

ABERDEEN CITY COUNCIL

COMMITTEE	Licensing Committee
DATE	22 March 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Review of Street Trader Policy
REPORT NUMBER	COM/22/062
DIRECTOR	Gale Beattie
CHIEF OFFICER	Fraser Bell
REPORT AUTHOR	Arlene Dunbar
TERMS OF REFERENCE	17.3

1. PURPOSE OF REPORT

- 1.1 To explain to the Committee the current policies in place regarding street trader's licences, to make recommendations for change to update the practice and procedure relating to these licences and seek direction from the Committee.

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Agrees to maintain its current guideline prohibiting street trading in the City Centre;
- 2.2 Agrees to strengthen its current advertising policy by advertising applications for hot food on Tell Me Scotland in addition to a local newspaper;
- 2.3 Agrees that any application for a fixed stance trader in a residential area is referred to Committee;
- 2.4 Agree to maintain all nine zones in relation to mobile traders and confirm that the zones exclude city parks and Council car parks;
- 2.5 Allow hot food vans, for example a Fish and Chip van to operate on a mobile basis;
- 2.6 Instructs the Chief Officer - Governance to consult the holders of Street Traders Licences and The Chief Constable, Police Scotland on the proposed changes to Street Trader Conditions;
- 2.7 Agree a 3-year duration for a street trader licence; and

- 2.8 Instructs the Chief Officer - Governance to proceed with the consultation process on any revised policy, and report back to this Committee with a final draft of the revised policy by September 2022.

3. BACKGROUND

- 3.1 Section 39 of the Civic Government (Scotland) Act 1982 (the Act) provides that a street trader's licence is 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.
- 3.2 Street trading is defined as 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.
- 3.3 For any activity which involves the sale of food, a street trader must have a Food Safety Certificate issued by the environmental health service of the Council.
- 3.4 The Licensing Committee last reviewed aspects of its Street Trader Policy in 2017.

CURRENT POLICIES AND PROPOSALS

Street Trading, Union Street, pedestrianised area in the City Centre

- 3.5 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.

The following Guideline currently applies:

- 3.6 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."
- 3.7 The rationale for this general prohibition on city centre street trading is in relation to there being 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.
- 3.8 It is recommended that the Committee maintains the current guidelines prohibiting street trading in the city centre and consider if they wish to create any further exclusion zones.

Hot Food Vans

- 3.9 All applications for new hot food and new applicants for existing hot food sites require to be advertised in a local newspaper.
- 3.10 In terms 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 do not constitute premises for the purposes of this provision, these stances do not require to display this notice. The effect of this is that persons in the vicinity may not be aware of the application being made. The Act imposes various advertising obligations on a Licensing Authority, but none in respect of street traders' licences. The Committee does 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.
- 3.11 The Committee resolved in 2010 to retain its policy on the advertisement of new hot food sites in a local newspaper.
- 3.12 Applications are currently advertised in the Evening Express. The applicant pays the advertising cost (currently £100.00 per advert) in addition to the application fee.
- 3.13 The main problem with advertising in a newspaper is that only those members of the public who purchase the Evening Express on a regular basis will have the opportunity to see the advert and therefore a significant number of people could be unaware of the application being made. Within the past 3-year period, there have been 2 objections lodged that can be attributed to the newspaper advertisement.
- 3.14 As there is no requirement for Street Traders to display a notice, it is recommended that the Committee retain the current policy of advertising hot food applications. The Committee will require to continue advertising in a local newspaper as set out in the Act however, it is recommended that these applications are also advertised on Tellme Scotland. Tellme Scotland is a portal for accessing public information notices issued by local authorities across Scotland. On the site, members of the public can search for public notices such as licensing and planning in their area, check roadworks and restriction on any route, search archived notices and register to receive alerts by text or email on notices in their area. This would constitute a free advertising forum for applicants and the Local Authority and would ensure that applications are being advertised on a wider basis.
- 3.15 It is further recommended that any application for a hot food trader in a residential area is referred to committee for a decision rather than the application been determined under delegated powers. The rationale for this is to allow the Committee to determine whether the location is suitable for the proposed activity.

Zones

- 3.16 There are currently nine zones within the Aberdeen City area that apply to all mobile street traders (see appendix A). It has been the practice of the Licensing Team that the zones exclude city parks and Council car parks. Applications in relation to zones one to eight are generally granted via delegated powers provided there are no issues with it. An application in relation to zone nine (the city centre area) requires to be determined by the Committee. There are currently no mobile street traders operating within the city centre zone.
- 3.17 The current system is uncontentious and works well, it is therefore recommended that the Committee maintain these Zones and confirm that they excluded city parks and car parks.
- 3.18 Hot Food vans are currently not permitted to operate on a mobile basis. There does not appear to be any particular reason for this policy and therefore it is recommended that the Committee allow hot food vans, for example a fish and chip van to operate on a mobile basis and that the following condition is added to the standard conditions: (see appendix c)
- 3.19 “Mobile Street Traders shall remain in the same place only for 20 minutes or the time it takes to serve the queueing customers, whichever is the later, and shall then move on. This condition is not applicable to general street traders.”

Duration of the Licence

- 3.20 Street Trader licences are currently granted/renewed for a period of 1 year. The majority of Civic Licences are granted for a period of 3 years. The rationale for restricting the licence to 1 year was to tie in with the food hygiene certificate issued by Environmental Health which was also 1 year. Food hygiene certificates are now issued for 3 years, and it would be reasonable to issue the licence for the same period.
- 3.21 It is recommended that the duration of the licence is increased to 3 years.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report, Tell Me Scotland is a free service to use for both applicants and the Local Authority.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report, although an updated policy on Street Traders will assist the Council with its obligations under the Civic Government (Scotland) Act 1982.

6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Compliance	An unconsolidated policy, which is not regularly reviewed may lead to non-compliance with the Councils obligations.	L	A consolidated policy will ensure the Council is complying with the Civic Government (Scotland) Act 1982.
Reputational	An out-of-date policy may lead to incorrect decisions being made by the Licensing Authority and in turn have a negative impact on the Council	L	The revised policy will ensure that appropriate and justifiable decisions are made.

7. OUTCOMES

The proposals in this report have no impact on the Council Delivery Plan

8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	Not required
Data Protection Impact Assessment	Not required

9. BACKGROUND PAPERS

None

10. APPENDICES

Appendices A – Mobile Street Trading Zones

Appendix B – Amended Licence Conditions

11. REPORT AUTHOR CONTACT DETAILS

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