

REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager 01824 706066
SUBJECT:	Review of Street Trading Policy

1. PURPOSE OF THE REPORT

1.2 For Members to consider the current street trading regime, current difficulties with the regime and suggested improvements to better regulate and support street trading within the County.

2. EXECUTIVE SUMMARY

2.1 To seek the views of Members on the existing street trading regime and to seek approval to consult on a new street trading policy.

3. BACKGROUND INFORMATION

3.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling, exposing or offering articles for sale in a street. The relevant Part of the Act was re-adopted by the Council in June 2002. The definition of a "street" is wide ranging and includes any road, footway, beach or other area to which the public have access without paying and service areas as defined under Section 329 of the Highways Act 1980.

3.2 Certain types of trade are legally exempt from the need to obtain a street trading consent or are regulated by other means or authorities they include:

- Trade by a person acting as a Pedlar under the Authority of a pedlar's certificate granted, under the Pedlars Act 1871, by the any Police Authority
- Trade by a news vendor, selling newspapers and periodicals (The

Big Issue falls in to this category)

- Trade carried on at premises used as petrol filling station or carried on at a premises used as a shop or in a street adjoining the premises so used and as part of the business or shop (subject to highway regulations)
- Trade carried out as a “rounds man”: for example a milkman who would be defined as a tradesman with specified customers, a specified route and delivering to order. (Ice cream vans will not fall into this category and will be expected to gain consent.)
- Any trading carried out on a market or fair operated under a charter or by regulation either directly by a Council or by a third party agent acting on behalf of a Council.

- 3.3 The current application process delegates the granting of all Street Trading consents to the Head of Planning & Public Protection Services in consultation with the Chair of Denbighshire Licensing Committee.
- 3.4 The enforcement of street trading in the County has been made more difficult since there is no clear published Street Trading Policy. Previous Committee resolutions (Appendix A), along with the Licensing Team’s operational guidance have served as the Council practice and policy.
- 3.5 The current Operational Guidance sets out the standards for determining applications for, and the enforcement of, street trading activities for the whole of Denbighshire.
- 3.6 Any person wishing to trade on streets in the County needs to apply for consent from the Licensing Authority. This is because the Licensing Authority has designated all streets in Denbighshire as “Consent Streets” for street trading purposes.
- 3.7 An exception to this is that streets in and around Rhyl & Prestatyn Town Centres are designated as “Prohibited Streets” where no trading is allowed to take place.
- 3.8 Trunk Roads do not come under the control of the Denbighshire County Council for street trading purposes. These are under the control of the North Wales Trunk Road Agency.

- 3.9 We are proposing that a street trading policy should be introduced which clearly sets out the Authority's stance on street trading. It should be noted that the UK Government is currently drafting legislation which could impact on the regulation of street trading. Therefore, any future policy will take into account any new legislative requirements whilst also considering any relevant guidance.
- 3.10 We are also seeking views of Members on, and proposing changes to, the delegations for determining street trading applications. The delegation of reviewing and granting applications that meet any new policy could be given to the Public Protection Manager, with only more contentious application being elevated up to The Head of Planning & Public Protection Services in consultation with the Chair of Denbighshire Licensing Committee or the full Licensing Committee.
- 3.11 Should Members be minded to review the Street Trading Policy they may wish to ask Officers to fully review all fees and charges so as to provide a clear fee structure for all aspects of street trading covered by the proposed policy.

4. RECOMMENDATION

- 4.1 That Members authorise Officers to draft a Street Trading Policy that is fit for purpose.
- 4.2 Should Members be minded to review the Street Trading Policy, they may wish to consider nominating a Member of the Licensing Committee to liaise with Officers whilst the draft policy is being developed and authorise Officers to undertake any necessary consultation before presenting Members with a proposed Street Trading Policy.

Appendix A

Committee Date	Purpose of Report	Resolution
6 June 2002	To consider re-adoption of part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as it relates to the street trading, thereby strengthening the Council's legal position in enforcing the provisions of the Act.	<ul style="list-style-type: none"> • Chair of the Licensing Committee in conjunction with the relevant officers, be authorised to readopt Part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relating to street trading for the whole of the County.
9 September 2002	To consider amending the Council's current policy regarding street trading in Rhyl	<ul style="list-style-type: none"> • subject to there being no adverse comments in response to the requisite public notice, the following streets in Rhyl be designated as "consent" streets for the purposes of Part III, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as relates to street trading with effect from 5th November, 2002 :- <ul style="list-style-type: none"> • High Street - part • Sussex Street - part • Market Street - part • East Parade - part • East Promenade - part • West Parade - part • West Promenade - part • traders will only be permitted to trade in those "consent" streets as detailed above by prior consent of the council subject to specific terms and conditions; • applications for street traders licences shall not be granted to any trader who would be selling any goods or articles considered to be in direct competition with the local retail outlets; • the Head of Public Protection and Regulatory Services be granted delegated powers to deal with applications for street traders licences in consultation with the Chair of the committee, and • the officers report back to the next meeting of the committee with details of the implications and systems to be

		implemented in administering the statutory procedures for issuing and refusing applications for consent to trade together with a site plan identifying the specific parts of those streets designated as consent streets.
5 November 2002	To report on the implications and systems to be implemented in administering the resolution to designate streets in Rhyl as “consent” streets for the purposes of Street Trading.	<ul style="list-style-type: none"> • subject to the inclusion that charitable organisations be exempt from paying the fee for street trading consent, the consent system as outlined in the report of the Head of Public Protection and Regulatory Services be approved
15 March 2011	To introduce changes to the way that street trading is regulated within Denbighshire.	<ul style="list-style-type: none"> • every street in Denbighshire be designated a consent street, except for those already identified as a prohibited street subject to there being no objections during the consultation period and • the fees and charged more closely reflect the work required to issue permits, regulate and enforce street trading, as detailed in the fee structure adopted by Conwy CBC
8 June 2011	To consider amending the Council’s current policy regarding street trading within the whole of Denbighshire To determine charges for issuing street trading consents	<ul style="list-style-type: none"> • with effect from 1 August 2011 every street in Denbighshire be designated a consent street, except for those already identified as a prohibited street; • notice of the above resolution be published in a newspaper for two consecutive weeks, and • the charges for issuing Street Trading Consents as detailed in Appendix A to the report and reproduced below be adopted – <ul style="list-style-type: none"> - 1 day Permit £50 - 1 week Permit £150 - 1 month Permit £225 - 3 month Permit £650 - 6 month Permit £1200 - Annual Permit £2000