

COMMITTEE: LICENSING

DATE: 21 April 2010

DIRECTOR: STEWART CARRUTH

TITLE OF REPORT: REVIEW OF STREET TRADERS' LICENCES

REPORT NUMBER: CG/10/002

1. PURPOSE OF REPORT

To explain to the Committee the current system in place with regards to all aspects of street traders' licences and to make suggestions for changes to update the practice and procedure relating to these licenses.

2. RECOMMENDATIONS

That the Committee:

- (i) Considers whether it wishes to revoke (or otherwise) the current requirement whereby all applications for new hot food sites and new applicants for existing hot food sites require to be advertised in a local newspaper.

If it does wish to revoke the requirement for advertising, that it decides which measure(s) (if any) it wishes to have in place as per paragraph 6.2 (d) below;

- (ii) Maintains current practice whereby hot food applications for new sites must be brought before the Committee for its determination;
- (iii) Revokes the current 100 metre rule detailed in Condition 10 (Conditions Applicable to Street Trader's Licence – 'the Conditions') annexed as Appendix A to this report;
- (iv) Revokes its current guideline prohibiting street trading in the City Centre;
- (v) Adds a new condition (condition 22) prohibiting the siting of street trading stances which sell any type of food and/or drinks within a four hundred metre radius of the outer boundary of a school at all times;
- (vi) In the meantime maintains all nine zones in relation to street traders' licences for ice cream vans and other mobile vans pending a potential change in legislation.
- (vii) Maintains the current one year duration for a street trader's licence.

- (viii) Endorses in principle the amended current conditions as detailed in Appendix B of this report.

3. FINANCIAL IMPLICATIONS

None.

4. SERVICE & COMMUNITY IMPACT

- (i) In relation to the prohibition on city centre street trading and the 100 metre rule the Committee shall be fulfilling its obligations under the Provision of Services Regulations 2006 ('the Regulations') (see paragraph 6.3 (b) below).
- (ii) With regards to the siting of street trading stances which sell food and drinks not less than a four hundred metre radius outside schools, there may be a wider positive impact on the promotion of health amongst school children.
- (iii) Following a twenty eight day consultation period from 2 to 30 March 2010, five responses were received. These responses are annexed as Appendices D, E, F, G and H to this report.

5. OTHER IMPLICATIONS

None.

6. REPORT

6.1 Introduction

Section 39 of the Civic Government (Scotland) Act 1982 ('the Act') provides that a street trader's licence shall be required for street trading by a person, whether on his own account or as an employee. This means that a licence is required for persons who are both employers and employees.

In terms of Section 39 of the Act, street trading means hawking, selling or offering or exposing for sale any article or offering to carry out, or carrying out for money or money's worth any service in a public place. It includes doing any of these things from a vehicle, a kiosk or a moveable stall not entered in the valuation roll.

Exceptions exist whereby a street trader's licence is not required for the sale of certain items such as newspapers, milk, coal or fuel derived from coal or for certain activities, such as those for which a Pedlars Certificate has been granted under the Pedlars Act 1871 or those for which a licence is required under another section of the Act. Neither is it required for organising or participating in a public benevolent collection (within the meaning of section 84 of the Charities and Trustee Investment (Scotland) Act 2005).

For any activity which involves the sale of food, a street trader must have a Food Safety Certificate issued to them by the environmental health service of the Council before they can acquire a street trader's licence.

6.2 Hot Food Sites

6.2.1 Advertising

a) Current system

In terms of paragraph 2(2) Schedule 1 of the Act, all applicants for licences where the activity is carried on from premises must display a notice for a period of 21 days indicating that they have applied for a licence.

However, as street trading stances (e.g.: vehicles/kiosks/moveable stalls) do not constitute premises for the purposes of this provision, these stances do not require to display this notice.

Whilst paragraph 2(7)(a) and (b) Schedule 1 of the Act imposes various advertising obligations on a Licensing Authority, there are no advertising obligations with regards to street traders' licences. In terms of paragraph 2(7)(c), the Committee do have the power, if it thinks fit, to require advertising of any application for the grant or renewal of a licence to be done in a local newspaper. It is this power which is utilised in relation to the advertising of applications for new hot food sites or new applicants for existing hot food sites. Applications are advertised in the Citizen freepaper. The applicant pays the advertising cost (currently £200 per site).

b) Problem with current system

A current problem with advertising in the freepaper is that this newspaper's circulation figures have dropped in many areas throughout the City and in some areas there is no circulation of the freepaper at all. (See Appendix B annexed to this Report detailing weekly distribution figures for the Citizen). Those areas that do not receive the freepaper are apparently those areas which, according to the Council's advertising Officer, attract most hot food licence applications. Residents of these areas are therefore less likely to be aware of the application notices/advertisements and therefore may not have the opportunity of making an objection/representation to the application. This makes the advertisement (for which the applicant is paying) somewhat futile.

(c) Advantage of current system

Advertising ensures that the public in those areas in which the newspaper is circulated know of the proposal.

d) Suggestions for change and reasons why

Members may wish to retain the current system. However, for the reasons indicated in paragraph 6.2(b) above, current advertising arrangements seem somewhat ineffective.

If it does decide to revoke the current system, the Committee could advertise all applications for hot food sites/new applicants for existing food sites on the Council's website. Whilst it is not statutorily obliged to do so, this would constitute a free advertising forum for applicants and would ensure that applications are being advertised to an extent. However this still may not reach a sufficient number of people in the right geographical location.

The Committee may wish to consider that there be no advertising at all of these applications. Within the past three year period, no objections/representations have been received in relation to these type of adverts.

6.2.2 Determination of Applications by Committee

a) Current system

Upon Committee instruction, all applications for new hot food sites must come before the Committee for determination even if there are no objections or representations to the application. Licences for existing sites with new applicants are dealt with by delegated powers.

b) Problems with current system

It may be considered that it is unnecessary for these applications to be determined by the Committee when there are no objections or representations and these applications are adding unnecessarily to the Committee's sometimes already heavy workload.

c) Advantage of current system

Determination of these applications by the Committee allows the Committee to 'monitor' the placing of new hot food sites throughout the city and informs Members as to whether or not hot food vans are being given permission to trade within their wards for the first time. This may be particularly important if the Committee agrees to the recommendation that mandatory advertising of hot food sites be revoked with no replacement advertising in place. Determination by the Committee could be the only channel by which the Committee has knowledge of these applications.

d) Suggestion for change and reason why

It is recommended that there is no change to current practice in respect of new sites. If these applications were determined via delegated powers, this could be problematic in relation to contentious applications as Members would have no knowledge of them.

6.3 The 100 Metre Rule

a) Current system

In terms of condition 10, a licence holder must not engage in street trading within 100 metres of any other licence holder/establishment/premises which sells or offers similar goods/articles/services.

The primary rationale for this rule seems to be public nuisance (e.g.: excess footfall within a concentrated area, litter and smells emanating from the structures) and public safety (e.g.: if there is a minimum distance in place between street trading structures, this may facilitate pedestrian movement and lead to less congestion in specific areas).

All new applications received are checked on a mapping system to identify whether the proposed location meets the 100 metre requirement.

b) Problems with current system

Provision of Services Regulations 2009

The Provision of Services Regulations 2009 (SI 2009/2999) ('the Regulations') implements EU Directive 2006/123/EC into UK law. The Regulations came into force on 28 December 2009 and apply UK wide.

The general aim of the Regulations is to facilitate the provision of cross border services by individuals and businesses across the European Economic Area ('EEA') by removing many barriers to the right to trade. Street trading falls within the Regulations.

Regulation 22 provides, amongst other requirements, that a local authority cannot make access to, or the exercise of, a service activity subject to 'quantitative or territorial restrictions, in particular in the form of limits fixed according to population or *of a minimum geographical distance between persons providing the service*' (italics my emphasis).

The general effect of Regulation 22 in relation to street trading is that a local authority cannot impose a minimum geographical distance between street traders.

Regulation 22 also provides that there are exceptions to this general rule if three conditions are met. These three conditions are (i) non-discrimination, (ii) necessity and (iii) proportionality. If all three conditions are met then the prohibition on imposing a minimum geographical distance between persons providing a service could be lawful. However, on examination of all three exceptions, it is unlikely that the statutory definition of all three would be met to render the 100 metre rule lawful.

c) Regulation 21

In terms of Regulation 21, a Local Authority cannot make access to, or the exercise of, a service activity subject to an economic need or market demand. This means that a Local Authority cannot take into consideration whether, for example, there is sufficient market demand or economic need for the siting of two fish vans in a particular area.

d) Suggestion for change and reason why

That the Committee revokes the 100 metre rule as it arguably falls foul of Regulation 22.

6.3.1

Schools

a) Current system

The 100 metre rule also applies to the siting of street trading stances in relation to schools (usually ice cream vans and hot and cold food vans) as schools are an establishment which sell or offer for sale similar goods/articles/services. This means that a food van/ice cream van cannot be located within 100 metres from a school. There is no condition in place with regards to the 100 metre rule and its specific application to schools.

b) Problems with current system

It is not entirely clear where the measurement of a 100 metre distance commences and ends in relation to a school. For example, a school may be defined as the school building only (which usually includes siting of the school canteen within). Alternatively, it may include the building, surrounding playground and fenced outer boundary. It may not be clear to licence holders or enforcing agencies whether or not this condition is being breached. For example, a hot food van may be located 70 metres from the outer school boundary but 100 metres from the school building. The licence holder may therefore be of the opinion that s/he is adhering to the 100 metre requirement. However, the Committee may think that s/he is in breach of it.

If the 100 metre measurement commences from the building itself, ice cream vans and hot food structures will obviously be located closer to the school and thus be more visible to pupils than say, for example, if

the 100 metre distance commences from the outer school boundary. The closer the food stance is to the school the greater the temptation it may be for pupils to leave the school to purchase the food.

The Licensing Authority has received complaints with regard to the location of street traders which sell food in relation to schools. For example, concerns have been raised that pupils have been leaving school playgrounds during school break to purchase food from hot food vans. This raises safety concerns. Health concerns have also arisen. For example, a Local Authority ought to be discouraging unhealthy eating and the location of, for example, a burger van within a 100 metre radius of a school is contrary to any healthy eating initiative that may be promoted by the Local Authority

Paragraph 6.3 (b) above concludes that the 100 metre rule is unlawful in terms of Regulation 22. However, it is arguable that the imposition of this rule in relation to the proximity of a school may not be in breach of Regulation 22 as the three conditions that may make this rule lawful (non-discrimination; necessity and proportionality) could be met more easily. The non-discrimination condition seems uncontentious. It may also be easier to argue the necessity exception in relation to schools (i.e. the rule must be justified by an overriding reason relating to the public interest, which includes public health). It is arguable that the rule could be regarded as necessary to promote the health of school children (thus meeting the public interest/public health criterion). The third exception that requires to be met - proportionality – may also be easier to argue. In essence, this condition stipulates that the rule must be suitable for attaining the objective and must not go beyond what is necessary to achieve that objective. The objective in this case is promotion of school childrens' health. It is arguable that the rule is suitable and does not go beyond what is necessary. The Committee is imposing a reasonable geographical distance to facilitate achievement of the public health objective. If a less restrictive measure can attain the same result, it should be preferred. In other words, are there less restrictive measures that could be put in place to promote healthy eating amongst school children other than the 'four hundred metre mile' rule. It is arguable that the rule itself is not wholly restrictive in any event as it is still permitting traders to trade, albeit within a reasonable distance from the school.

(v) Suggestions for change and reasons why

It is suggested that the Committee endorse a new condition 22 which shall state that 'Subject to the explicit consent in writing from the Licensing Authority, no street trader shall engage in the hawking, selling or offering or exposing for sale any type of food and/or drinks within a four hundred metre radius of the outer boundary of a school at all times. Without prejudice to any statutory rights that the licence holder may have, the Council shall be the ultimate arbiter in determining what may constitute the outer boundary of a school for this purpose'. An example of the outer boundary of a school may be the

surrounding outer fence or wall. The reason the geographical distance ought to be extended from a 100 metre radius to a four hundred metre radius is to facilitate the attainment of the objective – the promotion of the health and well being of school children through healthy eating.

This approach would be consistent with the general aim of the Scottish Government's 'Hungry for Success' initiative (of which the promotion of healthy eating for school children is a part). It is also consistent in spirit with the statutory duty incumbent on a local authority that it endeavours to ensure that schools managed by it are health promoting (Section 1, Schools (Health Promotion and Nutrition) (Scotland) Act 2007 amending the Standards in Scotland's Schools etc. Act 2000).

Currently there are two ice cream van traders who operate regularly outside schools. However, there are currently nine ice cream vans in total that hold street trader licences. If implemented, the four hundred metre radius could potentially impact on all nine ice cream vans operating in zoned areas as these ice cream vans can potentially operate within a 100 metre radius of a school should they so wish.

There is also currently one hot food van trading within the immediate vicinity of the outer boundary of a school. If the four hundred metre radius is adopted as a new rule, approximately fifteen hot food traders would be affected by the rule i.e. they would be prohibited from trading within a four hundred metre radius of a school.

It is recommended that if this new condition is adopted by the Committee, it does not take effect retrospectively. This means that the prohibition on trading within a four hundred metre radius of a school would only take effect as a condition attached to a licence in the following two circumstances: upon renewal of a current licence or upon the grant of a new licence. Current traders would still therefore be permitted to operate within a hundred metre radius of a school until their licence is renewed.

6.4 City Centre Street Trading

a) Current system

The current guideline in place with regards to city centre street trading is as follows:

'That no street trading be permitted in Union Street or any pedestrianised area in the City Centre save where a special case can be made out by the applicant or the licence holder as to why the guideline should not apply' (meeting of the Licensing Committee 30 September 1994).

The rationale for this general prohibition on city centre street trading seems to be consideration of safety issues in relation to suitable available physical space within the city centre. From a safety perspective, it is not desirable that physical structures obstruct a

pathway where there is excess footfall unless there is sufficient physical space to accommodate that structure. There is also a desire to minimise overcrowding of sites.

Within the city centre designated 'gold zones' were previously created by the Council in partnership with the commercial business sector. They constitute key pedestrianised areas in the city centre (examples include St Nicholas Square; Belmont Street and George Street precinct) which benefit from a more rigorous regime of cleanliness and street maintenance and are deemed to enhance the visual amenity of the area.

There was a general prohibition at one point on street trading in these gold zones though on three occasions to date this prohibition has been relaxed (a German Food Stall, Coffee Stall and Santa Hat Stall all situated in St Nicholas Square).

There currently is no consensus as to whether these zones are still in existence and, if they are, for what purpose.

b) Problems with current system

In accordance with paragraph 5(2)(a) Schedule 1 of the Act, the Licensing Authority has the power to impose 'conditions restricting the validity of a licence to an area or areas specified in the licence.' This provision enables the Committee to zone areas for the purpose of street trading.

Regulation 22 prohibits the imposition of a 'territorial restriction' on the provision of a service activity. A prohibition on trading within a certain area is arguably a 'territorial restriction' as it is prohibiting trading within a specified area.

Regulation 22 also provides for exceptions whereby this prohibition may be lawful. On analysis of the statutory definition of all three exceptions, it is unlikely all three conditions would be met to provide that the imposition of territorial restrictions in relation to city centre street trading could be regarded as lawful.

From a legal perspective, paragraph 5(2)(a) of Schedule 1 of the Act and Regulation 22 conflict. The former is permitting zoning and Regulation 22 is prohibiting it. The Scottish Government is currently reviewing primary legislation (including the 1982 Act) to ensure compliance with the Directive. It remains to be seen whether the specific zoning provision in paragraph 5(2)(a) Schedule 1 of the Act will be amended to ensure compliance with the Directive.

c) Suggestion for change and reason why

That the Committee revokes its current guideline prohibiting street trading in the city centre (and its gold zones). Whilst this prohibition is

lawful in terms of paragraph 5(2)(a) of Schedule 1 of the Act, it is arguably unlawful under the Regulations.

Notwithstanding the ambiguous legal position with regards to this prohibition, it is also a prohibition that does not seem to work well in practice. Its relationship with gold zones is ambiguous and, as noted, on three occasions to date this prohibition has been relaxed.

A city centre is the heart of the commercial and cultural life of a city and helps define its identity. If street trading stances are of a high quality, they can contribute to this commercial and cultural life and make a city more vibrant. Street trading can also enhance the visual amenity of a city centre and perhaps promote a more 'European' atmosphere to it. For example, the sale of different cultural foods and ethnic goods. If they are of a high quality, they may even attract people into the city centre to browse/purchase. This may be beneficial to the local economy.

6.5 Grounds of Refusal of a Licence

If the Committee do revoke the current 100 metre rule and prohibition on street trading within the city centre, then possible concerns such as, for example, excess footfall within a specific area or noise and smell could be caught, in terms of paragraph 5 Schedule 1 of the Act, by grounds of refusal including 'the possibility of undue public nuisance', 'public order or public safety' or the all encompassing 'if there is other good reason for refusing the application'.

6.6 Ice Cream Van Zoning

a) Current system

There are currently nine zones within the Aberdeen City area that apply to ice cream vans. Currently, applications in relation to zones one to eight are generally granted via delegated powers. An application in relation to zone nine (the city centre area) requires to be determined by the Committee. There are currently no ice cream van vendors operating within the city centre zone.

The general procedure is that a prospective applicant calls the licensing team and indicates a general area in which they wish to trade. They are then advised what zone they ought to apply for. The licence issued specifies 'Area of Trade' and indicates the permitted zone(s) in which the ice cream vendor may trade. The ice cream vendor may only trade within the zone(s) specified on the licence. If a vendor wishes to add a zone to their licence, they require to apply for variation of the licence. A plan is attached to the licence detailing all nine zones.

b) Problem with current system

The current system seems relatively uncontroversial and works well though the imposition of these restricted trading zones may fall foul of Regulation 22. However, as noted in paragraph 6.4(b) above, zoning is permitted in terms of paragraph 5(2)(a) of the Act. The legal position is therefore ambiguous.

With regards to Regulation 21, a Local Authority cannot subject the exercise of a service activity (e.g.: street trading) to 'proof of the existence of economic need or market demand'. The Committee cannot therefore invoke lack of economic need or market demand as justification for zoning.

c) Suggestions for change and reason why

As the system currently works well and is lawful under paragraph 5(2)(a) Schedule 1 of the Act, it is recommended that zoning for ice cream vans remains in place until the legal position is clarified i.e. the Scottish Government amends the zoning provision to ensure compliance with the Directive.

If this recommendation is upheld, this may affect condition 17 at a later date (which provides that 'A licence holder shall exercise their trade only within the areas specified in their licence').

6.7 Mobile Vans

a) Current system

Other mobile vans such as bakeries, fish vans and butchers, are also designated to zones for the purpose of street trading. These zones reflect the nine zones in place for ice cream vans. An application to trade in zone 9 (city centre) requires to be determined by the Committee.

b) Problem with current system

Zoned areas for the purpose of street trading are likely to fall foul of Regulation 22 though are lawful in terms of paragraph 5(2)(a) Schedule 1 of the Act. There are no identifiable problems with the current system.

c) Suggestion for change and reason why

For the reasons stated in paragraph 6.6 (c) (i) above, it is recommended that zoning remains in place unless the zoning provision is amended by the Scottish Government.

6.8 Duration of Licence

a) Current system

A street trader's licence is currently granted/renewed for a one year period.

b) Problem with current system

There are no identifiable problems with the current duration of the licence.

c) Suggestion for change and reasons why

It is recommended that the one year duration of the licence is not altered. Whilst the duration could be shortened or extended up to a period of 3 years in terms of paragraph 8 Schedule 1 of the Act, there seems no compelling reason to do so. Extension of duration could reduce the frequency of mandatory environmental health visits and the shortening of duration could increase administrative workload unnecessarily.

7. **AUTHOR DETAILS**

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8. **BACKGROUND PAPERS**

Civic Government (Scotland) Act 1982
Provision of Services Regulations 2009/2999
Directive 2006/123/EC

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

CONDITIONS APPLICABLE TO STREET TRADER'S LICENCE

1. In these Conditions:-
 - a) "the licenceholder" means the person named in the licence.
 - b) "the Council" means the Aberdeen City Council.
 - c) "City Solicitor" means the City Solicitor of Aberdeen City Council
 - d) "Corporate Director, Neighbourhood Services (Central Area)" means the Corporate Director, Neighbourhood Services (Central Area) of Aberdeen City Council.
2.
 - a) The licenceholder shall, immediately on receiving his licence, and before commencing trading, sign his licence in the space provided.
 - b) The licenceholder shall at all times whilst he is engaged in the work of street trading, have with him his licence and the badge of identification issued by the Council and he shall exhibit his licence, on demand, to any person. The badge of identification issued by the Council shall include a recent photograph showing a true likeness of the licenceholder, and he shall display his badge of identification at all times while so engaged conspicuously on the outer front, upper portion of his outermost garment with the inscribed side of the badge clearly visible. The Council shall require from the licenceholder, at the time of issue of his licence and badge of identification such sum as may be specified from time to time by them.
3. The licenceholder shall not lend or allow any other person to use his licence, or badge, if provided.
4. The licence holder shall not in any way alter, erase or deface his licence and shall, when required produce it for examination by the City Solicitor at the Town House, Aberdeen.
5. Where the goods or articles to be sold or which are to be offered for sale by the licenceholder are intended for human consumption, the licenceholder shall not store such goods or articles in any premises or vehicle until the said premises or vehicle has been approved by the Corporate Director, Neighbourhood Services (Central Area) for the purpose.

6. Where the licence allows the holder to sell from a stationary structure in any specified place in any street, the said structure shall be of a form which can be speedily and easily removed, and where such stalls are used for the sale of food they shall contain equipment for the proper cleaning and sterilising of all utensils and vessels used in connection therewith as shall be satisfactory to the Corporate Director, Neighbourhood Services (Central Area) and shall comply at all times with the requirement of "the Food Safety Act, 1990".
7. The licenceholder shall collect and remove any paper, garbage or other refuse which may be produced or may accumulate in the course of trading and shall not place or deposit the same or allow the same to be placed or deposited or to fall on any street, foot-pavement or footway or an adjoining property. In the event of the licenceholder trading at a particular location for a period exceeding thirty minutes he shall place at that location a litter bin or other receptacle for the deposit of paper, garbage or other refuse by customers.
8. The licence holder shall at all times, when exercising his trade, keep himself and his clothing clean and keep and maintain any moveable structure, vehicle or receptacle used for the purpose of street trading in a clean and proper condition to the satisfaction of the Corporate Director, Neighbourhood Services (Central Area). On written notice signed by the Corporate Director, Neighbourhood Services (Central Area) himself or by an Environmental Health Officer authorised by the Council to sign such notices in terms hereof, being given to the licenceholder that he has become unsuitable in respect of the unsatisfactory condition of his clothing or person, or that the vehicle or receptacle is unsuitable, the licenceholder shall immediately cease trading until he remedies the cause of complaint to the satisfaction of the Corporate Director, Neighbourhood Services (Central Area) or until the said notice is withdrawn; and such notices shall be recorded in a register kept for the purpose and available during normal office hours for public inspection and shall be reported to the Council for information as soon as may be.
9. The licence holder shall comply with any order or instruction given by an Police Officer in uniform for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any occasion when such Officer in his discretion may consider it necessary in the public interest to give such order or instruction.
10. Except as otherwise directed by the Council the licenceholder shall not engage in street trading within 100 metres of any other licenceholder or establishment or premises in which are sold or offered for sale any goods or articles or services of the same or similar class and description as those to be sold or offered for sale

by him, when operating outwith a recognised market. The Council may in their sole discretion and on application direct that the terms hereof shall not apply to the licenceholder in a particular street or locality or area but such a direction shall not be effective until it is endorsed by the City Solicitor on the licence.

11. If the licenceholder ceases to act as such for the unexpired period of his licence, or his licence is suspended by the Council, or if his licence has expired he shall, within three days thereafter deliver his licence and badge to the City Solicitor and shall be in contravention hereof if he shall fail to deliver both or either his licence and/or badge within said period of three days.
12. The licenceholder shall be permitted to exercise his trade only within the areas indicated in this licence.
13. The licenceholder shall comply with the provisions of the Code of Practice on Noises from Ice-Cream Van Chimes etc, 1982, made by the Secretary of State for Scotland by Statutory Instrument under Section 71 of the Control of Pollution Act, 1974.
14. On being granted a licence for the first time the licenceholder shall be furnished by the City Solicitor with a badge. In the event of the badge being damaged or lost while in his possession a replacement badge will be issued on further payment of the prescribed amount.
15. The licenceholder shall be bound to renew his badge on being notified by the City Solicitor that the badge is considered to be defaced or illegible, on payment of the appropriate amount for a replacement badge in terms of Condition 14 hereof, failing which the licence may be suspended at the sole discretion of the council.
16. Where the licence has been granted in relation to a specific vehicle or trailer the licenceholder shall not modify or replace the said vehicle without previously having notified the Corporate Director, Neighbourhood Services (Central Area) in writing and having received the appropriate certificate granted upon the provisions of Section 39(4) of the Civic Government (Scotland) Act, 1982.
17. On a certificate of compliance being issued by the Council in respect of a street traders' vehicle or trailer, a number shall be allotted to it by the Corporate Director, Neighbourhood Services (Central Area).
18. The licenceholder shall ensure that any number allotted to his vehicle by the Corporate Director, Neighbourhood Services (Central Area) shall be painted in a straight line at the foot of the nearside of the vehicle, near the front of the vehicle in figures not less than 2.5cm in height, or proportionate breadth and in a colour conspicuously different from that of the bodywork of the vehicle.

19. The licence holder shall collect and remove any paper, garbage or other waste including waste water, fats and oils, produced or used by his/her business and shall arrange for the disposal of such waste in an acceptable manner, complying with the Environmental Protection Act 1990 and the Sewerage (Scotland) Act 1968. Waste water shall not be disposed of into a surface water drain. Fats and oils shall not be disposed of into the sewerage system or a surface water drain.

NOTE In terms of Section 30 of the Children and Young Persons (Scotland) Act, 1937, no person under the age of seventeen years shall engage or be employed in street trading.

Head of Legal and Democratic Services

APPENDIX B

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

CONDITIONS APPLICABLE TO A STREET TRADER'S LICENCE

1. **DEFINITIONS:-**

- a) Head of Legal and Democratic Services means Head of Legal and Democratic Services and/or his/her authorised representative
- b) "Corporate Director" means the Corporate Director, Corporate Governance, Aberdeen City Council or his/her authorised representative
- c) the Council" means Aberdeen City Council and/or an authorised officer of that Council.
- d) "the licence holder" means the person named in the licence.
- e) "Licensing Authority" means the Licensing Committee of Aberdeen City Council
- f) "relevant person" means a police officer or authorised officer of the Council
- g) 'stance' means any vehicle, kiosk or moveable stall not entered in the valuation roll to which the licence relates
- h) "street trading" shall have the same meaning ascribed to it in section 39 (2) Civic Government (Scotland) Act 1982

2. **CONDITIONS:**

- 3. Subject to paragraph 16 of Aberdeen City Council's Employment of Children Byelaws (made 18 October 2001) which provide that a child aged 14 years or over may engage in street trading in certain circumstances, the holder of a street trader's licence shall not be less than sixteen years of age.
- 4. A licence holder shall at all times, whilst engaged in the work of street trading, have with them their licence and identity badge issued to them by the Council. Upon reasonable request by a relevant person, the licence holder shall produce their licence and/or identity badge to that relevant person.

5. A licence holder shall display both licence and identity badge on the stance and/or on the licence holder's outer person in a place that shall be both visible and conveniently read by members of the public.
6. A licence holder shall not at any time lend to nor allow any other person to use their licence, and/or identity badge.
7. A licence holder shall not in any way alter, erase or deface their licence and/or identity badge. Where said licence/identity badge becomes illegible for any reason, the licence holder shall apply to the Council as soon as is reasonably practicable for a replacement.
8. A licence holder's identity badge shall remain the property of the Council at all times. Within seven days of the occurrence of any of the following, the licence holder shall return said identity badge to the Licensing Authority:
 - a. If the licenceholder ceases to act for any reason for the unexpired period of their licence;
 - b. the licence is suspended by the Council ;
 - c. the licence expires and no application for renewal of said licence is made or
 - d. any other reason upon reasonable request by the Licensing Authority.
9. The stance from which a licence holder trades shall be positioned in a place whereby no danger shall or be likely to arise to any member of the public at any time.
10. The stance from which a street trader hawks, sells or offers or exposes for sale their goods shall be of a form that can be removed within a reasonable timeframe if so required upon reasonable request by a relevant person.
11. A licence holder shall trade only from the stance specified in the licence.
12. A licence holder shall provide a bin or other suitable receptacle for the deposit of litter. Said bin/receptacle shall be placed within a reasonable distance from the stance in a place that is easily accessible by members of the public.
13. A licence holder shall carry out their street trading activity in a public place in a manner that does not at any time cause any type of obstruction, nuisance or annoyance to any member of the public nor affect their safety in any way.
14. A licence holder shall operate only on the days and hours of operation as specified in the licence. On the terminal hour of trading, where it is reasonable and practical to do so, the stance shall be dismantled and removed by the licence holder.

15. A licence holder shall, if so required during trading hours and upon the terminal hour each day, ensure the collection and removal of any litter found in a public place within a fifteen metre radius of each side of their stance.
16. A licence holder shall comply with any reasonable instruction given by a relevant person in relation to his/her street trading activity.
17. A licence holder shall exercise their trade only within the areas specified in their licence.
18. A licence holder shall not commence their street trading activity until all necessary consents have been applied for and obtained from the Council and/or any other relevant body.
19. Where applicable, the licence holder shall comply at all times with the provisions of the Code of Practice on Noises from Ice-Cream Van Chimes etc, 1982, issued under Section 71 of the Control of Pollution Act 1974.
20. Where a licence is granted in respect of food in terms of section 39(4) of the Act, then, prior to subsequent renewal of that licence, the licence holder shall ensure that the stance to which the licence relates is inspected by an authorised person(s) from the Council's Environmental Services. Any recommendation(s)/direction(s) made subsequent to that inspection shall be implemented by the licence holder within the specified time frame.
21. Where applicable, a licence holder shall ensure that any STT (Street Trader) number allocated to their stance by the Council's Environmental Services is painted on said stance in a position that can be conveniently and easily read by members of the public and shall be no less than 5cm both in height and breadth.
22. Subject to the explicit consent in writing from the Licensing Authority, no street trader shall engage in the hawking, selling or offering or exposing for sale any type of food and/or drinks within a four hundred metre radius of the outer boundary of a school at any time. Without prejudice to any statutory rights that the licence holder may have, the Council shall be the ultimate arbiter in determining what may constitute the outer boundary of a school for this purpose.
23. If, throughout the duration of the licence, a licence holder is convicted of any offence, they shall, within fourteen days of said conviction, notify the Licensing Authority in writing of that conviction.

ABERDEEN CITIZEN WEEKLY DISTRIBUTION FULL COVERAGE

	No of Households	Postcode Sectors
North		
BRIDGE OF DON	9132	AB22/8 AB23/8
BUCKSBURN	3131	AB21/9
DYCE	2366	AB21/7
	14629	
South		
COVE, ALTENS	3024	AB12/3
GARTHDEE, KAIMHILL	3437	AB10/7 AB15/7
KINCORTH, NIGG	2645	AB12/3 AB12/5
PORTLETHEN	2545	AB12/4
	11651	
West		
CRAIGEIBUCKLER, HAZLEHEAD	5264	AB15/6/7/8
WESTHILL	3921	AB32/6
CULTS, BIELDSIDE, MILLTIMBER, CULTER	4598	AB13/0 AB14/0 AB15/9
QUEENS, HOLBURN, MANNOFIELD	6274	AB10/6 AB15/4/6/7/8
KINGSWELLS	1594	AB15/8
	21651	
City North		
WOODSIDE	1588	AB16/5 AB21/9 AB24/4 AB25/3
ASHGROVE, CORNHILL, STOCKETHILL	1948	AB16/5 AB25/3
	3536	
City South		
ROSEMOUNT 1	4250	AB15/4/5 AB25/2
ROSEMOUNT 2	5178	AB10/1 AB15/4 AB25/1/2/3
FERRYHILL	5952	AB10/6/7 AB11/6/7
	15380	
City East		
CITY BEACH	606	AB24/5
	606	
OVERALL TOTAL	67453	
ABC figure 72,103 Jan 09 - June 09		

Appendix F

From: "Skinner, Barry" <Barry.Skinner@grampian.pnn.police.uk>
To: <ctreanor@aberdeencity.gov.uk>
Date: 26/03/2010 14:00
Subject: FW: REVIEW OF STREET TRADERS' LICENCES
Attachments: 068LetStreetTradersConsultation.doc

RESTRICTED-

Caroline

In John Soutar's absence he has asked me to respond to you.

I have read over the Draft and in summary have no adverse comment to make.

Regards,

Barry Skinner

Barry Skinner | Sergeant | General Enquiries Department | Grampian Police

Telephone 01224 306466 | Email Barry.Skinner@grampian.pnn.police.uk | Address Police HQ, Queen Street, Aberdeen, AB10 1ZA

-----Original Message-----

From: Carole Milne [mailto:CAMLNE@aberdeencity.gov.uk]

Sent: 02 March 2010 16:30

To: Annette Bruton; Alan Milne; Alan Donnelly; Andrew Gilchrist; Aileen Malone; Andrew May; Bill Cormie; Barney Crockett; Carole Jackson; Callum McCaig; Ciaran Monaghan; George Adam; Gordon Graham; Gordon Leslie; Gordon McIntosh; George Penny; Gordon Spence; Ivor Churcher; Irene Cormack; Ian Yuill; Jennifer Stewart; John Corall; John Stewart; Jackie Dunbar; Jennifer Laing ; Jim Farquharson; James Hunter; Jim Noble; James Kiddie; John West; John Reynolds; Jillian Wisely; Kate Dean; Kirsty West; Kevin Stewart; Len Ironside; Marie Boulton; Mike Cheyne; Martin Greig; Muriel Jaffrey; Mark McDonald; Norman Collie; Neil Cooney; Neil Fletcher; Peter Stephen; Pete Leonard; Ronald Clark; Richard Robertson; Raymond Morrison; Stewart Carruth; Scott Cassie; Tom Moore; Wendy Stuart; Willie Young; Yvonne Allan; Soutar, John;
carolknight@grampianfrs.org.uk

Subject: REVIEW OF STREET TRADERS' LICENCES

You have been identified as a consultee with regards to the above. Please see attached letter which is self explanatory.

Council's incoming and outgoing e-mail is subject to regular

monitoring.

This communication is intended for the person(s) or organisation named and may be confidential in nature, legally privileged and protected in law. If you are not the intended recipient please advise us immediately and do not disclose, copy or distribute the contents to any person. Failure to comply with these instructions may constitute a criminal offence.

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Appendix 6

From: Tom Moore
To: Carole Milne
Date: 11/03/2010 15:35
Subject: Re: REVIEW OF STREET TRADERS' LICENCES

Carole

Just to report that I have no comments to make regards the proposals

Tom

>>> On 02/03/2010 at 16:30, in message <4B8D3CEA.6648.00BC.0@aberdeencity.gov.uk>, Carole Milne <CAMILNE@aberdeencity.gov.uk> wrote:
You have been identified as a consultee with regards to the above. Please see attached letter which is self explanatory.

Appendix H

From: Gordon McIntosh
To: Carole Milne
Date: 09/03/2010 09:58
Subject: Re: REVIEW OF STREET TRADERS' LICENCES

Carole

In 2.5 how many existing licences will this proposal impact on?

Happy with half mile from school boundary and that it be half mile from nearest part of the school perimeter.

One question though - should it be miles or kms/mtres?

Gordon

Gordon McIntosh
Director of Enterprise, Planning and Infrastructure

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Aberdeen
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