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| <b>REPORT TO:</b>       | Licensing Committee                                  |
| <b>DATE:</b>            | 22nd September 2016                                  |
| <b>LEAD OFFICER:</b>    | Head of Planning and Public Protection               |
| <b>CONTACT OFFICER:</b> | Senior Technical Officer (Licensing)<br>01824 706451 |
| <b>SUBJECT:</b>         | Review of Street Trading Policy                      |

**1. PURPOSE OF THE REPORT**

1.1 To inform Members of the progress with regard to a proposed review of the current street trading policy within Denbighshire.

**2. EXECUTIVE SUMMARY**

2.1 To seek the views of Members on an initial draft of the policy and request permission to continue work on the review prior to seeking their approval to consult on the final draft.

**3. BACKGROUND INFORMATION**

3.1 In 2015, Members resolved to authorise officers to review the existing street trading regime in order to address difficulties with the regime and suggest improvements to better regulate and support street trading within the County.

3.2 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.

3.3 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 a 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.

- 3.4 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.
- 3.5 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.
- 3.6 In 2011, the Licensing Committee resolved to designate all streets in Denbighshire as "Consent Streets" for street trading purposes, meaning that any person wishing to trade on streets in the County needs to apply for consent from the Licensing Authority.
- 3.7 There is however an exception to this, which is that some streets in and around Rhyl & Prestatyn Town Centres are designated as "Prohibited Streets where no trading may take place (Appendix C).
- 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.

#### **4.0 OFFICERS COMMENTS**

4.1 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.

4.2 We have previously sought the views of Members on, and proposing changes to, the delegations for determining street trading applications, along with the associated enforcement regime and an initial draft policy has been produced as attached at Appendix B.

4.3 It is intended that a draft policy be put out to public consultation before a final draft is submitted to Members at the Committee Meeting of March 2017. To inform officers, Members are asked to consider whether the following points should be included within the next draft:

4.3.1 A complete review of all fees and charges so as to provide a clear fee structure where the Authority recovers all costs of street trading covered by the proposed policy.

4.3.2 Whether any changes to the current system of consent and prohibited streets would be appropriate, or whether any streets currently designated as prohibited should remain as such.

4.3.3 Members may also wish to consider whether it would be appropriate to introduce a system of "temporary block consents" into any revised policy. Such consents would make it easier for organisers of community events to encourage traders to attend events within their communities, whilst simplifying the application process. Such permissions could be applied for by one applicant on behalf of other traders, ie the organiser of the event.

#### **5.0 RECOMMENDATION**

5.1 That Members authorise Officers to continue work on the draft Street Trading Policy, taking into consideration any relevant forthcoming legislation as mentioned at 3.9 above.

5.2 That Members authorise officers to consult on a draft policy and, taking into account any representations received, produce a final draft for Members' consideration at their Meeting in March 2017.

