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Cambridge City Council

LICENSING COMMITTEE

To: Councillors Rosenstiel (Chair), Benstead (Vice-Chair), Brierley, Gawthrope, Hart, McPherson, Meftah, Pippas, Reiner, Saunders, Smith and Owers

Despatched: Tuesday, 10 July 2012

Date: Wednesday, 18 July 2012

Time: 10.00 am

Venue: Committee Room 1 & 2 - Guildhall

Contact: Toni Birkin

Direct Dial: 01223 457012

AGENDA

- 1 **APOLOGIES FOR ABSENCE**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LAW COMMISSION REVIEW - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES** (*Pages 1 - 26*)
- 4 **REVIEW OF THE STREET TRADING POLICY** Head of Tourism & City Centre Management (*Pages 27 - 74*)

Information for the Public

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Between 9 a.m. and 5 p.m. the building is accessible via Peas Hill, Guildhall Street and the Market Square entrances.

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- For questions and/or statements regarding items on the published agenda, the deadline is the start of the meeting.
- For questions and/or statements regarding items NOT on the published agenda, the deadline is 10 a.m. the day before the meeting.

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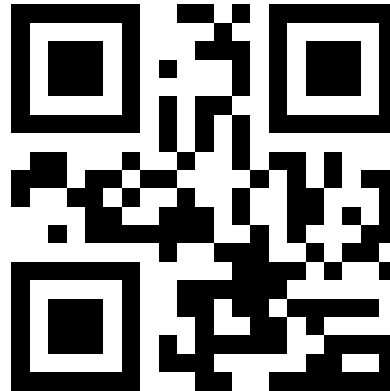
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CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee 18/07/2012

WARDS: All

LAW COMMISSION REVIEW: REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

1. INTRODUCTION

- 1.1 The Law Commission is undertaking a review of the legislation under which Hackney Carriages and Private Hire Vehicles (and the drivers and operators of those vehicles) are regulated. Their intention is to provide a report with final proposals and a draft Bill by November 2013.
- 1.2 A consultation is currently being undertaken which is the only opportunity for the public to directly provide their comments on the proposals. It is not clear whether there will be any additional consultation with statutory bodies.
- 1.3 A summary document prepared by the Law Commission is attached to the report as Appendix A and all responses to the consultation must be provided no later than 10 September 2012. The consultation period has been extended from the previous closing date of 10 August 2012.

1.4

2. RECOMMENDATIONS

- 2.1 Members are recommended to:

Review the Law Commission's summary document attached to the report as Appendix A and agree to provide any comments that they wish to have incorporated in to the Council's response to the Licensing Team by 10 August 2012.

3. BACKGROUND

- 3.1 In July 2011, the Law Commission agreed to undertake a law reform project that was proposed by the Department for Transport on the law of taxis and private hire vehicles.
- 3.2 The Commission has released a consultation paper that reviews the law, and makes provisional proposals for reform. A summary document has also been produced and this is attached to the report as Appendix A.
- 3.3 The key proposals, in summary, are:
 - 3.3.1 National minimum safety standards for both taxis and private hire vehicles.
 - 3.3.2 Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
 - 3.3.3 It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Subcontracting would be allowed, as is already the case in London.
 - 3.3.4 London would be regulated under the same flexible framework as the rest of England and Wales.
 - 3.3.5 Licensing authorities could no longer limit the number of taxi Licences.
 - 3.3.6 More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
 - 3.3.7 Disability awareness training for drivers.
 - 3.3.8 Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - 3.3.9 Weddings and funeral cars would no longer be exempted through primary legislation.
 - 3.3.10 Allowing leisure use of taxis and private hire vehicles.

- 3.3.11 Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.
 - 3.3.12 Clearer exclusions for volunteers and other services where transport is not the main service provided, such as child minders.
 - 3.3.13 Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.
- 3.4 A number of questions have been posed as part of the consultation. These cover:
- 3.4.1 a new category of wheelchair accessible vehicles;
 - 3.4.2 extending operator licensing to taxi radio circuits;
 - 3.4.3 possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
 - 3.4.4 reintroducing a (revised) contract exemption;
 - 3.4.5 improving the enforcement powers of licensing officers; and
 - 3.4.6 a new “peak time” taxi Licence that could only be used at particular times of day as decided by the licensing authority.
- 3.5 The consultation period closes on 10 September 2012.
- 3.6 The most significant change as far as Cambridge is concerned could be their proposal to almost totally separate hire car and hackney carriage licensing, removing almost all powers to regulate the private hire trade currently exercised by the City Council.
- 3.7 In many towns and cities in England it is already the case that hackney carriage and private hire trades are strongly separated. Some councils do not permit private hire cars to install meters, for example. This is not the case in Cambridge where many operators control through the same public telephone numbers both hackney carriages and private hire cars, hire cars use meters set at the same rates as regulated hackney carriage fares and all hackney carriages and private hire cars are treated as public transport by allowing them into city centre areas where other traffic is not admitted. Thus all hackney carriages and private hire cars are eligible to obtain transponders to pass through the city centre bollards. Because of the statutory Air Quality Management Area in central Cambridge, great control is exercised over vehicle ages in order to limit excess pollutants.

- 3.8 Most of the above provisions by hire cars would no longer be feasible if any operator anywhere in the country could operate hire cars in Cambridge with no greater requirement than that the vehicle has passed an MOT test. Control of pollution would have to be exercised by the County Council through limiting the issue of transponders to vehicles suitable to use the Air Quality Management Area. Bookings would have to be separated between hackney carriages and private hire cars. The Law Commission assumes that private hire cars would provide a cheap and cheerful alternative to hackney carriages.
- 3.9 The Council may take the view that this is not a 21st century approach to the public's needs. Although hiring at ranks remains a significant part of taxi provision in Cambridge, especially at the railway station and late at night in the city centre, technology already provides for instant hiring by phone and online which will increasingly blur the distinction between traditional and newer methods of hiring. A thorough modernisation of taxi legislation should recognise this and not seek to entrench old distinctions.

4. CONSULTATIONS

- 4.1 Members are requested to provide any comments that they wish to have incorporated in to Council's response to the Licensing Team. The response will then be circulated to Members prior to submission to the Law Commission.
- 4.2 This is a public consultation and Members may therefore provide comments directly to the Law Commission.

5. OPTIONS

- 5.1 The Committee may resolve to either:

5.1.1 Review the Law Commission's summary document attached to the report as Appendix A and

5.1.1.1 endorse the points in paragraphs 3.6 to 3.9 above

5.1.1.2 agree to provide any further comments that they wish to have incorporated in to the Council's response to the Licensing Team by 10 August 2012.

5.1.1.3 authorise the Chair and Vice-Chair to agree the final version of the response to be submitted before the close of the consultation.

or

5.1.2 Review the Law Commission's summary document and agree to provide any individual responses directly to the Law Commission.

6. CONCLUSIONS

- 6.1 Comments are being sought by the Law Commission to shape the way that the law of taxi and private hire services is reformed. This consultation may be the only opportunity that the Council has to provide an input in to any new legislation.
- 6.2 All responses must be submitted no later than 10 September 2012.

7. IMPLICATIONS

(a) **Financial Implications**

There are no financial implications associated with this report.

(b) **Staffing Implications**

Existing staffing resources will collate and draft the response for submission to the Law Commission.

(c) **Equal Opportunities Implications**

There are no apparent equal opportunity implications.

(d) **Environmental Implications**

There are no apparent environmental implications.

(e) **Community Safety**

There are no apparent community safety implications

APPENDICES

Appendix A

Law Commission Document: Reforming the Law of Taxi and Private Hire Services - Summary

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

[Law Commission Document: Reforming the Law of Taxi and Private Hire Services – A Consultation Paper](#)

[Law Commission Document: List of Provisional Proposals and Questions](#)

The author and contact officer for queries on the report is Robin Grey on extension 7899.

Report file:

Date originated: 09 July 2012

Date of last revision: 09 July 2012



Reforming the law of taxi and private hire services



Law Commission

**REFORMING THE LAW OF TAXI AND
PRIVATE HIRE SERVICES**

Summary

This paper is a summary of the full Consultation Paper, Reforming the Law of Taxi and Private Hire Services, Law Com 203, available at our website at www.lawcom.gov.uk (A-Z of project > Taxi and Private Hire Services).

THE LAW COMMISSION: HOW WE CONSULT

About the Commissions: The Law Commission was set up by section 1 of the Law Commissions Act 1965. The Commission has the purpose of promoting reform of the law.

The Law Commissioners are: The Rt Hon Lord Justice Munby (Chairman), Professor Elizabeth Cooke, Mr David Hertzell, Professor David Ormerod and Frances Patterson QC. The Chief Executive is Elaine Lorimer.

Topic: This consultation covers the reform of the law on taxi and private hire services.

Geographical scope: England and Wales

An impact assessment is available on our website.

Duration of the consultation: 10 May to **10 August 2012**.

How to respond

Send your responses either –

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission,
Steel House, 11 Tothill Street, London SW1H 9LJ
Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

After the consultation: We plan to publish a final report with a draft Bill in November 2013. It will be for Parliament to decide whether to change the law.

Freedom of information: We will treat all responses as public documents. We may attribute comments and publish a list of respondents' names. If you wish to submit a confidential response, it is important to read our Freedom of Information Statement on the next page.

Availability: You can download this consultation paper and the other documents free of charge from our website at:

<http://www.lawcom.gov.uk> (See A–Z of projects > Taxi and Private Hire Services)

SUMMARY

INTRODUCTION

- 1.1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport, but when we work on a project, the Law Commission is independent of the Government. This paper summarises our full consultation paper, which is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services). It reviews the law, and makes provisional proposals for reform. We now seek your comments and views on our provisional proposals and questions.
- 1.2 This summary is split into three main sections:
- (1) an introduction and outline of key proposed changes;
 - (2) the case for reform and a brief discussion of the main themes and impact assessment; and
 - (3) a full list of our provisional proposals and questions.

WHAT THIS PROJECT IS ABOUT

- 1.3 In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.

Consultation

- 1.4 It is of primary importance that the views expressed in our consultation documents are only provisional, so that they can form the basis of a discussion on consultation. We are not firmly wedded to any of these proposals. Indeed, experience suggests that our final report is likely to differ substantially from the provisional proposals we now make.
- 1.5 This consultation period will be our main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After this consultation we will analyse responses and reconsider our proposals. We aim to produce a report with our final proposals and a draft Bill by November 2013.
- 1.6 The opportunity to discuss the issues with interested parties is always most helpful. We would therefore welcome invitations to attend or present at relevant conferences, seminars, workshops or other events during the consultation period.

Our approach

- 1.7 Our terms of reference require us to give due regard to the potential advantages of deregulation. This does not require us to blindly pursue deregulation at all costs. Nor does it mean the removal of all or even most regulation. Rather, it means that we must look at each element of the existing regulatory system to ensure that it does not impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends.
- 1.8 We have applied this view of the right regulatory approach in the provisional proposals and questions we ask in this review. The overall effect is of a moderate reform programme, which retains much of the existing structure of regulation, while seeking to improve and simplify it.

OUTLINE OF KEY PROPOSED CHANGES

- 1.9 The main changes that might follow from our provisional proposals include:
 - (1) National minimum safety standards for both taxis and private hire vehicles.
 - (2) Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
 - (3) It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Sub-contracting would be allowed, as is already the case in London.
 - (4) London would be regulated under the same flexible framework as the rest of England and Wales.
 - (5) Licensing authorities could no longer limit the number of taxi licences.
 - (6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
 - (7) Disability awareness training for drivers.
 - (8) Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - (9) Weddings and funeral cars would no longer be exempted through primary legislation.
 - (10) Allowing leisure use of taxis and private hire vehicles.
 - (11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State

and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.

- (12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- (13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

1.10 We also ask questions about the following:

- (1) a new category of wheelchair accessible vehicles;
- (2) extending operator licensing to taxi radio circuits;
- (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
- (4) reintroducing a (revised) contract exemption;
- (5) improving the enforcement powers of licensing officers; and
- (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.11 This list only provides simplified, headline points and does not include all the changes we propose. Some of the provisional proposals would not give rise to change in London, such as allowing sub-contracting and leisure use of vehicles.

THE NEED FOR REFORM

1.12 The law on taxis and private hire vehicles is fragmented, complex, and out of touch with 21st century life. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

1.13 Both taxi and private hire services are highly regulated. The pre-booked market is reasonably competitive. Customers can shop around for the provider they prefer and negotiate on price. A customer who is unhappy with the service given by a company can choose a different firm in the future. They may tell their friends to avoid that firm. The same competitive forces do not apply in respect of taxis. Ranking and hailing are not competitive markets. The customer has little choice but to take the taxi hailed or the first taxi at the rank. This can affect the justification for the level of regulation in each market.

1.14 Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles. Licensing officers have limited enforcement powers which makes it hard for them to make sure the rules are complied with. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers.

1.15 There are aspects of the current system, including quantity restrictions on taxi

licences and restrictions on cross-border activity, which can also hinder effective competition. Not only can this make taxi and private hire services more expensive than they need to be, but it also has a restrictive effect on business. Our proposals are aimed at simplifying and streamlining the legal framework and removing unnecessary and burdensome regulation.

- 1.16 The complexity of the regulatory regime, which is based on numerous pieces of legislation, and the piecemeal way in which it has been put together, have left many key concepts and distinctions unclear and difficult to apply. There are many grey areas about what can count as a taxi (can it cover pedicabs for example?) or a private hire vehicle (do child minders and volunteers need a private hire operator licence where they drive as part of their work?). The rules restricting operators to inviting or accepting bookings only within their licensing area do not fit easily with technological developments such as internet and mobile phone bookings. These apparently basic questions have no clear answer and different approaches are taken in different parts of England and Wales.

THE MAIN THEMES OF REFORM

A new statute for taxi and private hire services

- 1.17 Our aim is to clarify and simplify the existing law on taxis and private hire vehicles and to promote more consistency in bottom-line safety standards across England and Wales, including better provision for disabled passengers. The other key aim of this review is to deregulate aspects not linked to protecting public safety in order to encourage more competitive services. We propose to do so by recommending a new Act of Parliament for taxi and private hire services.
- 1.18 We are not proposing major changes to the way in which licensing is administered and enforced. As now, local authorities would be responsible for issuing licences, and for taking action (with the police) against those who break the law. In respect of taxis, local authorities would continue to have a standard-setting role, over and above the national minimum safety standards. Matters such as topographical knowledge, fares and local requirements (such as the turning circle requirement in London) could continue to apply.

Retaining a two tier system

- 1.19 We think that the legal differences between taxis and private hire vehicles (often known as mini-cabs) are worth keeping. This is sometimes referred to as the two tier system. The alternative, a so-called one tier system, would have a unified category of licensed vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the differences between taxis and private hire vehicles are not always well understood by the public, and that this provides an argument for a single tier. But our provisional view is that the distinction between taxis and private hire allows for more targeted regulation. Traditionally taxis can have regulated fares and local requirements like topographical knowledge can be very important. By contrast, private hire services work much more like a free market and recognising the legal distinction means both sides of the trade can work better.

London

- 1.20 There is currently a different legal framework for London. We recognise the

important differences which apply to London but also think that our provisional proposals are sufficiently flexible to allow for these differences given the powers we propose for the Secretary of State and Transport for London (as the relevant licensing authority). We believe this can be done without affecting the distinctive and iconic London black cab.

- 1.21 We propose that our reforms should apply throughout England and Wales including London. We also invite views about how London may be affected differently in respect of all of our provisional proposals and questions.

Welsh devolution

- 1.22 We think the same system should apply in Wales as in England, but, in light of devolution, Welsh Ministers would have the powers that the Secretary of State has in England.

Taxis and the local connection

- 1.23 We provisionally propose only moderate changes to the regulation of taxis apart from removing licensing authorities' ability to limit taxi numbers. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. We consider the legal definition of "plying for hire", which covers hailing and ranking, but do not propose radical change.
- 1.24 We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national *minimum* safety standards. We think all consumers of taxi services should be entitled to the same minimum safety standards, even if local licensing authorities wish to impose higher standards in their area. And establishing national minimum standards, which match the national standards for private hire vehicles (see below), will remove incentives for drivers to try to play the system by being licensed in areas with lower standards. It will also help with the enforcement of conditions across each country.

Taxis and quantity restrictions

- 1.25 We also provisionally propose that the power to limit the number of taxis which can be licensed in a licensing area should be removed. We accept that there are some good arguments for retaining the power (although not on the existing basis of a bureaucratic assessment of unmet demand), but provisionally consider that on balance quantity regulation is not justified. Transport for London does not have the power to limit the number of taxi licences, so our provisional proposal makes no change for the capital.

Private hire and national standards

- 1.26 Our provisional proposals are more far-reaching in respect of private hire licensing. We think that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles, drivers and operators, and that licensing authorities should not have the power to impose higher standards. This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for rules and regulations to guarantee quality or control fares. We ask if there should be an exception to allow local standard setting about signage. Local licensing authorities would continue to issue licences and to be responsible for enforcement. We also look at whether

operator licensing should be extended to cover, for example, taxi radio circuits.

- 1.27 We propose that the national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. Both in respect of taxis and in respect of private hire vehicles, the power to set standards would allow for different standards to be set for different descriptions of vehicles.

Cross-border

- 1.28 Our provisional proposals aim to clarify the ability of private hire operators to work cross-border. We suggest that operators should no longer have to use drivers and vehicles all licensed with the same authority, enhancing the ability of business to work more efficiently, as well as permitting sub-contracting (adopting the current position in London). The location where a booking is accepted would no longer be critical, which would fit better with technological developments in mobile technology and the internet.
- 1.29 Our provisional proposals in respect of more effective enforcement and common bottom-line safety standards could help reduce incentives for drivers to seek taxi licences in locations far away from where they actually intend to work on a purely pre-booked basis (akin to a private hire vehicle). We do not propose to introduce a return-to-area requirement for vehicles dropping off customers outside their licensing area.

Increased enforcement powers

- 1.30 We make provisional proposals to improve enforcement of conditions. We suggest improving licensing officers' powers; and ask about the effectiveness of tougher sanctions such as impounding vehicles.
- 1.31 The existence of national standards for private hire and minimum standards for taxis should itself make enforcement easier, particularly cross-border enforcement (that is, enforcement by an officer of a licensing authority other than that which licenses the taxi or private hire vehicle).
- 1.32 We also make proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.

Equality and accessibility

- 1.33 Taxis and private hire vehicles provide vital transport links for many older or disabled persons as well as people with reduced mobility. Providers of transport services have a legal obligation not to discriminate against disabled people, and local authorities are subject to a duty to promote equality in the exercise of their functions.
- 1.34 We consider how to promote safety for disabled passengers through, perhaps, introducing a separate licence category for wheelchair accessible vehicles and vehicles adapted for other disabilities. We considered the merits of introducing national quotas of accessible taxis but suggest that such a system does not appear workable. Our provisional proposals include compulsory disability discrimination training for taxi and private hire drivers.
- 1.35 This is only an extremely short account of our provisional proposals, which cover

a number of other detailed areas, including hearings and appeals.

IMPACT ASSESSMENT

- 1.36 This consultation also includes an impact assessment and we ask consultees for information about the costs and financial benefits likely to arise from different aspects of the review.
- 1.37 Our expectation is that the review as a whole will be deregulatory, and it will be important to understand the extent of likely savings. Where some new regulatory pressures arise (for example in respect of accessibility or licensing of limousines) it will be equally important to understand how large those new burdens are likely to be. The impact assessment is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

- 1.38 The list below sets out our provisional views for consultation. They are divided between provisional proposals, where the Law Commission has a preliminary stance and is seeking views on it, and open questions where we are seeking more evidence and have not reached a preliminary position.
- 1.39 It would be helpful if you could give us your views on the provisional proposals and questions we ask, as well as on any other areas you feel are important. The page numbers refer to the full consultation paper which has more detail.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175)*

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 203)*

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 209)*

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? *(Page 215)*

TAXI AND PRIVATE HIRE REFORM AND EQUALITY**Question 57**

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?
(Page 222)

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.
(Page 223)

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

CONCLUSION

- 1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

How to respond

Send your responses either -

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ

Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

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To: Licensing Committee
Report by: Emma Thornton - Head of Tourism and City Centre Management
Relevant committee: LICENSING COMMITTEE 18th July 2012
Wards affected: Market ,Castle and Newnham

Update on Street Trading

1. Executive summary

1.1 This report follows the report that came to Licensing Committee on 30th January 2012. It sets out a proposed new Street Trading Policy following a review of the Council's current Street Trading Policy and procedures. The draft policy details how the Council proposes to manage street trading in Cambridge and the mechanism through which street trading pitches will be reviewed annually. It will guide the Council when it considers applications for Street Trading Consents and will inform applicants of the criteria against which applications will be considered.

2. Recommendations

2.1 The Licensing Committee is recommended :

1. To approve the draft Street Trading Policy subject to the outcome of consultation on the proposed policy and procedures.
2. To authorise the Head of Tourism and City Centre Management to consult on the draft Street Trading Policy and to bring a report back to this Committee on 8th October which will summarise the feedback on the consultation and outline any proposed changes to the policy as a result of this.

3. The key objectives of the Street Trading Review have been as follows:

- To create an environment where high quality street trading activity is achieved.

- To encourage ongoing investment from street traders
- To ensure that high standards of street trading are maintained at all times.
- Where possible and within the constraints of this policy to support new street trading opportunities.

4. Background

- 4.1 Street Trading supports the ongoing vitality of Cambridge City Centre and provides a relatively low cost way for small businesses to trade.
- 4.2 There is a high quality street trading offer in Cambridge and many traders have made considerable investment in their businesses over a number of years. It is important that any changes to the policy should seek to safe guard this.
- 4.3 It is not clear when the current procedures were last reviewed. Given the success of Cambridge city centre both as a retail and visitor destination, it was considered important that a review of the current procedures was undertaken to ensure that they are fair and appropriate and in line with best practice across the UK.
- 4.4 Concern had been expressed by prospective street traders that, taking into account the limited number of pitches in the city centre, and that in most cases consents are renewed annually, it was difficult for new businesses to enter the market.
- 4.5 In addition the 2012/13-application process highlighted some concern with the current procedures. This was in part due part to insufficient clarity on the application criteria and how to apply these, but it also highlighted the need for a fundamental review of the Street Trading Policy and how decisions on street trading applications should be made moving forward.
- 4.6 The current procedure for considering applications for Street Trading Consents is as follows; Licensing Committee has delegated to the Director of Environment powers relating to the control and operation of street trading except for the issue of a consent for a period of more than 6 months to a person who is not a current consent holder, and the renewal of the consent of a current consent holder if another person has applied for the consent.

- 4.7 In theory (although this has happened infrequently) this has meant that all pitches are open to applications from both existing traders and new traders each year. This puts the existing trader in a position of considerable insecurity and raises expectations for new applicants. Where pitches are contested then applications are referred to a meeting of the Licensing Sub Committee where this Committee is asked to assess one application against another. This can prove difficult when this involves assessing an existing trader of several years against a new trader. This happened as part of the 2012/13-application process.
- 4.8 This review has looked at street trading policies and procedures in other historic cities similar to Cambridge where available street trading pitches are also limited. It has sought to identify best practice in this area and to understand how imbalances between supply and demand can best be managed in a fair and transparent way without compromising the quality of the street trading offer.
- 4.9 As part of this review the policies and procedures of 10 other local authorities in similar historic locations have been looked at. This included towns and cities such as Oxford, Bath, York, Canterbury, Brighton Edinburgh and Norwich. In all of the locations reviewed there is a policy of renewal in favour of the existing trader, subject to there being no areas of concern during the preceding consent year.
- 4.10 This research has also highlighted that similar assessment criteria are being used in these locations to those in use in Cambridge. These focus on the design of stall, range of products sold and Food Hygiene where appropriate (i.e. for Food stalls).
- 4.11 Members of the Licensing Committee were keen that in the development of any new policy the assessment criteria should be made clearer and more robust and that **all** applications should be checked thoroughly against all these criteria on an annual basis. They were also keen that periodically a more thorough review should be introduced which would encourage traders to develop beyond basic compliance.

5. Overview of the main proposed changes:

- 5.1 The policy outlines a number of proposed changes to the current procedures.
- 5.2 The Licensing Committee is recommended to approve a modification to the current delegation as set out below in 5.3:

5.3 The Licensing Committee will delegate powers to the Director of Environment relating to the control and operation of Street Trading **except** for the issue of consent for a period of more than 6 months to a person who is **not** a current consent holder and where there is more than one applicant for the pitch The Director of Environment delegates this authority to the Head of Tourism and City Centre Management.

5.4 Where exceptions to this delegation apply applications will be referred to the Licensing Sub Committee to make a decision in accordance with Council policies.

5.5 Criteria for assessment on applications

5.5.1 The criteria for assessment have been reviewed in detail and greater clarity has now been provided on how these should be applied when assessing applications. When assessing **all** street trading applications the Council will consider how the application meets set criteria. These are explained in detail in section 5 of the policy. These will apply to both renewal applications and applications for new or vacant pitches.

5.6 Renewals of existing consents

5.6.1 All existing street traders will need to apply in writing each year and evidence that they are continuing to meet the Council's assessment criteria as set out in the policy.

5.6.2 The application process for the following year will be brought forward and applicants wishing to renew their consent will need to apply by **1st November** each year. Where a renewal application has been made and the trader is compliant with all the "criteria for assessment," there have been no substantiated complaints, no enforcement issues and all fees have been paid on time, the consent will be renewed.

5.6.3 If a renewal application is not made by the **1st November** the Council will treat the pitch as vacant.

5.6.4 Where a renewal application has been made and there is evidence of non compliance with the Council's "criteria for assessment" or where there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing Sub-Committee.

5.7 Street Trader Reviews

5.7.1 In order to ensure that where consents have been renewed on an ongoing basis that high quality is maintained, in addition to the annual checks of compliance with the Council's assessment criteria, the

Council will introduce a “Street Trader Review” which will be undertaken with each trader every 3 years. This will be a detailed review of the street trading offer and will seek to discuss with the trader any planned developments or potential enhancements. The detail of this review is explained further in section 5.3.6 of the draft policy.

5.8 Vacant or new pitches

5.8.1 Where vacant or new pitches of more than 6 months become available the Council will invite applications for these pitches. These will be advertised on the City Council’s website and in the local press. This might be at any time of the year. Where there is more than one applicant the applications will be referred to the Licensing Sub Committee.

5.8.2 In summary this will mean that applications will only be referred to the Licensing Sub Committee in the following circumstances:

- Where more than one applicant has applied for a new or vacant pitch, which is more than 6 months.
- Where a renewal application has been made and there is evidence of non compliance with the Council’s “criteria for assessment” or where there have been complaints or enforcement issues or fees have not been paid on time.

5.8.3 This revised process will ensure effective ongoing management of a high quality street trading offer, and reduce the burden on the Licensing Sub Committee, whilst ensuring that any new opportunities are managed in a fair and transparent manner.

5.9 Identifying new street trading pitches

5.9.1 Periodically the Council will review street trading in the consent streets to identify new street trading opportunities.

5.9.2 If an applicant has identified a potential new street trading pitch in one of the listed consents street, which is not currently one of the Council’s approved pitches, the applicant can submit an expression of interest in this new pitch to the Markets and Street Trading Manager. They will then give due consideration to the appropriateness of this pitch taking into account all factors and having consulted with appropriate consultees as set out in the policy (Re: Section 3.7.7 and 3.7.8 of the draft policy).

5.9.3 If a new pitch is subsequently approved it is important to note that it will be necessary for the Council to advertise this on the City Council's website and will invite applications.

5.10 European Services Directive

5.10.1 This review has looked at the European Services Directive to ensure that our policy and procedures are compliant with this. Currently the service is not aware of any proposed changes to government legislation on street trading as a result of the EU Directive. The service will continue to monitor any potential changes in legislation and will instigate further reviews of this policy if required.

5.11 Timetable of the consultation

5.11.1 Subject to the Licensing Committee's approval of the draft policy, a period of detailed consultation will then be undertaken from 23rd July 2012 through to 10th September 2012. The results of this consultation with any revised proposals will then be taken to the Licensing Committee meeting on 8th October 2012. This will allow time for any new proposals to be implemented for the 2013/14-application process.

6. Implications

Financial Implications

6.1 This review aims to support and safeguard the sustainability of street trading in Cambridge city centre and to ensure that Street Trading procedures are appropriate and fair and in line with best practice nationally.

Staffing implications

6.2 There is resource within the City Centre Management team to undertake the recommendations set out in this policy.

Equal opportunities implications

6.3 In undertaking this review we aim to ensure that our street trading procedures are executed in a fair and equitable manner.

6.4 A full Equalities Impact Assessment will be undertaken ahead of the final report coming to committee on 8th October.

Environmental Implications

6.5 In undertaking this review and bringing forward any final proposals it will be important to be mindful of the City Council's commitment to reducing the city's carbon footprint.

Consultation

6.6 The consultation process in determining this policy is set out in section 2 of the policy. The consultation period will run from 23rd July through to 10th September.

Community Safety

6.7 In undertaking this review and determining this policy it will be important that any proposals take account of any community safety implications.

7. Background papers

Review of best practise in other historic locations.

8. Appendices

Appendix A -Cambridge City Council – Street Trading Policy 2012.
Appendix 1 - Map illustrating approved street trading pitches
Appendix 2 - Miscellaneous Provisions Act 1984
Appendix 3 - General Conditions for Annual Street Trading Consents
Appendix 4 - Street Trading Consent Application Form
Appendix 5 - Street Trader Review Form

9. Inspection of papers

To inspect the background papers or if you have a query on the report please

Emma Thornton Head of Tourism and City Centre Management

contact:Author's Name:

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Cambridge City Council

Street Trading Policy

Draft

July 2012

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2. Consultation
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 - Applications for renewal of existing consents (5.3)
 - Applications for new or vacant pitches (5.4)

6. Fees

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Appendices

1. (1a) - Map illustrating approved street trading pitches and (1b) - Map illustrating consent zone boundary
2. Miscellaneous Provisions Act 1984
3. General Conditions for Annual Street Trading Consents
4. Street Trading Consent Application Form
5. Street Trader Review Form

1. Introduction

- 1.1 This policy sets out how Cambridge City Council proposes to manage Street Trading in Cambridge. The purpose of this Street Trading Policy is to create a trading environment in which street trading complements the surrounding environment and retail offer, is sensitive to the needs of all users of the city centre and provides diversity in terms of consumer choice. The policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved. Where possible and within the constraints of this policy, the Council will support new street trading opportunities.
- 1.2 This document will guide the City Council when it considers applications for Street Trading Consents. It will inform applicants of the criteria against which applications will be considered.
- 1.3 It is the intention that this policy will be reviewed every 5 years or more frequently should legislative changes deem this necessary.

2. Consultation

- 2.1 In determining this policy, the Council will consult the following people and bodies:
 - Cambridgeshire Constabulary
 - Cambridgeshire Fire Service
 - Cambridgeshire County Council Highways
 - CAMBAC (Cambridge Business Against Crime)
 - The Love Cambridge Partnership
 - All current consent holders and applicants who have applied since Dec 2011.
- 2.2 We will also consult various other departments within the Council. These include:
 - Planning
 - Streets and Open Spaces
 - Refuse and Environment
 - Legal Services

3. Legislation and current street trading provision

- 3.1 There are currently 25 approved street trading pitches within the consent zone. One of these pitches is currently non-operational due to congestion in this area. The pitches range from 6 –12 months and from 3-7 days per week. There are currently 3 categories of trade: hot food, cold food and retail.

- 3.2 Control of Street Trading is a regulatory function. The Council has adopted the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 and regulates street trading under these provisions.
- 3.3 Schedule 4 of the Act allows the Council to manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’.
- 3.4 A **Consent street** is a street in which street trading can only take place if the consent of the local authority has first been obtained. **Prohibited Streets** are streets where no street trading may take place at all and a **Licence Street** is a street in which a formal licence is required before any form of street trading can take place.
- 3.5 The Council has designated certain streets in Cambridge as “Consent Streets”. This means that the street traders must have formal consent from the Council in order to trade on those streets.
- 3.6 It is a criminal offence to engage in street trading in a consent street without authorisation.

3.7 List of Consent Streets and Prohibited Streets

- 3.7.1 Consent Streets:** *Bridge Street, Burleigh Street, Emmanuel Street, Fitzroy Street, Garret Hostel Lane, Guildhall Street, Lion Yard, Market Street, Peas Hill, Quayside, Queens Green, Regent Street, St Mary’s Passage, Sidney Street, Silver Street, Trumpington Street, St John’s Street.*
- 3.7.2 N.B:** There is also a street trading pitch located at Parkers Piece. In addition there is a pitch which was moved from Christ’s Pieces to Christ’s Lane. This was done for practical reasons following the development of the Christ’s Lane shopping centre. Christ’s Lane has now been extended to meet with St Andrews Street.
- 3.7.3 Prohibited Streets:** *Adam & Eve Street, All Saint’s Passage, Belmont Place, Benet Street, Blackmoor Head Yard, Botolph Lane, Brandon Place, Burleigh Place, Burrells Walk, Chesterton lane, Chesterton Road, Christchurch Street, City Road, Clarendon Street, Corn Exchange Street, Crispin Place, Dover Street, Drummer Street, Earl Street, East Road, Eden Street, Elm Street, Emmanuel Road, Fair Court, Fair Street, Fen Causeway, Fitzroy Lane, Fitzwilliam Street, Free School Lane, Gifford Place, Gonville Place, Grafton Street, Granta Place, Green Street, Guildhall Place, Hobsons Passage, Hobson Street, James Street, Jesus Lane, Jesus Terrace, John Street, Jordans Yard, Kings lane, Kings Parade, King Street, Magdalene Street, Maids Causeway, Malcolm Street, Manor Street, Market Hill, Market Passage, Melbourne Place, Mill Lane, Napier Street, Nelson Close, Newmarket Road, Newnham Road, Northampton Street,*

Occupation Road, Orchard Street, Paradise Street, Parker Street, Park Parade, Park Street, Parkside, Park Terrace, Parsons Court, Pembroke Street, Petty Cury, Portugal Place, Portugal St, Post Office Terrace, Prospect Row, Queens Lane, Queens Road, Regent Street, Regent Terrace, Rose Crescent, Round Church Street, St Andrews Street, St Mary's Street St Johns Road, Senate House Hill, Severn St, Short St, Sun Street, Sussex St, St Tibbs Row, Salmon Lane, Tennis Court Road, Tennis Court Terrace, Thompsons Lane, Trinity Lane, Victoria Avenue, Victoria Street, Warkworth Street, Walkworth Terrace, Wellington Passage, Wellington Street, West Road, Wheeler Street, Willow Place, Willow Walk.

- 3.7.4 The Council will proactively review street trading in the consent streets to identify any new street trading opportunities.
- 3.7.5 There are currently no licence streets within Cambridge.
- 3.7.6 Appendix 1a** - shows a map illustrating the sites where street trading consents have been issued and **Appendix 1b** shows a map highlighting the boundary of the current consent zone. .
- 3.7.7 The Markets and Street Trading Manager as an authorised officer of the Council undertakes consideration of new pitches. When considering new street trading pitches, they will seek the advice of Cambridgeshire Police, CAMBAC, Cambridgeshire Fire and Rescue Service, and the Highways Department of Cambridgeshire County Council. They will also notify neighbouring retail establishments and residents.
- 3.7.8 The Markets and Street Trading Manager may have regard to the following matters in considering whether to create a new pitch for street trading:
- The likely effect on road safety (traffic and pedestrians) which may arise from the siting of the trader or from the movement and activities of customers.
 - Potential for negative impact on the local amenity arising from noise, traffic, litter or odours.
 - Existing traffic orders such as waiting restrictions.
 - Potential obstruction of pedestrian or vehicular access.
 - Potential obstruction to pedestrian traffic routes.
 - The safe access and egress of staff and customers to and from the proposed pitch and the immediate vicinity.

3.8 Definition of Street Trading

- 3.8.1 'Street Trading' is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions such as:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman

3.8.2 Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

4. The Licensing process and how the Council will make decisions on street trading consents.

4.1 *Under the Council's Constitution, Licensing Committee exercises the powers in relation to street trading set out in Schedule 4 to the Local Government (Miscellaneous Provisions) Act. This is set out in **Appendix 2.***

4.2 *Proposed change to delegations – for consideration by the Licensing Committee:*

4.3 The Licensing Committee will delegate powers to the Director of Environment relating to the control and operation of Street Trading **except** for the issue of a consent for a period of more than 6 months to a person who is **not** a current consent holder and where there is more than one applicant for the pitch. The Director of Environment delegates this authority to the Head of Tourism and City Centre Management.

4.4 Where exceptions to this delegation apply applications will be referred to the Licensing Sub Committee to make a decision.

5. The application process for Street Trading Consents

5.1 This policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved. The Council is committed to the ongoing monitoring of street trading provision in order to ensure that high standards are maintained at all times. There are a number of ways in which the Council will achieve this. These are set out below:

5.2 Criteria for assessment on applications

5.2.1 When assessing all street trading applications the Council will consider how the application meets the following criteria (NB: These will apply to renewal applications and applications for new or vacant pitches)

5.2.2 Design of stall

5.2.21 Stalls must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable style and of appropriate materials.

5.2.22 Examples of acceptable designs include:

- Modern, simple, functional stalls with umbrellas, canopies or striped awnings.
- Traditional or 'period' type handcarts, barrows or tricycles.

5.2.23 The stall design should be non discriminatory and be appropriate to serve customers.

5.2.24 Advertising material must be limited to the name of the stall, the type of product sold and a simple price list. Ad hoc pictures and advertiser's slogans should be avoided, as should untidy handwritten signs.

5.2.3 Dress

5.2.31 The style of dress worn by stall operators should be chosen to complement the style and period of the stall.

5.2.32 Over clothing must always be smart and clean. Operators of food stalls should ensure that sufficient changes of clothes are provided so as to enable personnel to always over clothing which is clean. Personal cleanliness is also important and persons employed at food stalls are required to have good personal hygiene.

5.2.33 It is recommended that persons intending to apply for a consent pitch should contact the Markets and Street Trading Officer to discuss the nature of their intended trade and the proposed style of stall and dress. No expenditure on stalls or equipment should be made until the Council has granted consent and the stall design has been approved.

5.2.34 The criteria above are intended to guide applicants for street trading consents as to the type of stall and dress, which the Council is looking to promote as a means of regulating the street scene in the historic centre of the city. It is not intended to exclude any design that does not fall within the examples given. Applicants for the prime, central locations are advised that the design of stalls is one of the main criteria that will be taken into account.

5.2.4 Environmental Health considerations of the stall design:

5.2.41 For Enclosed Food Mobiles:

5.2.42 The internal arrangements must be such that:

- There is suitable and sufficient hand washing facilities with hot water;
- The work surfaces are impervious to water and readily cleansable;
- There is sufficient compliant temperature controlled food storage facilities appropriate to the business;
- The gas and electrical installations are certificated and deemed to be safe by a competent and suitably qualified engineer; any gas store cupboard should be outside of the food area;
- The external arrangements must be that the mobile is sufficiently weather and pest proof so as to not risk the contamination of the food.

5.2.5 For Market-Stall or Street-Barrow type food mobiles:

- The stall must be covered to prevent the risk of matter falling on to the food;
- The work surfaces likely to be in contact with the food must be impervious to water and readily cleansable;
- Any intrinsic storage food area must be able to be secured against the intrusion by pests;
- If temperature controlled food is to be stored on the mobile, the storage facility shall be capable of maintaining the food in a legally compliant manner;
- That there are adequate hand washing facilities.

5.2.6 Food Hygiene record (for all food stalls) - all food regulations have been adhered to:

5.2.61 The applicant will need to demonstrate that they have:

- Registered with their home Local Authority;
- That all food handlers have received adequate food safety training appropriate to their job role; ideally, the manager should be trained to CIEH (Chartered Institute of Environmental Health)

Food Hygiene Level 3 and non-managerial staff should be trained to CEIH level 2. (NB: This goes beyond the legal requirements as set out in legislation);

- That the food business has a legally compliant Food Safety Management System (e.g. Safer Food, Better Business);
- That if there is a history of non-compliance, it has been addressed and accepted by the Food Safety Enforcing Officer, or that the food business is in the process of addressing the issues and the Food Safety Officer does not consider the defect too severe so as to prohibit the food business from trading.

5.2.7 Types of goods sold

5.2.71 The goods complement and do not conflict with the goods sold by other retailers within a certain area. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area **(NB. In recognition that the surrounding retail offer is subject to change, this criterion will only apply to applications for new or vacant pitches)**

- Consideration should be given here to the adjacent retail offer to each individual pitch. The street trading offer should complement rather than compete directly with this.

5.2.8 Equal Opportunities - due consideration has been given to Equal Opportunities

- The applicant is asked to demonstrate how they take equalities into consideration with their service provision. For example, how would they look after a customer with a sight or speech impairment?

5.2.81 Street Trading consents are limited to the sites listed in **Appendix 1**. Street Trading consents are renewed annually for the period 1st April to 31st March unless granted for a reduced period. Consents can be revoked by the City Council at any time. In the event of the consent being revoked, surrendered or lapsing without being renewed then the Council will invite new applications for the vacant site.

5.2.82 Any proposed revocation of consent will be subject to the review of the Head of Tourism and City Centre Management. A trader whose consent has been revoked may appeal in writing to the Council's Director of the Environment (or such other officer as the Council appoints) within 5 working days from, but not including, the day the trader is notified of the decision against which they wish to appeal. The decision of the Director of the Environment or other appointed officer shall be final in all respects.

5.3 Applications to renew an existing consent

- 5.3.1 Applicants wishing to renew their consent should do so by completing a Street Trading Consent Application form (**Appendix 4**) and submitting this to the Council by **1st November** each year. Application forms can be downloaded from the Council's website ([include hyperlink](#)).
- 5.3.2 At this renewal time, the Markets and Street Trading Manager may consult with some or all of the consultees listed in Section 2 to determine if the street trader is a cause for concern or has been the subject of complaints over the past 12 months. In their application traders will need to be able to demonstrate that they are continuing to meet the Council's "criteria for assessment on applications" as set out in section 5.2 above.
- 5.3.3 Where a renewal application has been made and the trader is compliant with all the "criteria for assessment," there have been no substantiated complaints, no enforcement issues and all fees have been paid on time, the consent will be renewed. Applicants will be informed of the outcome of their application within 4 weeks of receipt of their completed application form.
- 5.3.4 If a renewal application is not made by the **1st November** the Council will treat the pitch as vacant.
- 5.3.5 Where a renewal application has been made and there is evidence of non compliance with the Council's "criteria for assessment" or where there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing Sub-Committee. Where complaints have been received these will be put before the Licensing Sub-Committee with a summary of how these complaints were investigated and what the outcome was.

5.3.6 Street Trading Liaison meetings and 3 yearly Street Trader Review

- 5.3.61 In order to ensure that where consents have been renewed on an ongoing basis that high quality is maintained, in addition to the annual checks of compliance with the Council's assessment criteria, the Council will introduce a "Street Trader Review" which will be undertaken with each trader every 3 years. The Markets and Street Trading Manager or another authorised City Council Officer will undertake these in a "Street Trading liaison" meeting. In particular this review will look at the product range sold and discuss with the trader any planned developments or potential enhancements. It may also be used to discuss any potential enhancements to the stall design.
- 5.3.62 The Markets and Street Trading Manager will agree on any enhancements/ improvements to be undertaken and the timescales by which these should be implemented . These will be recorded on the

Street Trader Review form, which will then be signed, by both the Consent holder and the Council's Officer. An example of the "Street Trader Review" form is included as **Appendix 5**.

5.3.63 A record of the last "Street Trader Review" will be shown on the notice displayed within the street trading unit. This is referred to as point 10 of the Street Trading Conditions (**Appendix 3**)

5.4 Application for new or vacant pitches

5.4.1 Where vacant or new pitches of more than 6 months become available the Council will invite applications for these pitches. These will be advertised on the City Council's website and in the local press. This might be at any time of the year.

5.4.2 If more than one application is received for any new or vacant pitch a meeting of the City Council's Licensing Sub-Committee will be convened to consider the applications. This Committee is made up of a panel of elected members who then assess the applications against the Council's "criteria for assessment" as set out in section 5.2.

5.4.3 At a meeting of the Licensing Sub Committee there will be an opportunity for each applicant to give a 10-minute presentation on their business proposal. If the application is food related applicants are requested not to bring taster samples. The applicant's proposal should be focused on how and why they meet the Council's "criteria for assessment" as set out in section 5.2.

5.4.4 Members of the Sub-Committee will then assess each application against "criteria for assessment." If there are competing applicants for each pitch this necessarily entails assessing one application against the other. In carrying out their assessment for each pitch, it is a matter for the Sub-Committee how much weight they give to each criterion.

5.4.5 There is no statutory right of appeal against refusal to grant or to renew street trading consents.

5.4.6 If an applicant has identified a potential new street trading pitch on one of the listed consents street in section 3.7, which is not currently one of the Council's approved pitches, the applicant can submit an expression of interest in this new pitch to the Markets and Street Trading Manager. They will then give due consideration to the appropriateness of this pitch taking into account all the factors as set out in Section 2 and having consulted with those consultees listed in Section 2.

5.4.7 If a new pitch is subsequently approved then it will be necessary for the Council to advertise this as set out in Section 5.4.1. The anticipated timescales for processing applications for new or vacant pitches will be detailed on the Street Trading consent Application Form.

- 5.4.8 Vacant pitches of 6 months or less will be advertised on the Council's website. Decisions on awarding these consents will be made by the Head of Tourism and City Centre Management under delegated authority of the Licensing Committee.

6. Fees

- 6.1 The Council is permitted to charge such fees as it considers reasonable for street trading consents. Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location and the duration of the consent, Details of the current fees can be found on the City Council's website.
- 6.2 Invoices for fees will be issued on or around 1st April each year.

7. Conditions and enforcement

- 7.1 A set of standard conditions will be attached to every street trading consent. The Council's current conditions are set out at **Appendix 4**. The consent holder must comply with all of the standard conditions, which are designed to maintain public safety, prevent nuisance and protect the local amenity.
- 7.2 Failure to comply with one or more of the conditions may lead to revocation or non-renewal of a street trading consent.

8. Contact Information

- 8.1 The street trading function is part of the Tourism and City Centre Management Service and the Environment Department of the City Council.
- 8.2 Our address is:
- City Centre Management
The Guildhall
Cambridge
CB2
- 8.3 To ask about any street trading issue, first contact the City Centre Management team on 01223 456464 or visit our website: www.cambridge.gov.uk or via email on citycentremangement@cambridge.gov.uk.



Information Systems
Team

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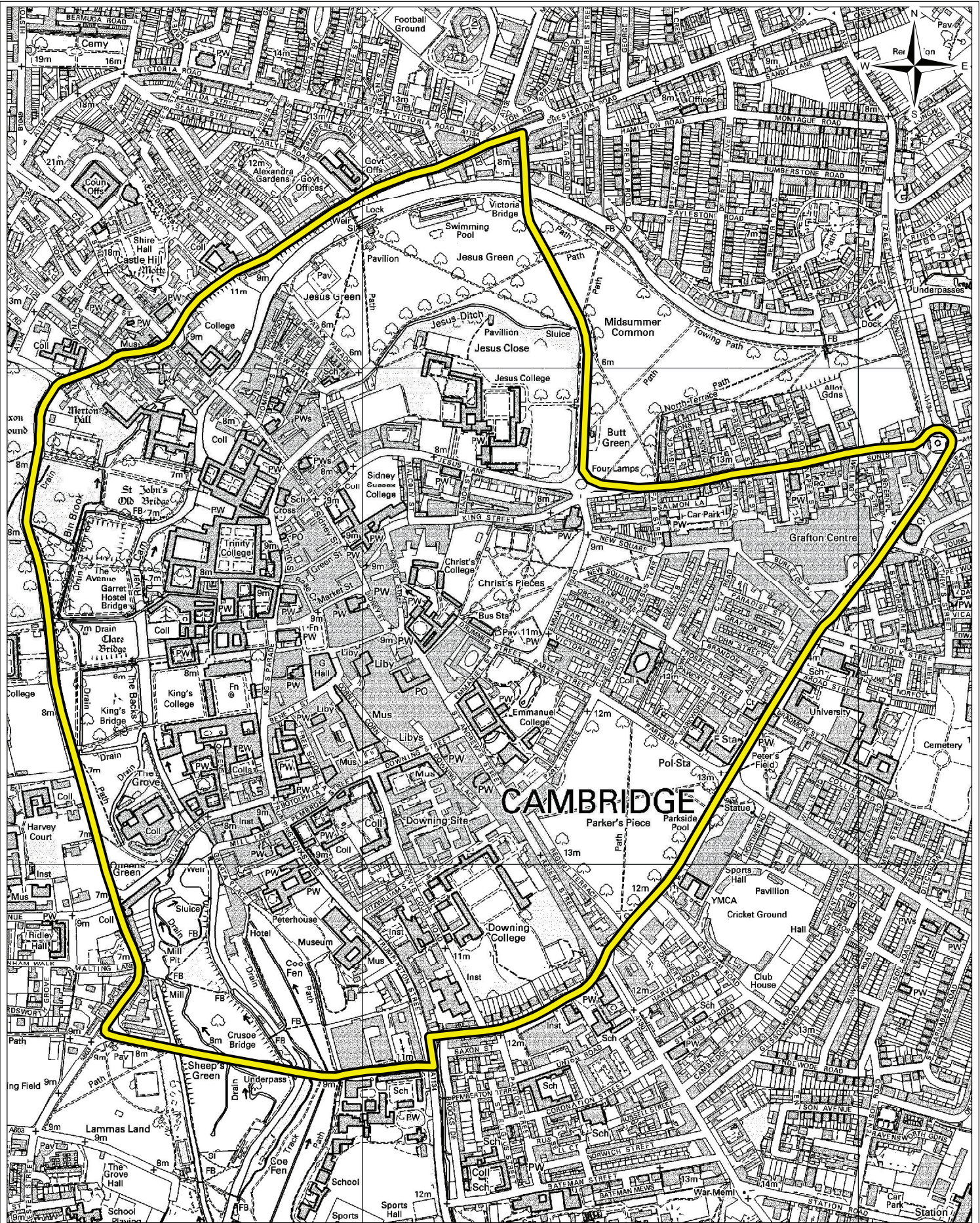
Street Trading

Date:	02/07/12
Produced by:	Steve Udall
Section/Department:	Property & Building Services
Scale:	1:6,500 @ A4

Pitch Number	Pitch Duration	Location of Pitch	Product Type
1	12 months	Quayside	Hot Food
2	8 months	Bridge Street/St John's Street	Cold Food
3	8 months	St John's Street/All Saints Passage	Cold Food
4	8 months	St Mary's Passage	Cold Food
5	8 months	Trumpington Street	Cold Food
6	12 months	Peas Hill/Market Hill	Hot Food
7	8 months	Guildhall/Market Street	Cold Food
8	12 months	Sidney Street	Hot Food
10	12 months	Market Street	Hot Food
11	12 months	Petty Cury/Sidney Street	Cold Food
12	12 months	Market Street	Retail
13	12 months	Market Street	Hot Food
14	12 months	Fitzroy Street	Hot Food
15	12 Months	Fitzroy Street	Retail
16	8 months	Fitzroy Street	Cold Food
17	6 months	Silver Street	Retail

Pitch Number	Pitch Duration	Location of Pitch	Product Type
18	8 months	Queens Green	Cold Food
19	8 months	Silver Street	Hot Food
20	8 months	Silver Street	Cold Food
21	8 months	Parkers Piece	Cold Food
22	12 months	Christ's Lane/St Andrews Street	Hot Food
23	12 months	Fitzroy Street	Retail
25	12 months	Fitzroy Street	Cold Food
26	12 months	Fitzroy Street	Retail
27	12 months	Fitzroy Street	Hot Food

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Information Systems Team

Outer Boundary of Consent Zone

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Date:	09/07/12
Produced by:	Steve Udall
Section/Department:	Informations Systems Team
Scale:	1:10,000 @ A4

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Appendix 2

SCHEDULE 4 Street Trading

Annotations:

Modifications etc. (not altering text)

[C1](#)Sch.4: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 4 applied (with modifications) *prosp* by 2000 c. viii, ss. 3, 4

Interpretation

1(1)In this Schedule—

- “consent street” means a street in which street trading is prohibited without the consent of the district council;
- “licence street” means a street in which street trading is prohibited without a licence granted by the district council;
- “principal terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(3) below;
- “prohibited street” means a street in which street trading is prohibited;
- “street” includes—

(a)

any road, footway, beach or other area to which the public have access without payment; and

(b)

a service area as defined in section 329 of the [M1](#)Highways Act 1980,

and also includes any part of a street;

- “street trading” means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and
- “subsidiary terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(4) below.

(2)The following are not street trading for the purposes of this Schedule—

(a)trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the [M2](#)Pedlars Act 1871;

(b)anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.

(c)trading in a trunk road picnic area provided by the Secretary of State under section 112 of the [M3](#)Highways Act 1980;

- (d) trading as a news vendor;
 - (e) trading which—
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
 - (f) selling things, or offering or exposing them for sale, as a roundsman;
 - (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
 - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
 - (j) the doing of anything authorised by regulations made under section 5 of the [M4](#) Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
- (3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where—
- (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
 - (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not—
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres; or
 - (iii) stand on the carriageway of a street.

Annotations:

Marginal Citations

- [M1](#) 1980 c. 66.
- [M2](#) 1871 c. 96.
- [M3](#) 1980 c. 66.
- [M4](#) 1916 c. 31.

Designation of streets

- 2(1) A district council may by resolution designate any street in their district as—
- (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).
- (3) A council shall not pass such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;
 - (b) they have served a copy of the notice—
 - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
 - (ii) on any highway authority responsible for that street; and

- (c) where sub-paragraph (4) below applies, they have obtained the necessary consent.
- (4) This sub-paragraph applies—
 - (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
 - (b) where the resolution designates as a licence street any street maintained by a highway authority;
 and in sub-paragraph (3) above “necessary consent” means—
 - (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
 - (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.
- (5) The following are relevant corporations for the purposes of this paragraph—
 - (a) the British Railways Board;
 - (b) the Commission for the New Towns;
 - (c) a development corporation for a new town; [F1](#) and]
 - (d) an urban development corporation established under the [M1](#) Local Government, Planning and Land Act 1980; . . .
 - [F2](#) (e)
- (6) The notice referred to in sub-paragraph (3) above—
 - (a) shall contain a draft of the resolution; and
 - (b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.
- (7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.
- (8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.
- (9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.
- (10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- (11) Where a street is designated as a licence street, the council may resolve—
 - (a) in the resolution which so designates the street; or
 - (b) subject to sub-paragraph (12) below, by a separate resolution at any time, that a street trading licence is not to be granted to any person who proposes to trade in the street for a number of days in every week less than a number specified in the resolution.
- (12) Sub-paragraphs (3)(a) and (6) to (10) above shall apply in relation to a resolution under sub-paragraph (11)(b) above as they apply in relation to a resolution under sub-paragraph (1) above.
- (13) Any resolution passed under this paragraph may be varied or rescinded by a subsequent resolution so passed.

Annotations:

Amendments (Textual)

[F1](#) Word in Sch. 4 para. 2(5)(c) inserted (1.10.1998) by 1998 c. 38, s. 29, Sch. 15 para. 5 (with ss. 131(1), 137(1), 139(2), 143(2)); S.I. 1998/2244, art. 4

[F2](#) Sch. 4 para. 2(5)(e) and word “and” immediately preceding repealed (1.10.1998) by 1998 c. 38, s. 152, Sch. 18 Pt. IV (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, art. 4

Marginal Citations

[M1](#) 1980 c. 65.

Street trading licences

3(1) An application for a street trading licence or the renewal of such a licence shall be made in writing to the district council.

(2) The applicant shall state—

(a) his full name and address;

(b) the street in which, days on which and times between which he desires to trade;

(c) the description of articles in which he desires to trade and the description of any stall or container which he desires to use in connection with his trade in those articles; and

(d) such other particulars as the council may reasonably require.

(3) If the council so require, the applicant shall submit two photographs of himself with his application.

(4) A street trading licence shall not be granted—

(a) to a person under the age of 17 years; or

(b) for any trading in a highway in relation to which a control order under section 7 of the [M1](#) Local Government (Miscellaneous Provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply.

(5) Subject to sub-paragraph (4) above, it shall be the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (6) below.

(6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds—

(a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;

(b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

(c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them

for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder;

(f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;

(g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

(7) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—

(a) to trade on fewer days or during a shorter period in each day than specified in the application; or

(b) to trade only in one or more of the descriptions of goods specified in the application.

(8) If—

(a) a person is licensed or otherwise authorised to trade in a street under the provisions of any local Act; and

(b) the street becomes a licence street; and

(c) he was trading from a fixed position in the street immediately before it became a licence street; and

(d) he applied for a street trading licence to trade in the street, his application shall not be refused on any of the grounds mentioned in sub-paragraph (6)(a) to (c) above.

Annotations:

Marginal Citations

[M1](#) 1976 c. 57.

4(1) A street trading licence shall specify—

(a) the street in which, days on which and times between which the licence-holder is permitted to trade; and

(b) the description of articles in which he is permitted to trade.

(2) If the district council determine that a licence-holder is to confine his trading to a particular place in the street, his street trading licence shall specify that place.

(3) Matters that fall to be specified in a street trading licence by virtue of sub-paragraph (1) or (2) above are referred to in this Schedule as the “principal terms” of the licence.

(4) When granting or renewing a street trading licence, the council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the licence) as appear to them to be reasonable.

(5) Without prejudice to the generality of sub-paragraph (4) above, the subsidiary terms of a licence may include conditions—

(a) specifying the size and type of any stall or container which the licence-holder may use for trading;

(b) requiring that any stall or container so used shall carry the name of the licence-holder or the number of his licence or both; and

(c) prohibiting the leaving of refuse by the licence-holder or restricting the amount of refuse which he may leave or the places in which he may leave it.

(6) A street trading licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the licence, for that period.

(7) If a district council resolve that the whole or part of a licence street shall be designated a prohibited street, then, on the designation taking effect, any street trading licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.

5(1) A district council may at any time revoke a street trading licence if they consider—

(a) that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street;

(b) that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(c) that, since the grant or renewal of the licence, the licence-holder has persistently refused or neglected to pay fees due to the council for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder; or

(d) that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.

(2) If the council consider that they have ground for revoking a licence by virtue of sub-paragraph (1)(a) or (d) above, they may, instead of revoking it, vary its principal terms—

(a) by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade; or

(b) by restricting the descriptions of goods in which he is permitted to trade.

(3) A licence-holder may at any time surrender his licence to the council and it shall then cease to be valid.

6(1) When a district council receive an application for the grant or renewal of a street trading licence, they shall within a reasonable time—

(a) grant a licence in the terms applied for; or

(b) serve notice on the applicant under sub-paragraph (2) below.

(2) If the council propose—

(a) to refuse an application for the grant or renewal of a licence; or

(b) to grant a licence on principal terms different from those specified in the application; or

(c) to grant a licence confining the applicant's trading to a particular place in a street; or

(d) to vary the principal terms of a licence; or

(e) to revoke a licence,

they shall first serve a notice on the applicant or, as the case may be, the licence-holder—

(i) specifying the ground or grounds on which their decision would be based; and

(ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.

(3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either—

- (a) the person on whom it was served has made representations to them concerning their decision; or
- (b) the period during which he could have required them to give him an opportunity to make representations has elapsed without his requiring them to give him such an opportunity; or
- (c) the conditions specified in sub-paragraph (4) below are satisfied.

(4) The conditions mentioned in sub-paragraph (3)(c) above are—

- (a) that the person on whom the notice under sub-paragraph (2) above was served has required the council to give him an opportunity to make representations to them concerning it, as provided by sub-paragraph (2)(ii) above;
- (b) that the council have allowed him a reasonable period for making his representations; and
- (c) that he has failed to make them within that period.

(5) A person aggrieved—

- (a) by the refusal of a council to grant or renew a licence, where—
 - (i) they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 3(6)(d) to (g) above as the only ground on which their decision would be based; or
 - (ii) they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs; or
- (b) by a decision of a council to grant him a licence with principal terms different from those of a licence which he previously held, where they specified in their notice under sub-paragraph (2) above the ground mentioned in paragraph 3(6)(g) above as the only ground on which their decision would be based; or
- (c) by a decision of a council—
 - (i) to vary the principal terms of a licence; or
 - (ii) to revoke a licence,
 in a case where they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 5(1)(b) to (d) above as the only ground on which their decision would be based or they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs,

may, at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates' court acting for the petty sessions area in which the street is situated.

(6) An appeal against the decisions of a magistrates' court under this paragraph may be brought to the Crown Court.

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraphs (9) to (11) below, it shall be the duty of the council to give effect to an order of the magistrates' court or the Crown Court.

(9) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (6) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) If a licence-holder applies for renewal of his licence before the date of its expiry, it shall remain valid—

(a) until the grant by the council of a new licence with the same principal terms; or

(b) if—

(i) the council refuse renewal of the licence or decide to grant a licence with principal terms different from those of the existing licence, and

(ii) he has a right of appeal under this paragraph,

until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal; or

(c) if he has no right of appeal under this paragraph, until the council either grant him a new licence with principal terms different from those of the existing licence or notify him of their decision to refuse his application.

(11) Where—

(a) a council decide—

(i) to vary the principal terms of a licence; or

(ii) to revoke a licence; and

(b) a right of appeal is available to the licence-holder under this paragraph, the variation or revocation shall not take effect until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

Street trading consents

7(1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.

(2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.

(3) A street trading consent shall not be granted—

(a) to a person under the age of 17 years; or

(b) for any trading in a highway to which a control order under section 7 of the [M1 Local Government \(Miscellaneous Provisions\) Act 1976](#) is in force, other than trading to which the control order does not apply.

(4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.

(5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—

(a) obstruction of the street or danger to persons using it; or

(b) nuisance or annoyance (whether to persons using the street or otherwise).

(6) The council may at any time vary the conditions of a street trading consent.

(7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.

(8) The council may include in a street trading consent permission for its holder to trade in a consent street—

(a) from a stationary van, cart, barrow or other vehicle; or

(b) from a portable stall.

(9) If they include such a permission, they may make the consent subject to conditions—

(a) as to where the holder of the street trading consent may trade by virtue of the permission; and

(b) as to the times between which or periods for which he may so trade.

(10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.

(11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

Annotations:

Marginal Citations

[M1](#) 1976 c. 57.

General

8 The holder of a street trading licence or a street trading consent may employ any other person to assist him in his trading without a further licence or consent being required.

9(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

(a) to the duration of the licence or consent;

(b) to the street in which it authorises trading; and

(c) to the descriptions of articles in which the holder is authorised to trade.

(3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.

(4) A council may determine that fees may be paid by instalments.

(5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

(6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.

(7) Where a licence—

(a) is surrendered or revoked; or

(b) ceases to be valid by virtue of paragraph 4(7) above, the council may remit or refund, as they consider appropriate, the whole or a part—

(i) of any fee paid for the grant or renewal of the licence; or

(ii) of any charges recoverable under sub-paragraph (6) above.

(8) The council may determine—

(a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above; or

(b) that they shall be separately recoverable.

(9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—

(a) shall give notice of the proposed charges to licence-holders; and

(b) shall publish notice of the proposed charges in a local newspaper circulating in their area.

(10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.

(11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Offences

10(1) A person who—

(a) engages in street trading in a prohibited street; or

(b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or

(c) contravenes any of the principal terms of a street trading licence; or

(d) being authorised by a street trading consent to trade in a consent street, trades in that street—

(i) from a stationary van, cart, barrow or other vehicle; or

(ii) from a portable stall,

without first having been granted permission to do so under paragraph 7(8) above; or

(e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [F1]level 3 on the standard scale].

Annotations:

Amendments (Textual)

[F1](#) Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Savings

11 Nothing in this Schedule shall affect—

(a) section 13 of the [M1](#) Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act; (4 & 5 Eliz. 2).

(b)[[F1](#)section 56 of the Food Act 1984](prohibition of certain sales during market hours).

Annotations:

Amendments (Textual)

[F1](#)Words substituted by Food Act 1984 (c. 30, SIF 53:1), s. 134, Sch. 10 para. 34

Marginal Citations

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CAMBRIDGE CITY COUNCIL

CITY CENTRE MANAGEMENT – MARKETS AND STREET
LICENSING DEPARTMENT

STREET TRADING CONDITIONS

APRIL 2012 TO APRIL 2013

CONSENT HOLDER: **xxxxxxx**

PITCH NO: **xxxxxx**

LOCATION: **xxxxxx**

DURATION: **xxxxxxx**

FEE: **xxxxxxx**

1. This consent is valid for the period from xxxxx and no right to its renewal by the Council can be assumed or is implied.
2. Trading shall only take place between 9.00am and 8.00pm.
3. The consent holder(s) shall at all times comply with all statues, statutory instruments, regulations and by-laws. Particular attention should be paid to the requirements of the Health and Safety at Work Act 1974. The Food Safety Act 1990, The General Food Hygiene Regulations 2004 and The Food Hygiene(England) Regulations2006
4. The consent holder(s) or his/her/their business shall not cause any nuisance or annoyance to any other user of the highway, the occupier of any land or building, or the Council.
5. No recorded or amplified music or radio shall be played by the consent holder(s) or any employee at the stall to the annoyance of any member of the public, local resident or occupier of nearby premises.
6. No water, rubbish or waste material shall be discharged or deposited on the highway or any adjacent property or into any surface water inspection chamber or gully.
7. The consent holder's stall shall be kept in a clean, safe and well maintained condition, to the satisfaction of the Council and its authorised officers. The stall and stallholder must comply with the Council's stall design and style of dress criteria.
8. The consent holder(s) are responsible for:
 - The removal of their trade waste.
 - Consents holder(s) selling hot or cold food shall provide a bin to be removed and emptied into their trade waste at the end of the trading day, the bin to be approved by the Markets and Street Licensing manager.
 - A notice provided by the Council displaying information regarding litter will be displayed in a conspicuous place by the consent holder(s)
9. The consent holder(s) shall ensure that the stall is positioned wholly within the marked out area of the consent street to which this consent relates.
10. A notice issued by the Council stating the name of the consent holder(s), the number of the pitch and an address for complaints, shall be displayed in a conspicuous position on the stall at all times when trading is being carried on at the stall. This notice should also show the date of the last "Street Trader Review" meeting The notice will remain the property of the City Council and must be returned upon revocation, expiry or surrender of this consent.
11. Any person engaged in or about the business of the stall either in the vicinity of the pitch to which this consent relates, or when travelling with the stall to or from that pitch, shall carry with them an identity card issued by the Council and shall produce the identify card and a copy of this consent when requested to do so by any Council Officer or any Police Officer. The identity card will remain the property of the City

Council and must be returned upon revocation, expiry or surrender of this consent.

12. If the consent holder(s) or any employee is requested to move the stall by an authorised Council Officer or a Police Officer, he/she shall immediately comply with that request.
13. The consent holder(s) shall ensure that disabled people can be served at the stall.
14. The consent holder(s) may surrender this consent by written notice to Head of Tourism and City Centre Management
15. This consent is personal to the consent holder(s) and is not transferable. This consent automatically determines upon the death of the consent holder(s), or in the event of any legal or physical incapacity substantially preventing the consent holder(s) from personally operating the stall to which it relates. The stall to which this consent relates shall be operated only by the consent holder(s), with the assistance, where necessary, of any bona fide employee or member of the consent holder(s) immediate family. The rights conferred by this consent may not be assigned, sub-let or otherwise transferred, whether for value or not, and the consent holder(s) may not enter into any agreement whereby any other person is allowed to operate or assist in the operation of the stall to which this consent relates in return for a consideration calculated by reference to the income received by the operation of the stall.
16. No business other than that of the sale of xxxxxxxx shall be carried on at the stall.
17. Hot food stalls shall not sell goods which cause a nuisance by virtue of smell, in particular hot dog vendors are prohibited from cooking onions on the trading pitch. The consent holder shall cease the cooking of any item if so instructed. The Council attaches particular importance to this condition and failure to comply with these paragraphs will normally result in the consent being revoked.
18. Failure to comply with these conditions will put the consent holder(s) at risk of having the consent revoked and/or of prosecution.
19. The Council has the right to revoke this consent at any time. In particular, and with out prejudice to the generality of this right, the Council reserved the right to revoke this consent if in its opinion the consent holder(s):
 - (a) regularly fail(s) to operate the stall to which this consent relates, or regularly fail(s) to operate the stall for the period in each week which it was indicated in the application for the grant or renewal of this consent that the stall would be operated;
 - (b) cease(s) to be substantially active in the operation of the stall or to exercise complete control over the operation of the stall.

20. Any proposed revocation of a consent will be subject to the review of the Head of Tourism and City Centre Management. A trader whose consent has been revoked may appeal in writing to the Council's Director of the Environment (or such other officer as the Council appoints) within 5 working days from, but not including, the day the trader is notified of the decision against which they wish to appeal. The decision of the Director of the Environment or other appointed officer shall be final in all respects.

I have received the Street Trading Condition issued by Cambridge City Council and agree to abide by them. I understand that non-compliance could result in my consent being revoked and/or prosecution.

Signed Date
.....

Signed Date
.....

Authorising Officer Date
.....Markets and Street Trading Manager

Street Trading Consent Application Form 2013/2014



I/we apply under the provisions of the Street Trading Act for a Street Trading Consent. Please complete a separate application form for each pitch if you wish to be considered for more than one. I/we submit the following particulars:

1. First Applicant

Name

Address

.....

Postcode Telephone

Email Address.....

2. Second Applicant

Name

Address

.....

Postcode Telephone

Email Address.....

3. Trading Name (if any)

4. Description of articles to be sold

.....

5. Have you traded in Cambridge before? If yes, give details, if you are renewing your licence please state the number of the pitch you are reapplying for.

.....

6. Have you traded in any other City/Town? If yes, give details. If you are reapplying please state how long you have traded on 'your' current pitch.

.....

7. Please attach photocopy of your public liability insurance? (Only needed if offered a pitch)

8. Will you be the sole operator of the street trading unit? If no, how often will you operate the street trading unit?

9. If the answer to 8 is no, who will operate the street trading unit? (Include date of birth).....

.....

10. Are you related to any other street traders in the City? Give name and relationship.

.....

11. Type of street trading unit **please include description and photograph** of street trading unit and person in appropriate dress – Please attach evidence of how your street trading unit meets the assessment criteria as set out in the Council's Street Trading Policy.

.....

12. Please include evidence of how you meet the councils assessment criteria of food hygiene as set out in the Council's Street Trading Policy.

.....

13. Address of where food and stall will be stored

.....

14. Are you registered with your Local Authority under the Food Premises (Registration) Regulations 1991? YES / NO

If yes, please state which Local Authority

.....

15. Please state how you dispose of the waste from 'your pitch'.....

.....

16. Do you use a power supply? If yes what power source do you use? LPG, electrics etc.

.....

17. Any other details to support your application

.....

18. Preferred trading site – pitch no

.....

19. Period of consent (i.e. 12, 8, 6 months)

.....

20. Proposed days and times of trading

.....

21. Please state if you have decided on any potential business or street trading unit enhancements that you intend to implement within the next 12 months. Please include any **please include description and photograph**.

Signed Date

Print Name.....

Signed Date

Print Name.....

Please return this form to:

City Centre Management, Cambridge City Council, PO Box 700, Cambridge, CB1 0JH.

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CAMBRIDGE CITY COUNCIL
THE GUILDHALL,
CAMBRIDGE, CB2 3QJ

STREET TRADING REVIEW

Street trading pitch number _____
Consent holder _____
Street location _____
Commodities _____

1 Consent Present <input type="checkbox"/>	4 Stall compliant with the Council's Criteria for assessment for street trading consents. <input type="checkbox"/>
2 Consent plaque clearly displayed <input type="checkbox"/>	5 Appearance of trader/ staff <input type="checkbox"/>
3 Food hygiene records up to date <input type="checkbox"/>	6 Gas certificates <input type="checkbox"/>

RECOMMENDATIONS to include timescales given if appropriate to rectify any outstanding issues.

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Officer Comments

Enforcement Officer (print name) _____ Signed _____

Consent Holder (print name) _____ Signed _____

Appendix 5

Date of Street Trading Review Meeting _____