) or roads nearby.
- Three colour photographs of any unit that will be used for the street trading activity showing the front, rear and side of the unit. The photographs must also show any proposed branding and/or advertisements that will be displayed.
- The design brief will be kept under review and where appropriate will be subject change.
- The Council will favourably consider traders who make allowance for disabled customers (e.g., wheelchairs). However, this will not be a mandatory condition.

Power

- City Centre units will be powered by electricity through a plug and use process. The trader must set up a contract directly with the energy suppliers.
- Prior approval must be attained from the Markets Service in relation to the use and type of generators.
- Generators will be permissible only when no other power source is available. Any trailing cables must be protected or so sited as to prevent a tripping hazard. Generators if permitted must be encased in an appropriate cover and secured to prevent movement of the unit. Generators should be positioned to minimise disturbance to residents or businesses from noise or fumes. Where generators are required, silenced generators or acoustically insulated generators must be sourced.
- The use of the generator must be incorporated into the applicant's risk assessment

Advertising

- Advertising must only relate to goods offered for sale on the business.
- Third party advertisements are prohibited.
- It is not permitted to illuminate any advertisement on the outside of the unit or kiosk without express consent of the Council.
- 'A' boards will be permitted to cover the tow bar of the unit only, Approval must be sought from the Markets Service prior to use. The use of any additional 'A' boards or any other display board/structures must be in accordance with Wolverhampton's policy.
- Any advertisement in relation to alcohol and cigarettes (except for seasonal temporary consent), of a political or sexual nature, or gambling will be prohibited.

Barriers and Furniture

- Permission must be sought from the Council should you wish to have any barriers, tables, chairs, planters etc on site when applying for a static consent. This may fall under a different legislation or process.
- Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the unit's consent approval.
- Any barriers proposed shall not constitute a nuisance or danger under the Highways Act 1980, must not impede the free flow of pedestrians or traffic and must not restrict the pavement to inhibit social distancing (if it is required).

Hours of Trading

Trading hours will be set on the basis of promoting the following purposes:

- preventing crime, disorder, and antisocial behaviour
- avoiding disturbance due to noise, smell, or any other matter the Council considers appropriate
- protecting public safety
- preventing obstruction of the highway
- having regard to location and operating hours of business activity
- protecting and promoting the public's health

Selling the Right Goods

The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovative approach will be considered.

Quality of goods refers to traders making the proper (and legal) checks to ensure their goods are safe for use or consumption. In addition, the use of recyclable materials in the product or packaging or the reduced use of packaging to minimise plastic or other waste will be favoured.

Innovative products refer to goods that are not readily available within the high street marketplace.

Anyone applying for a unit must clearly state the nature of the proposed goods.

The goods must not:

- cause a nuisance, disturbance, or annoyance to nearby properties/people, including cooking smells, smoke, noise, litter, and additional cleansing requirements for the Council
- cause or contribute to crime and disorder – including the selling of fake or counterfeit goods
- have a negative public health impact e.g., the locality of fast-food units near schools, and gyms etc



Site Assessment

In determining whether street trading in a particular area is appropriate, the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving
- Any loss of amenity caused by noise, traffic, smell etc
- existing traffic orders e.g., waiting restrictions
- any potential obstruction of pedestrian, vehicular, cycle or disabled access
- any obstruction to the safe passage of pedestrians and wheelchair users
- any nuisance/interruption to pedestrian flow or maintenance of appropriate social distancing
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises
- in terms of any land that is not Highway Maintained at Public Expense (HMPE) permission needs to be obtained from the landowner and submitted with the application e.g., private land

Other Criteria

The following must also be adhered to:

- the consent holder must adhere to all directions given by the police or an Authorised Officer of the Council
- the consent holder will at no time have the exclusive right to trade from the street or any part of it
- street trading can take place in the area outlined in the consent and on days and hours detailed in the consent
- the consent holder may only trade in goods that are outlined on the consent
- a copy of the consent shall be made immediately available upon request to an Authorised Officer of the Council or the police
- all street trading units will be equipped with safe and adequate lighting for the operation during the hours of darkness
- no units are permitted to be left in situ overnight; the unit must be removed at the end of each trading day
- evidence that waste is being disposed of, in accordance with relevant legislation
- failure to comply with any of these requirements may result in refusal to issue or renew consent obstruction, or revocation of an existing consent
- an assessment framework has been developed and can be found at **Appendix A**. The framework can also be used on any one street where we receive more applications for an annual consent than availability of suitable locations (that comply with the street trading consent criteria). All applications will be considered on the basis of the highest score awarded through the assessment framework



9.0 Consent Application, Renewal and Surrender

Application or renewal applicants must submit a new application or a renewal application for an annual or occasional consent at least eight weeks before the date they wish to start trading. This is to enable the Council to consult with partner agencies. Failure to do so may result in a delay in being able to trade.

Consent holders will be reminded that their consent is due to expire at least eight weeks before the expiry date. This is done to assist the trader; the Council accepts no liability if the trader does not receive the reminder. It is the trader's responsibility to ensure that they have the correct consent, to submit their application prior to the expiry of their consent and to update the Council should their contact details change.

Surrendering a Consent

Where the trader wishes to surrender a consent, they must give the Council 21 days written notice.

Notice must be sent to:
City of Wolverhampton Council
Markets Service
Temple Street
Wolverhampton
WV2 4AN

10.0 Special Event and Occasional Market/Fair Street Trading

Special event street trading consent is where there are two or more street trading consents to be issued to the traders at that event, and where the event is organised by a single person/organisation.

The organiser of the special event will apply to the Council for an occasional consent and request their event to be considered a 'special event' where street trading is taking part at the event. The event organiser will provide full details of each trader attending the event and inform each trader that they must apply to the Council for an occasional consent.

Occasional consents will be issued by the Council to individual traders on their successful application to the Council. All applications must be made eight weeks prior to the event taking place.

Any event where there are five or more units will be deemed to be a market and will be subject to an application for and the granting of a licence issued by the Markets Service. Street trading consent is not required for licensed markets.

11.0 Promotional Spaces

The Council has designated several pitches within the City Centre and Bilston for use as promotional pitches. These pitches can be booked on a daily or weekly basis. Applicants must provide full details of what they will be promoting and how they intend to promote it alongside their application.

Promotional consents will be issued by the Council to individual traders on their successful application to the Council. All applications must be made eight weeks prior to the event taking place.

12.0 Letting and Sub-letting of Pitches

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances. Street traders must make full use of their consent. The Local Authority will assess whether a consent holder has made full use of their consent. Street traders shall notify the Council in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Council of the date upon which

they intend to resume trading. In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the Council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/periods are applied for.



13.0 Temporary Relocation

Should a pitch become temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council will not be liable for any claims for loss of earnings etc. If agreement cannot be reached on relocation, then

consideration needs to be given by the trader in terms of giving notice for the consent and by the Council in terms of revoking the consent.

If the Council offer an alternative pitch then there will be no suspension of consent fees.

14.0 Fees and Charges

The City of Wolverhampton Council set fees and charges for street trading. Fees and charges are reviewed annually. There will be two fees:

1. application fee (non-refundable)
2. consent fee

Please visit: <https://www.wolverhampton.gov.uk/licences/street-trading> or contact the Markets Service on 01902 551155 to find out what the current fees and charges are for street trading. When making an application the application fee must be paid in advance and is non-refundable. Methods of payment are described on the invoice. The requirement to pay fees for the consent on or before the due date specified by the Council forms one of the conditions of the consent.

Where a consent is surrendered, the Council will remit or refund, as they consider appropriate, the whole or part of any consent fee paid for a grant or renewal of the consent subtracting any administration costs or any costs incurred in delivering the street trading service.

Payment of Fees for Annual Consents

Annual consent fees are published on the City of Wolverhampton Council's website. The consent will run from 1 April until 31 March the following year. If an applicant makes an application during this period, the consent will cease on 31 March in the financial year that it was applied for or the length of time the annual consent is requested provided it expires before 31 March in the same financial year. Match day consents run from 1 August to 31 July.

Payment of fees for temporary/occasional consents are published on the City of Wolverhampton Council's website. For Occasional consents the applicant will need to pay prior to the consent being granted.

15.0 Applications for Grant or Renewal

All applications will be considered on their individual merits taking into account all relevant matters.

Consents will not normally be granted or renewed where:

- enforcement action is pending or has previously been undertaken and proved against the applicant
- the holder is currently in arrears with any charges
- the location is unsuitable
- there is a potential risk to public safety
- the activities are likely to cause a nuisance, disturbance, or annoyance to neighbouring properties
- the applicant is unsuitable
- an applicant has failed to appropriately use previous consents
- the unit is unsuitable
- it may cause or contribute to crime and disorder

This list is not exhaustive.

Who Can apply?

To apply for consent a person must be:

- an individual or business
- 17 years of age or over
- legally entitled to live and work in the UK

Making an Application

All applications must be made online by visiting: <https://www.wolverhampton.gov.uk/licences/street-trading>

Applicants must complete the Council's prescribed application form in full, with all the required information, before it will be considered. All documents must be provided immediately on request. Failure to provide all documents will result in the application being refused.

If you are unable to apply online, require the application in an alternative format or have any queries relating to application form accessibility then contact the Council's Markets Service on 01902 551155.

A non-refundable application fee (based on the cost of administering the application) will be made upon submission of the application.

The application form must be submitted along with the following:

- a basic disclosure check no more than one month old
- photographic identification (e.g., Passport, photo card driving licence)
- an electronic photograph of the applicant(s)
- an electronic photograph of any assistant(s)
- clear and legible plan of site (if static application) on a scale 1:1250
- photographs of the trailer, unit, or vehicle proposed for use from all sides

- valid MOT certificate for the required vehicle (where applicable)
- valid motor vehicle insurance for the required vehicle (where applicable)
- valid Gas Certificate (any gas works carried out on the unit)
- valid safety certificate for any electrical works carried out
- Portable Appliance Testing (PAT) certificate
- the make and model of any generator to be used (if applicable)
- if a food unit - proof of food registration
- proof of right to work in the UK for the applicant and any assistant/s working under the consent
- additional worker forms and evidential checks (if relevant)
- written permission to trade from site (if private land)
- written permission to trade from parks and open spaces
- employer's liability insurance (minimum £5 million) where relevant will be required
- a copy of the public and employers' liability insurance schedule will need to be provided at the time of grant of the consent



Insurance

Insurance requirements are as follows:

- the Council will accept no liability for the street trading activities undertaken by the consent holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade
- the insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached, or its sum altered as to provide less than the minimum value
- if the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide the Council evidence that public liability insurance is continuous for the period of the consent
- traders are responsible for insuring their vehicles and their contents; the Council accepts no responsibility for any damages or losses

Food Units

All food businesses must be appropriately registered with their Local Authority. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the Council may contact Environmental Health to ensure adequate compliance with food law. Other low risk food businesses (the decision of what is classed as a low-risk business will be determined by the Environmental Health Team), may be considered safe to trade whilst awaiting inspection by their Local Authority or in other circumstances. All other traders that sell or provide food must have a National Food Hygiene Rating of a 4 or 5. Where a rating drops below a 4 or where there is significant food hygiene or food safety breach whilst a consent is in place, the consent may be suspended or revoked. Applicants and consent holders should notify the Markets Service of any changes to their National Food Hygiene Rating.

Upon receipt of the complete application the Markets Service will consider the application in line with the key considerations outlined in Section 8 of the policy and conduct a consultation as detailed in this section of the policy.

Once the application is complete and has been accepted, the Council will either:

- determine to grant the consent as applied for and attach standard conditions
- determine to grant the consent with specific conditions or a variation to the application
- determine to refuse the consent

Where it has been determined to grant the consent, before the consent is issued the following must be provided:

- the appropriate fee
- evidence that waste is being disposed of, in accordance with relevant legislation

Where a consent is refused the Council will notify the trader in writing detailing the reason for refusal.

Receipt of Application and Fees

An application will be treated as being received only when the relevant application and all the necessary supporting evidence has been received and the relevant non-refundable application fee has been paid.

The application must be completed in full. Incomplete applications will be rejected.

Failure to follow the application process may result in the consent being refused or delayed.

Applicants are encouraged to submit their applications no later than eight weeks before the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

Consultation

In determining a street trading consent, the Council may decide it is appropriate to consult with various people or groups. The Council will consider relevant representations.

The Council may consult the following people before determining a consent:

- West Midlands Police
- West Midlands Fire Service
- City Transport,
City of Wolverhampton Council
- Planning Division,
City of Wolverhampton Council
- Parks Division,
City of Wolverhampton Council
- Business Improvement Districts
- businesses in the immediate area
- relevant services at the City of Wolverhampton Council e.g., Trading Standards, Environmental Health, Waste Management etc
- any other person or body deemed necessary

Information obtained from these people/bodies will be considered during the application process and will help determine whether a consent should be granted.

Renewal

The Council has adopted an assessment framework which can be viewed at **Appendix A**, with a limited presumption of renewal for a maximum of one 12-month period running from April to March the following year that the consent was granted. This will only be considered if there has been full compliance (and in the absence of contra indicators) with the consent conditions in the first year or part of.

On any renewal application after this maximum 24-month period, a full competitive reappraisal will take place. This is only a presumption of renewal and not a guarantee. There may be circumstances in which a renewal is not granted. Aside from failures to comply with consent conditions, examples include where changes to the locality since the original consent was granted mean that a first consent would not, at the time of renewal, have been granted for trading in that location, or otherwise where the Council's criteria for granting a consent are no longer met.



16.0 Variations

During the period of the consent, should applicants wish to add, or change any terms of their consent; e.g., time, commodities, trailer or vehicle, applicants can make this request by applying to vary their consent. The variation application will carry an associated application fee.

The application will go through a 10-working day consultation period, where the Markets Service will consult with the appropriate responsible authorities who they see fit depending on the nature of the application. Wolverhampton City Centre variation applications will be consulted with businesses within close proximity of the area of the consent.

A variation application cannot be used to change the location of the existing site; this would require a new application.

A variation application can be used to inform the Markets Service of a change of current consent holder's details, such as: name, address, and contact details. Holders of a consent will be required to pay an administration fee to make these minor changes.

17.0 Conditions for Consent Holders

Each application will be determined on its own merit, however each consent granted will be subject to the standard conditions and any other conditions the Markets Service deems necessary for the promotion of the licensing objectives.

The Markets Service will have powers to impose such conditions that have been agreed through mediation with responsible authorities or interested persons.

18.0 Enforcement Actions

Where the conditions of the consent are breached, and it is deemed appropriate, necessary, and proportionate for enforcement action to be taken then the following disciplinary process will apply. The process is:

First offence

The consent holder will be verbally warned on site by an Authorised Officer of the Council and a written warning will be issued and placed on the trader's file.

Second offence

Should the consent holder commit a further breach of the conditions within six months of the first offence, a final written warning will be issued and placed on the trader's file.

Third offence

Should a consent holder commit a further breach within 12 months of the second offence, the consent holder will be asked for a written submission relating to the breaches. A Senior Authorised Officer of the Council will review the consent with a potential outcome being revocation.

In addition, should a consent holder commit a serious offence or there is a significant breach of the conditions to be considered as serious misconduct or such as to impact significantly on the following:

- public safety
- prevention of crime and disorder
- prevention of public nuisance
- the protection of children from harm

Then immediate suspension of the consent will occur which will trigger a review of the consent by a Senior Officer with a potential outcome being revocation. Written submissions for both the Markets Service and the consent holder will be sought prior to a decision being made.

Where circumstances change or there are serious concerns regarding a consent, Officers will compile a report for consideration by a Senior Officer. A copy of this report will be provided to the consent holder in advance of its consideration in order that they are able to provide any explanation or justification to support their position within a reasonable time (14 days). The matter will be determined after the 14 days whether a response has been received or not. The Senior Officer will consider all evidence and make the decision whether to revoke the consent.

Where a consent is revoked the Council will advise the applicant verbally and confirm the reasons for this in writing within 10 working days.

It should be noted that in addition to the removal of a consent the Council reserves the right to consider any other enforcement action in line with the Black Country Regulators Operating Framework.



19.0 Appeal Against Revocation

There is no statutory right of appeal against a decision to revoke a consent however an appeal may be made to the Council's Head of Regulation in writing within ten working days of the written revocation. After considering the original evidence (new evidence or material will not be permitted) the Head of Regulation will make a decision in writing on whether to uphold the appeal (with or without conditions) or not to uphold the appeal.

Head of Regulation
City of Wolverhampton Council
Civic Centre
St Peter's Square
Wolverhampton
WV1 1SH

20.0 Refusing Applications

The Council may refuse to grant or renew a consent. Where a consent is refused, the Council will advise the applicant in writing and notify them of the reason for the refusal.

21.0 Interim Arrangements – Implementing the Policy

Existing street traders will be given an 18 month grace period to meet the design brief set out in **Appendix B** of the policy.

Traders will also be given a two week period before applying for a basic DBS check for any new employees. In the interim period they will be expected to have a temporary identification badge and be supervised.

In relation to first applications under this policy, the Council has introduced internal appeals process to Senior Officers against a potential adverse decision on a consent application. The Council will consider, as part of its review of the policy during its first 12 months of operation, whether this right of appeal will continue in relation to subsequent applications for grant or renewal of consents.

The right to appeal will be triggered when an applicant is informed that the Council is minded to refuse an application. The applicant may appeal to the Head of Regulation within five days of the potential refusal. The matter will then be considered through the appeal process below.

If the potential refusal of a consent application relates to a street where there are more applicants than suitable locations, then all applicants will be informed that the Council is minded to grant or refuse their application but that a final decision will not be made until the appeal period has lapsed. Applicants may then appeal to the Head of Regulation within five days of the potential refusal. If an appeal by any applicant is made in this time, then all applicants will be informed that an appeal has been made and that a panel of Senior Officers will review all applications for that street and that the outcome of their decision will be final. The matter will then be considered through the appeal process below.

The appeal will take the form of a review of the decision-making process. The submission of new material by traders or officers will not be permitted unless at the request of the panel.

The appeal process comprises:

- panel of two Senior Officers of the City of Wolverhampton Council (not connected with making any decision related to street trading)
- panel to consider the application that has been refused and if relevant, all other applications that were made for the same street
- panel to defer decision making if further evidence required from officers or trader.
- panel to determine whether the “minded to” decision to refuse was appropriate in the light of information provided and decide which applicants on a given street shall be refused and which will be given a consent

During the implementation phase of the policy, applicants will be able to access:

- support to relocate to a different site if unsuccessful in gaining a consent during the implementation of the policy
- detailed feedback on any unsuccessful consent application to enable a better application to be developed in the future or for submission at another location
- face-to-face discussion with unsuccessful traders to try and identify other suitable locations provided all other criteria are satisfied

22.0 Conditions, Complaints, and Offences

Conditions

General standard conditions will be attached to every consent. These are found at **Appendix C**. Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, revocation of your consent, and refusal to grant further consents on application.

Complaints

Complaints will be fully investigated in accordance with the Council's Complaints Policy and consent holders will be expected to liaise with the Council to resolve them. Substantiated complaints may result in a consent being revoked and refusal to grant further consents on application.

Complaints can be made:

- Online: <https://www.wolverhampton.gov.uk/contact-us/customer-feedback/make-complaint>
- Email: customerfeedback@wolverhampton.gov.uk
- Telephone: 01902 551901/01902 553215
- In person by visiting the Civic Centre at the address below
- In writing addressed to the Complaints Manager, City of Wolverhampton Council, Civic Centre, St Peter's Square, Wolverhampton WV1 1RL

Offences

Decisions regarding enforcement action will be made in accordance with the Council's enforcement policy.

A person commits an offence if they engage in street trading in a consent street without first obtaining authorisation from the Council.

Any person guilty of such an offence will be liable, on conviction at a magistrates' court to a fine of up to £1,000.



23.0 Definitions

Roundsman

A roundsman is a person who followed the round of his/her customers to take orders and deliver the pre-ordered goods of these customers.

News Vendor

News vendor is a reference to trading where:

- a) The only articles sold or exposed or offered for sale are newspapers or periodicals.
- and
- b) They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
 - (i) exceed one metre in length or width or two metres in height.
 - (ii) occupy a ground area exceeding 0.25 square metres: or
 - (iii) stand on the carriageway of a street.

Pedlar

A pedlar is “any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse, or other beast of bearing or drawing burden, travels and trades on foot and goes from town to town or to other men’s houses, carrying or selling or exposing for sale any goods, wares, merchandise immediately to be delivered, or selling or offering his skill in handicraft” (Section 3 Pedlars Act 1871).



Appendices



Appendix A – Assessment Criteria

Street Trading Consent Application and Renewal Assessment Framework

The assessment criteria within this assessment framework are described more fully in the Policy and the Policy will be used in conjunction with the information below to guide the consideration of specific criteria. This assessment framework will be used for both applications and renewals except for a renewal occurring within 12 months of the grant of the original application. In this case renewal will normally occur for one further 12-month period if the original terms of the consent have been adhered to and there are no other circumstances that make the original application no longer appropriate e.g., changes in road layout. This will occur without the need for a renewal form to be completed.

A scale of 0 to 5 will be used, with 0 being poor evidence, and 5 being excellent evidence of meeting the assessment criteria. The final score will be made by the Market Services Team after analysing the information put forward by the consultees.

| Assessment Criteria | Specific Factors Linked to the Criteria (Additional Guidance) | Score | Comments |
|-------------------------------------|---|-------|----------|
| 1. Public safety | <ul style="list-style-type: none"> Adverse comment made by Highways Authority or any other relevant consultee in terms of location. | | |
| 2. Prevention of crime and disorder | <ul style="list-style-type: none"> Adverse comment made by Police or any other relevant consultee in terms of increased risk. | | |
| 3. Prevention of nuisance | <ul style="list-style-type: none"> Consideration of proposed activity and how that may impact on neighbouring residences and businesses. | | |
| 4. Public Health Impact | <ul style="list-style-type: none"> Consideration of how the health of the public can be protected and promoted. <p><i>Officer may consider the type/quality of food offer. Provision of healthy food rather than junk food. Proximity to schools/education settings.</i></p> | | |

| | | | |
|--|---|--|--|
| <p>5. Suitability of applicant</p> | <ul style="list-style-type: none"> • Relevant Conviction (as per guidelines within the policy) • Previous history of reliable payment of fees • Previous history of compliance with any street trading consent <p><i>A poor payment history or a history of non-compliance for any consent previously held with the City of Wolverhampton Council will likely result in a low score. If the applicant is in debt in relation to a street trading consent with the City of Wolverhampton Council at the time of renewal/new application, then it is likely that the renewal/application will not be granted.</i></p> | | |
| <p>6. Suitability of trading unit</p> | <ul style="list-style-type: none"> • Compliance with the design brief (applicable for consent over 12 weeks in any financial year) • Appropriate size for proposed location • High quality design • Agreed removal of unit after trading • All goods, ancillary equipment and stock kept within unit <p><i>Where the unit does not comply with the design brief the application is likely to be refused unless the application is for a food unit where some modifications may be considered for technical operation. The design brief does not apply to occasional consents or annual consent for a duration less than 12 weeks but should still be used as guidance.</i></p> | | |
| <p>7. Power</p> | <ul style="list-style-type: none"> • All units to be compatible with being powered by electricity • If a generator is proposed for use outside city centre evidence must be provided that no alternative power supply is available and cannot be made available | | |
| <p>8. Advertising</p> | <ul style="list-style-type: none"> • Advertising only relates to goods on sale • Advertising is not illuminated and is contained in unit | | |

| | | | |
|---|---|--|--|
| <p>9. Hours of Trading</p> | <p>Trading hours promote:</p> <ul style="list-style-type: none"> • Preventing crime, disorder and antisocial behaviour • Avoiding disturbance due to noise, smell or other matter • Protecting public safety • Preventing obstruction of the highway • Having regard to location and operating hours of business activity | | |
| <p>10. Cumulative Impact</p> | <p>Consideration of the location of other traders in the area and type of goods already sold.</p> | | |
| <p>11. Selling the right goods</p> | <ul style="list-style-type: none"> • Quality of goods • Innovative products • Goods do not cause nuisance • Goods do not contribute to crime and disorder • Goods do not have a negative health impact | | |
| <p>12. Site assessment</p> | <ul style="list-style-type: none"> • Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving • Any loss of amenity caused by noise, traffic, smell etc, e.g., Existing traffic orders e.g., waiting restrictions. It is accepted that this may not be known when new applications are first being made under this policy. All traders will therefore be given a score of 3 as stipulated under section 8 of the policy. The applicants awarded the highest score in the assessment framework in a competitive scenario will be chosen and a location identified on that street. • Any potential obstruction of pedestrian, vehicular or disabled access • Any obstruction to the safe passage of pedestrians and wheelchair users • Any nuisance/interruption to pedestrian flow or social distancing • The safe access and egress of customers and staff from the pitch and immediate vicinity • Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises. | | |

Appendix B – Design Brief for Units

Street Trading Design Brief for Units

Unit Proportions

- The unit must be of a size and design approved by the City of Wolverhampton Council. Applicants are advised to consider the size of trading unit that will be appropriate in the location that they are suggesting.
- It is recognised that units may not be a uniform shape and uniqueness is supported but will generally only be considered if the unit is compliant with the other conditions outlined in this design brief.

Unit Design

- Units must be of a high quality, bespoke design that enhances its surrounding environment. The proposed unit design should inspire vibrancy and add a sense of individual identity to our street scene. The unit design must be agreed by the City of Wolverhampton Council. (It is suggested traders do not purchase a unit until the proposed design has been agreed by the Council).
- The unit must not have protruding signage from the top, side or any element of the unit.

Colour

- The colour of the unit must be approved by the City of Wolverhampton Council.
- Consideration will be given to the proposed location of the unit and how the colour will help the unit enhance its surroundings.

Signage

- Signage must be painted (or attached via vinyl sticker) onto the unit. 'A' boards maybe permitted in accordance with Wolverhampton's policy.
- Graphics must directly relate to the business. Where graphics associated with branding/logos are considered too dominant then these will not be considered acceptable.
- Temporary signage or product pictures are not permitted on any elevation and must be contained on the product/menu board or within the trading unit.
- Product/menu boards must be sited internally or on shutters.
- All signage designs must be approved by the City of Wolverhampton Council as part of the street trading consent application process.

Siting of Stock & Trading Area

- Goods cannot be displayed outside the areas of the unit e.g., via build-outs, externally hung on the unit, sited on the public realm around the unit, or by any other means.
- All produce/stock must be located and displayed within the unit.
- Goods cannot be displayed directly on the ground and must be presented from a product specific display unit (e.g., tiered shelving for flowers).
- The unit should aim to have at least three opening or glazed elevations. Subject to above, signage can be used to help enhance blank elevations.

Canopies

- No goods can be hung or displayed on or from the canopy. Canopies should only be located on the serving or opening size of the unit, for shading purposes only.
- Canopies should not project any more than 1 metre from the unit.
- The design and appearance of the canopy will be approved by the Council as part of the wider unit design.

Waste

- Commercial waste must be stored within the unit.
- Food units should aim to have a public waste bin sited next to the unit. This should be black and managed by the trader with waste removal being in accordance with relevant legislation.
- The need for such a waste receptacle will be considered on a case-by-case basis acknowledging that there may be instances where the provision of a waste receptacle will be required.

Lighting

- The unit must not have external lighting.

Appendix C – Street Trading Consent Conditions

Local Government (Miscellaneous Provisions) Act 1982 Street Trading Consent Conditions

General

Under the terms of the above legislation, the Council may, at any time vary the conditions of a street trading consent. The legislation further states that the street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.

Upon grant of a street trading consent a street trader will be required to comply with the following terms and conditions which are attached to the consent. Any breach of the attached conditions may result in the revocation of the consent.

Consent Details

Two types of consents will be issued:

1. one for display purposes that excludes the consent holder's address (display consent) and,
2. one that includes the consent holder's address (official consent)

The display consent must be displayed in a prominent position in the unit at all times.

The consent shall be produced whenever required by a Police Officer or any Officer duly authorised by the Council.

The consent holder shall within 14 days of a change of address, notify the Markets Service and return the official consent for amendment.

If a consent holder does not trade/intend to trade for a period in excess of 14 consecutive days they must inform the Markets Service.

The consent holder shall comply at all times with all legislation in respect of their trade, particular regard to Planning, Food Hygiene, Health and Safety and Control of Pollution matters including (where applicable) limitations on the use of chimes or other types of loud speaker. Such compliance shall be not only in respect of their unit but also the premises at which the same is kept.

A notice to surrender the consent, of 28 days, must be given in writing to the Markets Service. An appropriate apportioned refund of the annual consent fee will be paid to the consent trader as soon as practicable after the surrender date. This condition does NOT relate to Mobile 'B' consents where no fee refund is available.

Trading Location

The street trading consent allows trading from the allocated pitch unless otherwise stated; the pitch area is defined on any map that accompanies the issued consent.

The unit, its parts and commodities for sale must be contained within the marked boundaries of the pitch, the boundaries being either physically marked and/or detailed on any map that accompanies any issued consent.

Use of tables and chairs by street traders is prohibited unless permission is granted under the Highways Act 1980 s.115(e). (A separate application process applies for this permission. Please contact Licensing Services for further information).

Bins shall be provided for the use of customers of food-based traders.

Should a pitch become temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council will not be liable for any claims for loss of earnings etc. If agreement cannot be reached on relocation, then consideration needs to be given by the trader in terms of giving notice for the consent and by the Council in terms of revoking the consent.

If the Council offer an alternative pitch then there will be no reimbursement of consent fees.

Trading Unit

The unit must be of a size and design approved by the Markets Service.

The unit must be maintained at an acceptable standard throughout the duration of the consent. Should the consent holder be advised by an Authorised Officer of the City Council, of any repairs or works required to the unit, these should be carried out at the timescale agreed.

The consent holder shall ensure that a current price list of articles sold is prominently displayed on the unit at all times.

Towing bars should be either removeable, retractable or suitably covered to avoid becoming an obstruction of the highway or a trip hazard.

Prior approval must be attained from the Markets Service in relation to the use and type of generators.

Generators will be permissible only when no other power source is available. Any trailing cables must be protected or so sited as to prevent a tripping hazard. Generators if permitted must be encased in an appropriate cover and secured to prevent movement of the unit. Generators should be positioned to minimise disturbance to residents or businesses from noise or fumes. Where generators are required, silenced generators or acoustically insulated generators must be sourced.

All gas cylinders should be stored within a 30-minute fire resistant construction within the trading unit only accessible by an external opening.

Waste water, grease, debris etc must not be disposed of by use of the public drains. Should any blockages take place and cleaning be required the consent holder will be liable for the cost incurred. If you have a discharge consent from the relevant 'water undertaker' e.g., Severn Trent, then a copy should be provided to the Markets Service.

All rubbish etc within 20 metres of the allocated pitch generated from the consent holders' trade must be removed at the end of each day and disposed of via a registered waste carrier or facility.

Vehicles will not be permitted adjacent to a street trading unit unless permission has been granted by the Markets General Manager.

The consent holder shall ensure that at no time they will cause:

- i) Obstruction of the street or shop entrances or danger to persons using the same.
- or,
- ii) Nuisance or annoyance to persons using the street, or traders, shopkeepers, or otherwise.

The consent holder will be responsible for any damage caused to the electricity supply bollards where applicable and for payment of the standing charge and all electricity used.

The consent holder will be responsible for any damage caused by trading activities to the pavement etc, including marks on the surface area, any work required to replace or clean the areas will be charged to the consent holder.

The consent holder must carry public liability insurance of the current sum (as stated on the application form) required to indemnify the Council for a claim or number of claims from any incident throughout the period of the consent.

All consent holders should carry out a health and safety check on the unit, access and egress arrangements and equipment on a regular basis. A copy of the documented check should be available for inspection at the unit during operational hours.

Traders should undertake a risk assessment to include control measures identified to reduce the risk of the vehicle being used as a measure of attack, and measures to mitigate against violent persons. Consent holders are required to comply with any mitigation measures advised by an Authorised Officer of the City Council or the police.

Trading Hours

The trader must restrict trading to the days and hours as outlined on the consent at the time of grant and/or renewal. Loading and unloading will be restricted to the hours of the appropriate Traffic Regulation Order in force at the time or by direction of West Midlands Police or other Authorised Council Officer.

Any trading involving hot food or drinks between 23:00 hours and 05:00 hours will also require a separate application under the Licensing Act 2003.

The consent holder shall ensure that, whilst trading, their current identity badge is worn at all times.

Trade Lines

This consent applies to retail sales only and applies to person(s) and the unit and commodities to be sold, as entered on the street trading consent.

Consent holders shall not offer for sale or display any articles or goods or anything whatsoever which is indecent or is likely to be offensive. The consent holder must immediately withdraw from sale any such articles or goods if required to do so by a Police Officer or any Officer duly authorised by the Council.

Consent holders shall ensure that they make proper and legal checks to ensure that their goods are safe for use and consumption.

Consent holders are permitted to apply for an addition or amendment to their trade line. The application must be made on the prescribed form.

Conduct

The consent holder and any assistants should ensure that, whilst trading, their current identity badge is worn at all times.

The consent holder and any assistants employed by them shall ensure the public are treated fairly and with courtesy.

A consent holder must notify the Markets Service in writing within 14 days of being convicted of any criminal offence.

The consent holder shall not permit any person under the age of 17 years to engage in street trading activities.

The consent holder must comply with the Public Sector Equality Duty.

Fees

The consent fees applicable to the consent shall be paid either in full at the time of consent issue or by instalments by prior arrangement with the Markets Manager. The method of payment required will be agreed by the Markets Service at the time of application.

The trader must maintain this payment agreement and the fees must be paid in full by 31 December each year, in order for the Markets Service to invite renewal.

Traders that do not keep up with repayments will be required to pay the fee at the time of application in future.

Additional Conditions for Food Traders

Foodstuff traders are required to have their unit periodically inspected and approved by an Environmental Health Officer.

All foodstuff traders will be expected to obtain a minimum 4-star rating following an inspection from Environmental Health.

All foodstuff traders and any persons employed in the unit must have received appropriate food hygiene training or instruction.

Additional Criteria for Traders in Dudley Street, Queen Street and Bilston Street Relating to the Trading Unit Design

The height of opening shutters needs to be a maximum of 2.3 metres.

Wherever possible a clear glass aspect to the trailer is required with signage and advertisements kept to a minimum.

Trailer to be located within 300mm of an electrical bollard.

Shutters are not to overhang outside the designated pitch. Also, open shutters must remain within the pitch.

Counter height min 900mm.

Goods are not to be displayed directly on the paving min 900mm high counter required, enclosed on all sides with approved panels.

All trading units must display the following information on the unit:

- the trading name
- the product(s) on sale
- the price list for the product(s) on sale
- the consent to trade to be displayed in a prominent position within the interior of the unit
- no additional advertisements should be placed on the exterior of the unit

All consent holders must adhere to Traffic Regulation Orders restricting the movement of vehicles during operational hours and co-operate with the Markets Manager during the loading/unloading process each market morning and evening.

All consent holders must comply with any reasonable request from the Markets Manager or Authorised Officer of the Council.

Additional Conditions Applicable to B (Mobile) Consents

No trading is permitted in any area within a $\frac{3}{4}$ mile radius of any Wolverhampton City Council market.

No trading is permitted within 50 metres of:

- any entrance or exit to an educational establishment
- any retail shop or unit
- any religious premise or building
- or any licensed premises
- any other street trader

Not more than one consent holder is permitted to trade in a particular street at any given time.

No trader may remain static for more than 60 minutes in one location.

The trader must not return to the same location within two hours.

This consent is not valid within the perimeter of any Council car park, recreation ground or open space.

Additional Conditions Applicable to Consent Holders on 'Private Land'

Consent holders trading on private land must be able to provide permission from the land owner that they have consent to trade from the site on the request of an Authorised Officer of the Council.

The Council may revoke this consent at any time.

Breach of any one or more of the above conditions or otherwise relating to their trade may render the consent holder liable to revocation of this consent.

Please note that any street trading consent issued as a result of this application is issued to the named applicant and no other person. When the applicant ceases to trade, they must inform the Council's Markets Service with immediate effect.

Standard Conditions - Street Trading - Temporary/Occasional Street Trading Permit

These conditions are attached to every temporary/occasional street trading permit.

The conditions may only be removed or varied following an application determined by the Council.

The consent must be displayed in a prominent position and must be produced immediately upon request from an Authorised Officer of the Council or the police.

The consent is only valid at the specific location(s) and on the day(s) and time(s) shown on the front of the licence.

The consent holder shall display a complete price list of any goods sold.

The consent holder shall take out, and maintain at all times, public liability insurance cover with a minimum liability of £5 million.

The consent holder will be responsible for the good conduct, cleanliness, litter and safety of the consented area at all times.

The consent holder shall ensure that no waste liquids are discharged onto the public highway.

The consent holder shall make proper arrangements for the storage and removal of all refuse and litter generated by their trading activities. Council litter bins should not be used to deposit this waste. Unit holders shall cooperate with all proper arrangements specified for refuse collection and disposal.

The consent holder shall not cause disturbance, nuisance or undue interference or inconvenience to persons using a street, or annoyance to any business or resident.

Street trading shall not be carried out in a way which causes a risk to the safety of persons using a street or to any business or resident.

Street trading may only be carried on in a location with sufficient space. It must not be carried on in a way that causes an obstruction to pedestrians or traffic.

Consent holders must remain within the pitch area trading or performance and must not canvass pedestrians outside this area.

Consent holders must not distribute free printed matter without a consent issued by the City Council. A copy of the consent must be available for inspection at the pitch.

The public highway must not be interfered with, changed, damaged or altered in any way.

The consent holder shall, at all times, make sure that all electrical, mechanical, and any other equipment whatsoever associated with street trading shall be placed, installed, maintained, and operated in accordance with the provisions of the Health & Safety at Work etc. Act 1974. Certification of safety may be required by the authority on demand. Failure to provide safety certificates may result in the authority requiring the equipment to be removed immediately.

Where a consent holder wishes to provide entertainment, they must ensure that a Premises Licence or Temporary Event Notice granted under the Licensing Act 2003 is in place that authorises this activity.

No alcohol or tobacco products are to be sold from a temporary street trading pitch.

Details of any unit, trailer and/or display to be used must be provided with the application and traders must adhere to any recommendations given by the Markets Service on the trailer/unit/display(s) size, layout, livery, etc.

The minimum consent period is one day and is subject to availability.

If the consent holder is unable to trade for any reason, they must inform the City Council at the earliest opportunity.

All goods and other equipment must be completely removed from the highway at the end of the hours permitted by this licence unless written exemption is given by the Authority.

The licence holder must comply with any direction given by an Authorised Officer of the Council, their agents, the police, or other member of the emergency services. This may include directions to immediately remove items.

Should a pitch become temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council will not be liable for any claims for loss of earnings etc. If agreement cannot be reached on relocation, then consideration needs to be given by the trader in terms of giving notice for the consent and by the Council in terms of revoking the consent.

If the Council offer an alternative pitch then there will be no suspension of consent fees.

The licence holder shall indemnify the Council from any claim in respect of any injury, damage or loss arising directly or indirectly out of the grant of this licence.

The fee payable for a temporary street trading consent application is non-refundable and may be reviewed at any time by the Council.

Occasional/Temporary Street Trading Consents will normally only allow traders to operate between 08:00 hours and 18:00 hours, any variation to this must be requested when the application is made and if granted will be clearly displayed on the consent.

The consent holder must pay the City Council any monies payable for the removal of waste, or damage to property as a result of the trading taking place.

The consent holder must comply with the Public Sector Equality Duty.

Additional Conditions for Traders Licensed for the Hot and Cold Food Commodity

The consent holder will ensure that the food business operator complies with the requirements of Retained Regulation EC No. 852/2004 (food hygiene standards) and in particular Chapter III Requirements for movable and/or temporary premises.

The consent holder must have a Food Hygiene Rating Scheme score of 4 or 5. The hygiene rating must be displayed prominently on the unit, trailer, or vehicle.

All foodstuff traders and any persons employed in the unit must have received appropriate food hygiene training or instruction.

PLEASE NOTE: Failure to comply with these conditions may result in enforcement action, leading to the street trading consent being revoked or an application to renew being refused.

The Council reserve the right to amend these standard conditions at any time.

The Council may attach any further reasonable conditions to this consent which it appears appropriate to meet particular circumstances.

This consent and any associated documents must be surrendered to the Council if the consent holder wishes to cease trading.

Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e., for each day of trading without consent.

Appendix D – Guidelines on the Suitability of Applicants

Guidelines on the Suitability of Applicants

General Principles

The primary aim of this policy is public protection. To help in achieving that aim, the Council will consider the suitability of applicants to be authorised as street traders.

Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm and from those who may harm them, wherever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable, in determining this, the authority may have regard to any information, which it considers to be relevant, in particular:

- whether the applicant has been convicted of any relevant offence
- whether the applicant has been the subject of any relevant enforcement action
- any previous refusal of an application for the issue or renewal of a street trading consent (and the reasons for the refusal)
- any previous revocation of a street trading consent (and the reasons for the revocation)

For the purposes of this policy, relevant offences include unspent convictions and cautions, for offences involving dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature, will be included in the consideration of whether the applicant is a suitable person to hold a consent.

A person with a conviction for a relevant offence will be expected to have remained free of conviction for a period of time, before an application is granted. Some discretion may be exercised if the offence is isolated, minor in nature and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

Notwithstanding the above, the Council is aware of its duty not to restrict its discretion and it shall permit representations from the applicant explaining why it may, nevertheless, be appropriate to receive consent.

Guidelines on the Relevance of Convictions

Each case will be decided on its own merits.

1. The Council will assess whether:

- (a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent,
- (b) a person who wishes to be registered as an assistant to a street trading consent holder or to continue to be registered as an assistant to a street trading consent holder is a suitable person to be registered as an assistant to a street trading consent holder.

In making that assessment, the Council will consider the previous convictions of such persons.

2. In considering the previous convictions of those persons mentioned in paragraph 1 the Council will consider the following:

- (a) whether the conviction is relevant
- (b) the seriousness of the offence
- (c) the length of time since the offence occurred
- (d) whether there is a pattern of offending behaviour
- (e) whether that person's circumstances have changed since the offence occurred
- (f) the circumstances surrounding the offence and the explanation offered by that person

3. The following examples provide a general guide on the action to be taken where relevant convictions and cautions are evident:

(a) Offences Involving Violence

Applicant with convictions for offences involving violence will be considered carefully. Depending on the nature and seriousness of the offence, when applicants have convictions for causing grievous bodily harm, wounding, assault, or even more serious offences involving violence. In general, a period of three to ten years free of convictions should elapse before an application will be granted.

(b) Drug Related Offences

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, will not necessarily prevent an applicant from obtaining a street trading consent, provided the applicant has at least ten years free of convictions.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than ten years before the date of the application.

(c) Sexual Offences

Applicants with any unspent sexual related offences will not normally be granted a street trading consent.

(d) Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty.

Convictions for isolated minor offences will not necessarily prevent an applicant from obtaining a street trading consent but in cases involving serious theft or fraud, at least seven years should elapse before an application is granted.

When offences of dishonesty have been accompanied by violence, at least ten years free of conviction should elapse before an application will be granted.

(e) Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicants would be expected to show a period of at least seven years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

(f) Formal Cautions and Fixed Penalty Notices (FPNs)

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and Fixed Penalty Notices as though they were a conviction before the courts.

In all cases, each individual application will be decided on its own merits.

Disclosure and Barring (DBS)

All application forms must be accompanied by a basic disclosure as the Council must be satisfied that applicant is a suitable person. Apply for basic disclosure online: <https://dbscheckonline.org.uk/individuals>

If any unspent convictions or cautions are declared, depending on their nature, then the Council may as part of the application process hold a hearing to determine whether the applicant is a suitable person to hold a street trading consent.

The application will not proceed until the suitability of the applicant has been determined.

Appeal Against Refusal

There is no statutory right of appeal against a decision to not issue a consent however an appeal may be made to the Head of Regulation within ten working days of the refusal. After considering the original evidence (new evidence or material will not be permitted) the Head of Regulation will make a decision in writing on whether to uphold the appeal (with or without conditions) or not to uphold the appeal.

Head of Regulation
City of Wolverhampton Council
Civic Centre
St Peter's Square
Wolverhampton
WV1 1SH

You can get this information in large print, braille,
audio or in another language by calling 01902 551155

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