



AGENDA ITEM: 9

**LICENSING & APPEALS
COMMITTEE:**

24 JUNE 2014

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

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**SUBJECT: STREET TRADING CONSENT – AMENDED FEE STRUCTURE AND
GUIDANCE**

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To consider proposed amendments to the fee structure and associated guidance and standard conditions for Street Trading Consents issued in the Borough.

2.0 RECOMMENDATIONS

2.1 That the Street Trading Consent fee structure detailed in Table 2 in this report be approved for use with immediate effect.

2.2 That the Street Trading Consent guidance and standard conditions attached at Appendix B to this report be approved for use with immediate effect.

3.0 BACKGROUND

3.1 Members will be aware that the Council has long adopted the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982 to issue Street Trading Consents as a means to regulate street trading within the Borough.

3.2 The fee structure for Street Trading Consents (Consent(s)) has routinely been approved by this Committee, which is supplemented by concise guidance and standard conditions for applicants and existing Consent holders. However, in response to recent enforcement issues and potential changes in the pattern of use of Consents, it is recommended that the Consent fee structure and guidance be reviewed.

4.0 ISSUES

- 4.1 Members will recall the report of 3 December 2013 which amended the fees levied for various licences and permissions, including Consents, in order to ensure compliance with the Provision of Services Regulations 2009. These Regulations state that when setting fees, the only costs that may be brought into account are those of the authorisation scheme itself and therefore the enforcement of the respective authorisation cannot be included in the fee.
- 4.2 Members approved the recommendations contained in the report of 3 December 2013 and therefore the current Consent fee structure is detailed in Table 1. Consent fees are currently applied on an annual basis. A pro rata refund is made for those applicants that cease trading within a given twelve month period.

Table 1

| Street Trading Consent fees 2014/15 | |
|--|---------|
| New application (12 month consent) or pro rata | £538.53 |
| Renewal (12 month consent) or pro rata | £411.67 |
| Variation | £96.43 |
| Replacement Consent | £39.93 |

5.0 PROPOSED FEE STRUCTURE AND GUIDANCE

- 5.1 Officers have seen a potential change in the pattern of use of Consents. The number of seasonal or one-off Consent requests has increased, in addition to more transient enforcement issues such as on-street car sales. In such circumstances, the pro rata fee structure has acted as a barrier to compliance and also places an administrative burden on the Council and the Consent holder.
- 5.2 A scheme of Occasional Consents is therefore proposed as an alternative to the existing pro rata arrangements. Table 2 details these proposed changes:

Table 2

| Street Trading | |
|--|---------|
| New application (12 month Consent) | £538.53 |
| New application (6 month Occasional Consent) | £304.62 |
| New application (3 month Occasional Consent) | £181.20 |
| New application (7 day Occasional Consent) | £75.66 |
| Renewal (12 month Consent) | £411.67 |
| Variation | £96.43 |
| Replacement plate | £39.93 |

- 5.3 All relevant costs have been included in the proposed fees in Table 2. If accepted by Members, the fees would apply with immediate effect and pro rata refunds would no longer be processed, thereby offering improved control for Officers and providing greater clarity for applicants and Consent holders.
- 5.4 The revised guidance and standard conditions attached at Appendix B to this report incorporates the proposed fee structure detailed in Table 2 and clarifies the application process accordingly.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 The operation of the Consent scheme has the potential to impact upon many areas within the Community. The proposal links to the Safer Communities Key Objective of the Sustainable Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 Members will note that the proposed fees in Table 2 are largely unchanged from the existing fees and therefore income is not expected to be adversely affected as the majority of existing Consent holders operate on an annual basis. However, where Officers identify seasonal or short term Consent issues, it is hoped that the availability of simple lower rate Occasional Consent fees will provide businesses with increased opportunity to trade within the Consent regime and thereby encourage compliance and increase Consent fee income.

8.0 RISK ASSESSMENT

- 8.1 The Council has a legal duty to carry out the functions of the legislation that dictates the proposed fees contained in this report. The proposed fees contained in this report are levied at a rate that serves to cover the costs to the Council in a manner that is clear and concise. Accordingly, there is a potential impact upon Consent holders and prospective applicants.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

- A. Equality Impact Assessment.
- B. Street Trading Consents - Guidance and Standard Conditions

Appendix A
Equality Impact Assessment - process for services, policies, projects and strategies

| | |
|--|--|
| <p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: <i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p> | <p><i>No. Whilst the proposed fee and charge increases may have an impact upon Consent holders, which may in turn, be passed on to the customer; the fees and charges set out in this report apply equally to all persons requiring a Consent.</i></p> |
| <p>2. What sources of information have you used to come to this decision?</p> | <p><i>Legislation requires that all Consents attract a fee, without exception.</i></p> |
| <p>3. How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p> | <p><i>There is no requirement in the legislation to publish proposed fees prior to adoption.</i></p> |
| <p>4. Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:- <i>Eliminate discrimination, harassment and victimisation;</i> <i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of</i></p> | <p><i>No. The recommendations contained in this report apply only to the Consents required under relevant legislation.</i></p> |

| | |
|---|------------------------------|
| <p><i>people);</i></p> <p><i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p> | |
| <p>5. What actions will you take to address any issues raised in your answers above?</p> | <p><i>None required.</i></p> |

Appendix B



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Local Government (Miscellaneous Provisions) Act 1982 Street Trading Consents Guidance and Standard Conditions

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1.0 Introduction

- 1.1 This document outlines the approach West Lancashire Borough Council (the Council) will take in respect of Street Trading. This document is provided for guidance only and is not exhaustive. Reference should also be made to Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 Street Trading is often carried out from a vehicle, trailer, stall or similar. For ease of reference, these will be referred to as “vehicle” or “vehicles” in this document.
- 1.3 The Council’s Assistant Director Community Services is granted delegated authority to administer the Street Trading Consent scheme, including the grant and renewal of Street Trading Consents (a Consent) in accordance with this document. In practice, this responsibility is discharged by the Commercial, Safety and Licensing Section.

2.0 What is ‘Street Trading’?

- 2.1 The Local Government (Miscellaneous Provisions) Act 1982 defines Street Trading as the selling or exposing or offering for sale of any article (including a living thing) in a street.
- 2.2 This definition would include the following activities as they are normally understood:
 - (i) Mobile food vendors (e.g. burger vans, ice cream vans);
 - (ii) Mobile non food vendors (e.g. florists, clothing, cleaning / hardware products);
 - (iii) ‘Road side’ car sales.

Prospective applicants should note that this list is not exhaustive and should contact the Licensing Service for more information.

- 2.3 West Lancashire Borough Council has designated all streets within the Borough as “consent streets” under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. This has the effect of prohibiting street trading on any *consent street* in the Council’s area with certain exceptions unless the seller holds a valid consent to trade issued by the Council.
- 2.4 A “consent street” includes any road, footway, beach or other area to which the public have access without payment and service area as defined in Section 329 of the Highways Act 1980, and Section 1 (1)(a) of Schedule 4 Local Government (Miscellaneous Provisions) Act 1982. Therefore, Street Trading controls also apply to private property if members of the public can gain access without payment – this would include public and private car parks, shopping centres and leisure areas.
- 2.5 The holder of a Consent can trade from any appropriate location (a pitch) in a Consent Street or operate as a mobile unit (e.g. ice cream vendors) so long as relevant legislation and the content and conditions of the respective Consent are complied with.

2.6 A Consent is not required for any of the following:

- (a) trading under the authority of a Pedlars Certificate granted under the Pedlars Act 1871;
- (b) anything done in a Market or Fair, the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a trunk road picnic area provided under the Highways Act 1980;
- (d) trading at a petrol filling station;
- (e) trading on a street adjoining a shop where the trading carried on is part of the business of that shop, (which may be an offence under the Highways Act);
- (f) trading as a news vendor where:
 - (i) the only articles sold or offered for sale are newspapers and periodicals and
 - (ii) the stall or receptacle (if one is used) does not:
 - exceed 1 metre in length or width and 2m in height,
 - exceed a ground area of 0.25 square metres,
 - stand on the carriageway of a street.

2.7 A Consent will not be granted to any person less than 17 years of age.

3.0 Choosing a location to trade

3.1 There are several restrictions that may prevent Street Trading. Applicants are advised to research a prospective pitch very carefully - particularly before making any significant investment (i.e. the purchase of a vehicle and/or equipment).

3.2 Every street within the Borough is designated either a *Prohibited Street* or a *Consent Street*.

3.3 Street Trading is not allowed on a Prohibited Street. However, Street Trading is allowed on a Consent Street, but only if the trader has obtained prior Consent from the Council.

3.4 The Prohibited Streets in West Lancashire are:

- **All Council-owned car parks;**
- **Moor Street, Ormskirk** - from the Clock Tower to the junction with Railway Road;
- **Aughton Street, Ormskirk** - from the Clock Tower to the junction with Park Road;
- **Church Street, Ormskirk** - from the Clock Tower to the junction with Park Road;
- **Market Way, Ormskirk** - for the entire length;

- **Moorgate, Ormskirk** - from Moor Street to Park Road;
- **Burscough Street, Ormskirk** - from the Clock Tower to Derby Street West.

The above streets are only designated as Prohibited Streets on Thursdays and Saturdays during the hours of 07:00-19:00, and any other days and times during which Ormskirk Market operates. However, vehicles are prohibited from most of these streets at all times by virtue of Traffic Regulations.

- 3.5 The Consent Streets in West Lancashire are all streets other than Prohibited Streets, including all forecourts, roads, footways or other areas adjacent to the streets.
- 3.6 When deciding upon a prospective pitch, applicants must therefore ensure that the pitch is located on a Consent Street and not a Prohibited Street.
- 3.7 Applicants should also be aware of the following restrictions when choosing a prospective pitch:
- (i) Street Trading is not permitted within 50 metres of any existing establishment selling the same or similar goods;
 - (ii) Consent holders may only trade from the location(s) identified on their Consent - for mobile traders (e.g. ice cream vendors), this may be the whole or sections of the Borough;
 - (iii) A Consent issued by the Council cannot be used in the area of another Local Authority;
 - (iv) If the prospective pitch is on or adjacent to a highway, written confirmation from Lancashire County Council Highways Service (which can be contacted on 0845 0530011 or highways@lancashire.gov.uk) will be required to ensure that the prospective pitch will not cause an obstruction or breach any restriction on the highway. Evidence of this confirmation would be required in the application;
 - (v) If the prospective pitch is on a Council maintained Park, Garden or Public Open Space, written approval will be required from the Council's Assistant Director Community Services (or suitable deputy). Evidence of this approval would be required in the application;
 - (vi) If the prospective pitch is on private land, written approval from the landowner will be required. Evidence of this approval would be required in the application;
 - (vii) Planning permission may be required if the intent is to trade from the same prospective pitch on a regular basis. Please contact the Council's Planning Service on 01695 585130 for further information.

4.0 Duration of Consents

- 4.1 Two types of Consent are available – Full or Occasional. A Full Consent is granted for a period of 12 months and can be renewed on expiry. An Occasional Consent can be issued for a period of 6 months, 3 months or 1 week. Occasional Consents are available for short duration or one-off events and therefore cannot be renewed. Applicants should note that a Consent can be revoked at any time.

- 4.2 A fee is charged for all Consent applications. The fee will vary depending on the duration of the Consent. The schedule of fees is available from the Licensing Service.
- 4.3 If an application is refused, the application fee will be refunded minus an administrative charge.
- 4.4 If a Consent is revoked or surrendered before its expiry date, a pro rata refund will be made calculated upon the number of whole months remaining before the expiry date, minus an administrative charge. Surrendered Consents must be returned to the Council.

5.0 Suitability of applicants, assistants and vehicles

Applicants and assistants

- 5.1 If there are any convictions and/or cautions declared on the corresponding application form in relation to applicants and/or stated assistants that give the Assistant Director Community Services sufficient concern that the Consent should not be granted, the application will be refused.
- 5.2 Each application will be treated on its merits. However, as a guide to applicants, the following would normally result in an application being refused:
- Any convictions and/or formal cautions for serious offences, for example theft, burglary etc. within the 20 year period prior to the date of application;
 - Any convictions and/or formal cautions for violence or threats of violence, for example assault, grievous bodily harm, wounding etc. within the 20 year period prior to the date of application;
 - Any convictions and/or formal cautions for sexual and/or indecency offences
 - Any convictions for serious aggravated offences, for example manslaughter, murder etc.;
 - Any convictions and/or formal cautions for drunken and/or disorderly behaviour (including such offences involving a motor vehicle) within the 20 year period prior to the date of application;
 - Any convictions and/or formal cautions for dealing, possession and/or use of drugs (including such offences involving a motor vehicle) within the 20 year period prior to the date of application;
 - Any convictions and/or formal cautions for deception and/or fraud within the 20 year period prior to the date of application;
 - Any convictions and/or formal cautions that demonstrate a pattern of unacceptable behaviour, for example a series of speeding offences;
 - Any other conviction and/or formal caution or other matter that would suggest that the applicant is not a fit and proper person to hold the respective licence.

Vehicles

- 5.2 A Consent will normally be granted in respect of purpose built motor vehicles or catering trailers. Whilst each application will be assessed on its merits,

converted vehicles or vehicles that are in poor structural and/or mechanical condition will normally be deemed unsuitable for Street Trading. The vehicle will also be deemed unsuitable if the Assistant Director Community Services does not consider the vehicle to comply with relevant legislation – see Section 6.0. Where a vehicle is deemed unsuitable, the application will be refused.

- 5.3 Any trading name, artwork or advertising on the Consent vehicle must be professionally produced and/or created using pre-printed adhesive lettering. All signs and other artwork must be approved by the Assistant Director Community Services. Whilst each application will be assessed on its merits, trading names, artwork or advertising that are considered of a poor condition, derogatory, offensive and/or inflammatory would normally be deemed unsuitable for Street Trading. If any aspect of the trading name, artwork or advertising is deemed unsuitable, the application will be refused.

6.0 New applications

- 6.1 New applications must be submitted using the appropriate application form and be accompanied by the relevant fee. Applications must include:

- A completed application form;
- Proof of applicant's home address – utility bill, bank statement etc.;
- Evidence of public liability insurance of £2,000,000;
- A declaration of convictions / cautions;
- 1 passport style photograph of the proposed Consent holder and any person(s) employed as a registered assistant – full name(s) to be provided for each of the image(s);
- 2 photographs of the vehicle (front and side view);
- A scale plan of the location prospective pitch;
- Full DVLA driving licence covering the class of vehicle to be driven, or towed, in accordance with the Consent. Separate licences should be submitted for each person required to drive the vehicle;
- Current VOSA MOT test certificate of the vehicle to be driven, or towed, in accordance with the Consent;
- Current insurance certificate for the vehicle to be driven, or towed, in accordance with the Consent, registered in the applicant's name;
- Vehicle registration document for the vehicle to be driven, or towed, in accordance with the Consent, registered in the applicant's name;
- Any other supporting documentation that may be required in accordance with paragraph 3.7.

- 6.2 Upon receipt, all new applications will be assessed to ensure the application and supporting documentation complies with the requirements of this document. If the application is substantially incorrect and/or incomplete, the application will be returned.

- 6.3 If any matters are revealed in the application that gives the Assistant Director Community Services sufficient concern that the Consent should not be issued, the application will be refused.

- 6.4 Once the application has been assessed, and if the vehicle has not been subject to an intervention under the Council's normal arrangements for food safety compliance, the applicant will be instructed to arrange for the vehicle to be inspected by one of the Council's Food Safety / Health and Safety Officers. This inspection is carried out to ensure the vehicle, and its operation, are broadly compliant with food safety / health and safety legislation.
- 6.5 If the vehicle and its operation pass the inspection, the Consent will be granted. The applicant will be provided with a copy of the Consent and an identification plate. The identification plate must be affixed to the vehicle in a conspicuous position and be displayed at all times.
- 6.6 If the vehicle and/or its operation fail the inspection, the application will be refused.
- 6.7 It is the responsibility of all new applicants to arrange the inspection, by contacting:
West Lancashire Borough Council
Commercial Safety Service
Robert Hodge Centre
Stanley Way
Skelmersdale WN8 8EE
Telephone: 01695 577177

7.0 Renewal applications

- 7.1 A current 12 month Consent can be renewed up to one month before its expiry date. Renewal applications must be submitted using the appropriate application form and be accompanied by the relevant fee. The application must include:
- A completed application form;
 - Evidence of public liability insurance of £2,000,000;
 - A declaration of any additional convictions / cautions since the issue of the previous Consent;
 - Full DVLA driving licence covering the class of vehicle to be driven, or towed, in accordance with the Consent. Separate licences should be submitted for each person required to drive the vehicle;
 - Current VOSA MOT test certificate of the vehicle to be driven, or towed, in accordance with the Consent;
 - Current insurance certificate for the vehicle to be driven, or towed, in accordance with the Consent, registered in the applicant's name;
 - Vehicle registration document for the vehicle to be driven, or towed, in accordance with the Consent, registered in the applicant's name;
 - If the applicant has changed address to that stated on the previous Consent, proof of applicant's home address – utility bill, bank statement etc.;
 - If the applicant wishes to change any person stated on the Consent, 1 passport style photograph of each person not stated on the previous Consent – full name(s) to be provided for each of the image(s);
 - If the applicant proposes to change the vehicle stated on the Consent, 2 photographs of the replacement vehicle (front and side view);

- If the applicant proposes to change the trading location stated on the Consent), a scale plan of the location prospective pitch;
- If the applicant proposes to change any relevant aspects of the Consent, any other supporting documentation that may be required in accordance with paragraph 3.7.

7.2 The vehicle will not require a food hygiene inspection as part of a renewal application. This is because the vehicle will be subject to the same intervention regime as all other commercial food premises within the Borough. However, if the applicant wishes to change the vehicle upon the renewal of the Consent, or at any time, and it has not been subject to an intervention under the Council's normal arrangements for food safety compliance, it will require inspection in the same manner as a new application.

7.3 Upon receipt, all renewal applications will be assessed to ensure the application and supporting documentation complies with the requirements of this document. If the application is substantially incorrect and/or incomplete, the application will be returned.

7.4 If any matters are revealed in the application that gives the Assistant Director Community Services sufficient concern that the Consent should not be granted, the application will be refused.

7.5 Once the application has been assessed, one of the Council's Food Safety / Health and Safety Officers will be consulted to ascertain whether there are any factors resulting from routine inspections, investigations and/or complaints that would necessitate refusal of the renewal application.

7.6 If no objections are received, the Consent will be granted. The old identification plate must be removed from the vehicle and returned to the Licensing Service. A new identification plate will not be issued unless the old identification plate has been returned. Once the old identification plate has been received, the applicant will be provided with a copy of the new Consent and a new identification plate. The new identification plate must be affixed to the vehicle in a conspicuous position and be displayed at all times.

7.7 If objections are submitted, the application will be refused.

8.0 Changes to existing Consents

8.1 If an existing Consent holder wishes to amend any aspect of their Consent they must submit a variation application. An administrative charge is made for all such applications.

8.2 Dependant upon the nature of the variation, additional information may be required as part of the application. For example:

- If a Consent holder wishes to change the vehicle, the replacement vehicle must comply with the requirements in this document and the application must contain the required information for the vehicle – see Section 6.0.

- If a Consent holder wishes to trade from a different location, they must observe the restrictions detailed in Section 3.0. and provide any supplementary information as needed.

8.3 Only once a variation application has been determined and a revised Consent issued will the Consent holder be allowed to trade in accordance with the amended Consent.

9.0 Determination and decisions

9.1 If the application has been granted or renewed, the applicant will be notified in writing.

9.2 The Assistant Director Community Services may, in granting or renewing a Consent, impose any such conditions as considered reasonably necessary. In addition, the standard conditions detailed in Appendix 1 will be applied to all Consents.

9.3 All applications will be subject to a consultation with Lancashire Constabulary, any information or concerns raised will be taken into consideration when determining the application.

9.4 Where the Assistant Director Community Services refuses an application for a Full Consent or revokes an existing Full Consent, the applicant / Consent holder will be provided with written reasons for that decision. If the applicant / Consent holder disagrees with the decision, the matter will be referred to the Licensing and Appeals Committee for determination.

9.5 Where the Assistant Director Community Services refuses an application for an Occasional Consent or revokes an existing Occasional Consent, the applicant / Consent holder will be provided with written reasons for that decision. The matter will not be routinely referred to the Licensing and Appeals Committee for further determination.

9.6 If the Council receives more than one application to trade from the same location, the applications will be referred to the Licensing and Appeals Committee for determination.

10.0 Revocation and enforcement

10.1 The Council expects all Consent holders to operate within the law and abide by the content and conditions of the respective Consent. It is also important that illegal operations are prevented.

10.2 Where the Council considers enforcement necessary, any such action will be taken in accordance with the Community Services Enforcement Policy (which is available from the Assistant Director Community Services, using the contact details on this document). To this end, the key principles of consistency, transparency and proportionality will be maintained.

- 10.3 The Council will make arrangements to monitor Consented or illegal operations and take appropriate enforcement action. Enforcement visits will therefore be carried out as a response to a complaint(s) or as part of a proactive risk based inspection regime and/or targeted initiative.
- 10.4 Where possible and appropriate the Council will give early warning to Consent holders of any concerns and the need for improvement. Where identified problems are not remedied within a reasonable time, or are sufficiently serious to warrant more immediate action, the Assistant Director Community Services will revoke the Consent. If the Consent holder disagrees with this action, the matter will be referred to the Licensing and Appeals Committee for determination.

Appendix 1: Standard Conditions applicable to all Street Trading Consents

General

- 1.1 The Consent granted by the Council is personal to the Consent holder and is not transferable to any other person. Where the Consent holder employs any other person(s) to assist him/her, a further Consent will not be required. However the names of such employees must have been previously notified to, and approved by, the Council in writing.
- 1.2 The conditions of this Consent apply equally to a person assisting the Consent holder in his/her trading as the Consent holder.
- 1.3 The Consent holder shall notify the Council in writing of any conviction/caution recorded against him/her by any court within seven days of such conviction being imposed.
- 1.4 The Consent holder shall be covered by Public Liability Insurance of not less than £2,000,000. The Consent holder must provide evidence of this to the Council, if requested, and make it available for inspection during all trading times.
- 1.5 The Consent holder may only trade from the location(s) specified on the Consent.
- 1.6 Only the trading name(s), artwork or advertising which have received written approval from the Council shall be used / displayed on the vehicle, trailer or stall.
- 1.7 The Consent holder shall ensure that the Consent identification plate supplied by the Council is affixed to the exterior of the vehicle, trailer or stall in a conspicuous position and remains displayed at all times.
- 1.8 Only those goods specified in the Consent may be sold.
- 1.9 Street Trading is not permitted within 50 metres of any existing establishment selling the same or similar goods.
- 1.10 While street trading, the Consent holder shall not cause nuisance or annoyance, whether to persons using the street, nearby residents, or otherwise.
- 1.11 The Consent holder shall not obstruct the street in which he/she is street trading or cause danger to persons using that street. Free passage of pedestrians, including wheelchairs, prams, etc. must be maintained and there must be no obstruction of visibility at road junctions.
- 1.12 The Consent holder shall ensure that refuse and litter arising from their street trading is not deposited in the street and shall provide adequate receptacles for rubbish, and remove all rubbish and litter from the site.
- 1.13 The Consent holder shall comply with all relevant legislation in the conduct of the street trading business and provide details of this Consent to any authorised Officer of the Council or Police Officer.

Appendix 2: Health and Safety advice for Street Trading Consent holders

As far as possible, accidents at work should be anticipated and prevented by the use of safe systems of work, safe equipment and the proper training and supervision of staff. When accidents do occur, arrangements for first aid, summoning of medical assistance, investigation and reporting should be clear.

Construction and suitability of the vehicle

Vehicles must be of an adequate size to work safely. A safe entry/exit to the vehicle must be provided, particularly where public have access. Extra care is required in mobile vehicles as mains power is not usually available and bottled gas and electricity generators may be used.

Liquid Petroleum Gas (LPG)

LPG is almost universally used in vehicles as a convenient and safe source of heat for cooking. However, it can form a highly explosive mixture when mixed with air, particularly in enclosed spaces. Great care must be taken to avoid leaks of gas into the cooking area where there are naked flames.

Where LPG is used:

- All LPG cylinders, regulators and change-over devices should be located in the open air or housed in a separate, well ventilated, fire-resistant compartment. Compartments should be ventilated at low and high level to the external air only and should have access exclusively from outside the vehicle (to enable safe access to shut off the cylinders in case of fire).
- Where LPG cylinders are located to the open they should be enclosed in a suitable enclosure which is locked to prevent unauthorised access.
- The cylinders should be fitted upright and fastened securely during transit and use. All valves and appliance controls should be turned off whilst the vehicle is in motion.
- Cylinders should preferably be connected by means of an automatic changeover device. This device should be connected to both service and reserve cylinder and will automatically divert the supply from service to reserve when the service cylinder is empty. This will ensure an uninterrupted supply and will eliminate the need to change cylinders manually whilst food handling is being carried out.
- The storage compartment should be used solely for the storage of LPG cylinders, associated pressure regulation equipment and specialist tools as necessary.
- Storage compartments should be constructed of non-combustible material and provide at least 30 minutes fire resistance.

Flexible LPG Hoses

Flexible LPG hoses should be of high pressured type (BS3212 part 2) where fitted between cylinder and regulator and of the low pressure type (BS3212 part 1) in all other areas. Tubing should be kept as short as possible and properly secured by integral threads, crimping or hose clips. Worm driven (jubilee) clips are not considered suitable.

Where subjected to temperatures above 50°C, LPG hose should be braided or armoured. Where they pass through walls or partitions they should be protected against abrasion damage by rubber grommets.

Liquid Petroleum Gas attacks rubber and it is recommended that flexible hoses should be replaced after two years use.

Rigid LPG Pipe work

Internal gas supply pipe work should be of drawn copper or stainless steel tubing with appropriate compression or screw fittings. Flexible hose should only be utilised internally at connections to appliances.

No pipe work should be run through box sections or structured cavities but should be visible or at least easily accessible. Pipe work should be adequately supported at intervals not exceeding 1 metre (0.5 metres for soft copper tubing) and protected against abrasion by rubber grommets where it passes through walls or partitions.

As a minimum requirement, LPG pipe work should be provided with a shut-off tap fitted prior to the first gas appliances on the line and easily accessible to persons working on the unit. It is recommended however, that where possible shut off taps are installed immediately before each appliance. All such taps should have their open and closed positions clearly indicated upon them.

Appliances should be manufactured to British Standard and suitable for use with LPG. They should be fitted with flame failure devices which shut off the gas to the main burner if the flame goes out. Appliances should be installed, maintained and serviced to manufacturers/suppliers instructions and securely fastened to avoid any movement. Adequate ventilation should be provided and a suitable flue fitted where the design of the appliances requires such.

Catering appliances should not be left unattended whilst in use and should not be lit whilst the vehicle is in motion (unless fitted with a flame failure device, an adequate flue if in a vehicle, properly secured and not showing any naked flame).

All persons working in mobile catering units should have adequate instructions, information and training including the dangers associated with LPG, the action to be taken in the event of an emergency and safe method of changing cylinders. Compartments housing cylinders should be clearly marked 'LPG – HIGHLY FLAMMABLE – NO SMOKING'. Suitable fire extinguishers/blankets must be provided in all vehicles with LPG installation.

You must ensure that gas appliances, flues, pipe work and safety devices are maintained in a safe condition. They should be installed and inspected by a competent person. In practical terms, CORGI registration is the clearest way of demonstrating competence. As a general rule annual inspections will be a reasonable minimum frequency. A visual inspection of the containers, pipe work, appliances, vents and flues should be made each working day.

Cooking Equipment

At fryers, including fish and chip ranges, an automatic high temperature limit device should be fitted which will shut off the gas supply to the main burner if the temperature of the frying medium exceeds 230°C. An automatic temperature control should be fitted to control the temperature of the frying medium with a maximum setting 205°C.

Handling Hot Fat/Oil

The main hazard associated with hot fat or oil is burns. This can be caused by splashes when food or the basket is dropped carelessly, or if it spits or boils over if there is excess water or moisture in the food. Where there is hot oil or fat there is a major fire hazard. If the oil is spilled or splashed onto the floor it can cause slips. If filtering of oil is undertaken the oil must be cold to prevent the risk of serious injury.

The following safety measures should be adhered to:

- Check that the oil is up to the oil level mark.
- Do not overfill.
- Break up dripping or fat into lumps.
- Do not top up with oil from large containers.
- Do not leave the fryer unattended while in use.
- Check the food is dry before immersing in hot oil. Brush off ice crystals carefully.
- Do not overload the basket.
- Do not let the basket drop into the oil.
- Take care when shaking food in the basket.
- Clean up spills or drips from the floor immediately.
- Allow the oil to cool before draining. The removal of oil should always be done when it has cooled sufficiently so as not to present a risk of burning or scalding.
- Turn off the fryer before cleaning and allow the oil to cool. Clean in accordance with the manufacturers' handbook.
- Have appropriate fire fighting equipment and fire blanket near the fryer with a sign explaining what to do in the event of a fire.

Electrical Equipment

All electrical equipment must be of a suitable type and installed/maintained by a competent person so that it is safe. Batteries must be secured in a suitable compartment. Where generators are used they must be sited so that they do not cause nuisance to the occupiers of nearby premises.

Hazardous Substances

Some products and substances used on a mobile vehicle are hazardous. This could include cleaning chemicals, degreasers, adhesives and vehicle exhaust gases. The way you work should be organised so that the risk from using these substances is minimised and the likelihood of any accidents is reduced. Certain hazardous substances are covered by the Control of Substances Hazardous to Health Regulations 2006 (COSHH). You need to decide what safety precautions you need to take for any harmful substances you use. This might include:

- Finding a safer alternative;
- Providing good ventilation;
- Making sure chemicals are stored and disposed of properly;
- Making sure staff are adequately trained or instructed to the manufacturers instructions;
- Providing protective clothing such as rubber gloves or goggles.

First Aid Kit

An adequate first aid kit must be provided and be available at all times. It is recommended that this should include blue 'food grade' plasters and a finger stall. It is also recommended that at least one person should have received emergency first aid training.

Reporting Accidents

If you or one of your employees has an accident at work that results in a three day absence from work, it should be reported to the HSE Incident Contact Centre Tel: 0845 300 9923 or reported online using the website: www.riddor.gov.uk

Appendix 3: Food Hygiene advice for Street Trading Consent holders

Food Premises Registration

In addition to your Street Trading Consent your food business will need to be registered with the local authority where your vehicle is normally stored. There is no charge for registration.

Registration ensures that the local authority is aware of your business so that they may offer advice and carry out inspections as necessary. Whether registered or not, your food vehicle will be subject to inspection on a regular basis by food enforcement officers from the Council's Commercial Safety team.

Suitability of vehicles/trailers/stalls

Vehicles which sell food must be of a type which is suitable for use as a catering or food sales unit. Purpose made vehicles are preferred. Vehicles must be of an adequate size to allow food to be prepared hygienically. Ideally the cab should be separate from the food area. Where this is not possible, it must be constructed so that it can be cleaned easily.

Where food is sold from stalls or barrows they must be constructed so they are easy to clean and so that food is protected from risk of contamination from passing traffic and the public.

Construction of vehicles

The important factor to remember is to make cleaning as easy as possible.

Floors should be covered with non-slip impervious material. The edges should be sealed and ideally coved to make cleaning easy. Ensure all floor coverings are securely fastened down, with no edges or lips to cause a tripping hazard. The flooring should be made from a material that remains slip resistant when wet. Never place cardboard boxes on the floor when wet, this causes a trip hazard.

Walls, ceilings and doors must be smooth, washable and easy to clean. Joints must be sealed and kept to a minimum. Suitable surfaces are stainless steel, plastic sheet materials, gloss paint etc. A heat resistant, easy to clean surface such as stainless steel will be required near to cooking equipment.

As far as possible, all internal structures must be free of ledges and projections to avoid dirt traps. Joints between work surfaces could be a dirt trap and should be properly sealed. It is recommended that the junctions between preparation surfaces and walls are sealed with a suitable silicone sealant.

Work surfaces, storage units, equipment etc.

All working surfaces, cupboard areas and shelving must be capable of being easily cleaned. Suitable preparation surfaces are stainless steel and laminated plastic. Cupboards and storage units should preferably be finished with a laminated surface. Gloss painted or varnished timber is acceptable but is less durable.

Cooking equipment should be maintained in a clean hygienic condition at all times and all combustible materials adjacent or above the equipment must be properly fireproofed.

All equipment must be in good condition and capable of being easily cleaned. Catering grade equipment is recommended. Equipment must be secured but access should be provided for cleaning beneath and behind.

Cold storage of food

Traders must be aware that the Food Hygiene (England) Regulations 2006 require food businesses to make sure that the food they sell is safe and that it is kept at the correct temperature.

Where “high risk” foods such as cooked meats, cheese, cream or milk are sold, a suitable refrigerator of adequate size should be provided to maintain such foods at low temperatures (Ideally 0°C to 5°C). In very limited circumstances the use of cool boxes and freezer packs is acceptable for storing food for short periods. However, frequent opening and closing allows temperatures to rise so their effective use is limited.

In the case of fish, ice should be provided for keeping the temperature down to 5°C or below. Food must not be displayed in direct sunlight as it will increase the temperature of the food.

Suitable thermometers should be provided in all fridges and freezers so that temperatures can be checked daily.

Effective separation must be maintained between raw and cooked foods to prevent cross-contamination of food poisoning bacteria. Separate refrigerator accommodation should be considered for raw and cooked foods. Food which is not pre-packed must be protected from the risk of contamination by keeping in suitable lidded containers or covering with food wrap.

Freezers should operate at -18°C or colder.

Cooking and hot storage of food

It is important that food such as burgers and sausages are cooked thoroughly to temperatures above 75°C. In particular, burgers must be cooked until the juices run clear and there are no pink bits inside.

Where possible it is safer to cook food freshly and serve it immediately. However, if food is to be kept hot for any period of time a bain-marie or other equipment must be provided which will keep the food above 63°C.

A suitable probe thermometer should be kept in the vehicle and regular temperature checks carried out to ensure that correct temperatures are maintained, e.g. food being stored in the bain-marie.

Washing Facilities

Adequate washing facilities must be provided in all units where ‘high-risk’ foods such as hot dogs, burgers, ice cream etc. are sold.

Separate washing facilities must be provided for hand washing and preparing food/washing equipment. This is necessary to reduce the risk of cross contamination of food poisoning bacteria. Plastic bowls and flasks of hot water are not acceptable.

In catering units such as ice cream vans and fast food units where only a small amount of food preparation is undertaken and few utensils are used, a purpose-made double unit manufactured for mobile traders comprising a small hand basin and sink will be acceptable.

Hand Washing

Where open food is sold, a purpose-made wash hand basin must be installed for personal use only, complete with an adequate supply of hot and cold water (or hot water at a suitably controlled temperature). Soap or detergent and a hygienic means of drying hands (i.e. paper towels) must be provided.

Equipment Washing

The number of sinks required will depend on the size of the business and the amount of equipment to be washed. For example in catering units using crockery and cutlery for serving food, a double-bowled sink with integral drainer would be recommended, however a minimum of one sink should be provided. Sinks should be large enough for the equipment to be washed. An adequate supply of hot water and cold water must be provided.

In ice cream vehicles you must ensure that you use the appropriate cleaning detergent and disinfectant to clean out the soft ice cream dispenser and tank. Follow the manufacturer's instructions on how to clean and use the correct amount of cleaning material.

Cleaning and disinfecting chemicals must be suitable for use with food. It is recommended that a bactericidal detergent is used to allow effective cleaning and disinfection.

The utensils such as ice cream scoops should be rinsed and sanitised frequently. This can be achieved by placing two containers containing sanitising solution within easy reach of the ice-cream freezer. One container should be used for rinsing off the ice-cream and the other for sanitising the utensils. Both containers should be emptied and refilled with fresh solution at least once every hour.

Water Supply

Water must be supplied directly to the wash basin and sink(s) from taps located immediately above them. The use of jugs to carry hot water from a boiler to sinks or wash hand basins is not acceptable.

Water tanks or food grade storage containers (minimum 10 gallon capacity) should be cleaned regularly ideally with disinfectant suitable for food use. Suitable tablets can be purchased from camping/caravan shops and some supermarkets.

An adequate supply of hot water must be provided to all sinks and wash hand basins e.g. from an instantaneous gas multipoint water heater of a type normally fitted in caravans. These are capable of supplying a number of outlets with adequate hot water, the temperature of which can be controlled. Electrically operated pump draws water from a plastic storage container, pumps it through the appliance, where it is heated instantaneously and delivers it to the outlet over the sink or wash-hand basin.

It is strongly recommended that pipes and water bottles are cleaned on a weekly basis with appropriate cleaning chemicals such as Milton.

Waste Water/Refuse Storage and Disposal

Waste water must be piped direct from washing facilities into sealed containers or tanks. These should be cleaned regularly. Waste water must not be discharged into road gullies or onto the ground.

Refuse must be stored in suitable lidded bins (preferably foot pedal operated). Bins must be emptied at least daily. Where necessary, a suitable number of bins must be provided for customer's litter. All refuse produced by the business should be removed from the site and disposed of properly to avoid any nuisance or attraction to vermin or insects.

Lighting

Adequate natural or artificial lighting must be provided to allow food to be prepared hygienically and for staff to work safely. Fluorescent lights are a good source of illumination. It is recommended that bulbs and tubes are fitted with suitable diffusers.

Ventilation

Adequate ventilation is needed to keep working temperatures in the vehicle comfortable and remove the products of combustion.

Adequate ventilation must be provided above all cooking equipment. Ventilation from frying ranges should be direct through the ceiling or wall at the rear of the appliance. A suitable canopy must be provided above deep fat fryers, griddles etc. Grease filters are recommended. The flue should terminate at least 300mm above the roof of the vehicle and be fitted with a suitable cowl or similar to prevent rain from entering.

Sanitary Accommodation

Where traders operate on the same site throughout their trading period, arrangements should be made for access to a toilet in nearby premises, or a toilet must be provided.

If sanitary accommodation is provided inside the unit it must be suitably ventilated to the external air and entered through a ventilated lobby or from the outside of the vehicle. A wash hand basin complete with an adequate supply of hot and cold water (or hot water at a suitable controlled temperature) should be provided, complete with soap or detergent and a means of drying hands (i.e. paper towels).

Food Safety Management System

The Food Hygiene (England) Regulations 2006 require all food business operators to have a written food safety management system based on HACCP principles [HACCP stands for Hazard Analysis Critical Control Points, and is a simple process you must use to try and make sure that any food you prepare is safe for your customers to eat. It helps you to protect your customers, can save wastage and is therefore good for business.]

Food safety management is not new and much of it has in fact been a legal requirement since 1995. However you are now also required to provide some simple written evidence that your procedures ensure food safety have been thought through carefully and are being properly applied, and that the food prepared or sold by you is safe to eat.

In simple terms this means that you must look at the operation from start to finish, decide which parts of it might lead to the food which you serve or sell becoming unsafe to eat and take action to prevent this from happening.

Officers from the Council's Commercial Safety team will expect to see a brief written explanation of your system when they carry out an inspection and any monitoring records, (such as food temperature records) which demonstrate that system is being properly applied. The Food Standards Agency has produced guidance called 'Safer Food, Better Business' (SFBB) which will guide you through how to comply and provide the necessary documentation, which are available at www.food.gov.uk Alternatively you can adopt a traditional HACCP approach.

Traceability

You are required to have traceability for your food business. For example, you must be able to identify the suppliers where you source your products/ingredients. You should keep invoices or receipts for inspection. Ice cream traders must be able to show that ice cream mix is adequately labelled with such information as date coding and manufacturer details. You may not be issued with a Street Trading Consent if it is found that you have containers of ice cream mix that are not correctly labelled.

Allergens

Some people have allergies to certain foods such as nuts, seeds, milk, etc. You may be asked by a customer if food is free from such as allergens as nuts or milk. You need to ensure that you have adequate procedures in place for controlling allergens. If you have such ingredients in your food products then you must be honest with the consumer and inform that you cannot cater for them. The following good practice should be observed:

- Member of staff have food allergy awareness.
- Sufficient communication with consumer who has a food allergy
- Nominate person who understands ingredients i.e. Chef/manager
- Place sign/menu for customers advising of products that may have allergenic ingredients
- Beware of cross contamination of allergenic ingredients i.e. Nuts and seeds
- Good cleaning procedures

Food Safety Training

Regulation (EC) No 853/2004 came into force in January 2006 and makes the training of food handlers compulsory. The Regulations say that all food handlers must be 'supervised and instructed and /or trained in food hygiene matters commensurate with their work activities'.

In simple terms this means that everyone involved in a food business who handles food must receive some training or instruction. The training needed will depend on the type of business, foods prepared or served and the type of work the person does. For example a person who prepares burgers will need more detailed training than someone who handles only fruit and vegetables.

Food handlers who prepare or serve high risk or perishable foods will need a level 2 Award in Food safety or equivalent. It is good practice for a business to have a training plan to identify the training needed for each member of staff.

The person responsible for the development and maintenance of a food safety management system should have adequate training in the application of HACCP principles. A list of local organisations that run food safety training courses is available from the Council's Commercial Safety team.

Personal Hygiene

All food traders must maintain a high level of personal cleanliness by keeping themselves, their clothes and their over clothing clean.

Hand washing is one of the most important steps in producing safe food. Hands must always be washed before starting work and after any task which may have made them dirty, particularly after handling raw food or visiting the toilet.

Clean, suitable (e.g. long sleeved) and washable over clothing must be worn whilst handling, serving or preparing open food. Head coverings are also recommended. Protective clothing should only be worn during the trading period and should not be worn when setting up the vehicle, carrying out maintenance etc.

Disposable gloves may be used, however they should be changed regularly and washed between handling raw and cooked food (as you would wash your hands.)

All cuts and abrasions should be covered with a blue waterproof plaster at all times. Smoking in any food area is prohibited.

Illness

Food handlers should not work if they are suffering from food poisoning symptoms such as diarrhoea or vomiting. They should stay away from any food handling area until 48 hours after the diarrhoea or vomiting has ceased. On return to work careful attention to personal hygiene including scrupulous hand washing is essential.

Food Business Operators should instruct all staff on appointment that they must notify the person in charge before they start work if suffering from any of these symptoms. It is also good practice to give new staff this instruction in writing.

Food handlers should also be aware that skin infections such as boils, septic fingers or any other discharging wound can also lead to contamination of food with food poisoning bacteria. These conditions must also be reported to the person in charge of the business.

Food Handling Practices

Safe food handling techniques are important to reduce the risk of food poisoning. Food must be protected from risk of contamination with food poisoning bacteria.

For example:

- Food should not be handled unless absolutely necessary. Tongs or serving utensils should be used wherever possible.
- Separate utensils and chopping boards should be used for the preparation of raw and cooked foods.
- Sneeze guards may be required at the serving counter to protect food from customers coughing or sneezing.
- Food must not be left in cans once opened.
- Food for sale must be kept completely separate from waste food or refuse.
- Wrappings must be of food grade quality, clean and stored in a clean place. Wrapping in newspaper is not acceptable unless food is first wrapped in food grade paper.
- A stock rotation system must be set up. High-risk foods must be sold within their 'Use By' date. Only as much stock as is necessary for immediate use should be carried.
- Displayed food must be covered or wrapped, as appropriate.
- Raw and ready to eat foods must be kept separate.

Where food handling is carried out at home or at a storage depot, these premises must also comply with food safety legislation.

Appendix 4: Advice for operators of Ice Cream vans

Summary of the Code of Practice on Noise from Ice Cream Van Chimes:

It is an offence to sound your chimes before 12 noon or after 7pm. It is also an offence to sound your chimes in such a way as to give reasonable cause for annoyance. A code of practice approved by the Government gives guidance on methods of minimising annoyance caused by your chimes. The main points of the code of practice are:

Do not sound your chimes:

- For longer than 4 seconds at a time;
- More often than once every 3 minutes;
- When the vehicle is stationary;
- Except on approach to a selling point;
- When in sight of another vehicle which is trading;
- When within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship);
- More often than once every 2 hours in the same length of street;
- Louder than 80 dB(A) at 7.5 metres;
- As loudly in quiet areas or narrow streets as elsewhere.