



Cambridge Market Status and Powers

To: Councillor Rosy Moore, Executive Councillor for Climate Action, and Environment

Environment and Community Scrutiny Committee, 21st March 2024

Report by: James Elms, Director of City Services.

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Wards affected: ALL.

1. Executive Summary

- 1.1 The Council recognises the important contribution that the market can make to the local economy and the character of the City. Markets can deliver economic growth and regeneration; they offer an opportunity for small businesses to get started for a relatively modest financial outlay, help increase city centre vitality and contribute in a number of ways to the local communities they serve.
- 1.2 The recommendations in this report are relevant to the current day-to day operation of its markets. The Council aims to create a market trading environment that compliments the surrounding area and retail offer, is sensitive to the needs of all users of our city and provides a diversity of choice for consumers. It seeks to encourage and stimulate investment from local traders and to create a quality and sustainable offer to our residents and visitors.
- 1.3 It is recognised that it is important that the Council has clarity on the nature of its Market Powers so that there is a reference point for any

action the Council might want to take in respect of protecting and supporting its current and future Markets.

- 1.4 This report summarises the work undertaken by the Markets team and the advice received from The National Association of British Markets (NABMA) Legal and Policy expert and makes a series of recommendations on the operation of modern and successful markets in Cambridge.
- 1.5 The Council's Markets are currently operated under the provisions of the City of Cambridge Act 1985 which incorporates section 50 of the Food Act 1984.
- 1.6 The Council is advised that its Markets would benefit from being operated under the provisions of the City of Cambridge Act, 1985 and Part III of the Food Act 1984, as Part III of the Food Act is the current statutory framework for all modern markets and its provisions are wider than those contained in Part 11, section 50 of the Food Act 1984 for which the Market currently operates.
- 1.7 Use of these additional Part III provisions would provide the Council with a comprehensive range of powers, and it is the intention to consult on the impact of proposed changes.
- 1.8 The proposed engagement framework for consultation on the impact of any proposed changes is detailed in Section 5 of this report.

2. Recommendations

- 2.1 The Executive Councillor is recommended:
 - a) to operate Markets in Cambridge using the provisions of the City of Cambridge Act 1985 and Part III of the Food Act 1984.
 - b) to review current Byelaws, review current regulations and consult on the impact of proposed changes to terms and conditions and current licensing arrangements. These documents are then to be consolidated into one single document.
 - c) to approve the production of consultation plan (as set out in Section 5) for the development of a Market Licensing Policy, a Balance of

Trade Policy, and the impact of any proposed changes to the General Market Terms and Conditions.

3. Background to the Council's Market Powers

- 3.1 Local authorities operate markets under one or more of the following powers:
 - a. Royal Charter or Letters Patent
 - b. Lost Modern Grant
 - c. Prescription/Immemorial User
 - d. Local Legislation
 - e. General Public Legislation
- 3.2 Circa 1211, a Charter was granted to the Council's predecessor to hold Markets in Cambridge and to hold the Midsummer Fair. However, the Council is advised that this Charter does not seem to have any direct relevance to the current city Market activities of the Council and that it should regard the Charter as merely an historical "backcloth" to the Market.
- 3.3 Local legislation, starting with the Cambridge Corporation Act 1850 regulated Markets and Fairs within Cambridge. The 1850 Act incorporated most of the provisions of the Market and Fairs Clauses Act 1847. The 1847 Act included the general statutory framework for operating Markets and most local legislation incorporated these provisions to avoid the need for lengthy detail in the local legislation.
- 3.4 In 1985 a further piece of local legislation was passed namely the Cambridge City Council Act which repealed the provisions of the 1850 Act. Part III of the 1985 Act deals with Markets and Fairs but only Section 11 specifically deals with Markets. This Section provides for the Council to enjoy the benefit of establishment and acquisition of markets in the city using Section 50 of the Food Act 1984 and the use of Part III of the Food Act 1984 as the general statutory framework on Markets.
- 3.5 The legal advice received is that the Council's market powers are therefore statutory in nature and are based on the Cambridge City Council Act 1985, particularly Section 11, and Section 50 of the Food Act 1984. The provisions in Part III of the Food Act 1984 are wider than those contained in Section 11, and it is recommended that the Council adopts Part III to afford the opportunity to use the additional provisions which include:

Section 52 - Appointing Market Days and Hours
Section 53 - Determining Market Charges
Section 54 - Determining the time for payment of Charges
Section 60 - Authority to make Market Byelaws

- 3.6 The Council is advised of the importance of having clarity on the nature of its market powers so that there is a reference point for any action the Council might want to take in respect of its Market. Given that Section 11 of the Cambridge Corporation Act 1985 simply applies Section 50 of the Food Act 1984 to its Markets, the real focus should be on Section 50 and the rest of Part III to allow us to operate within a modern statutory framework as per other UK markets.
- 3.7 The Council does not currently have a Market Licensing Policy and we are advised that the Council should consider implementing a Licensing Policy as part of the process of defining the role of the Council as a Market Operator which will allow the Council to control and manage the holding of all markets within the agreed boundary at places and times of their choosing.
- 3.8 It is recommended the Council's Markets will be operated under the provisions of the Cambridge Act 1985 and Part III of the Food Act 1984 with the Charter providing the historical context.

Benefits of using new Market Powers and Introduction of new Policies

Extension of use of Part III of Food Act

- 3.9 By using the full provisions within Part III of the Food Act this will enable the Council to:
- a) Introduce the licensing of other markets. Though the Act creates market rights which extend to $6\frac{2}{3}$ miles from the location of the operator's Market, the City Council would consult on limiting the Market Licencing Policy to the administrative area of the city.
 - b) The introduction of licensing of other markets will require the adoption of the use of Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.
 - c) Devise new policy (and an application process) for managing other markets both commercial and community based within the city boundary.

Market Licensing Policy

3.10 A Market Licensing Policy is important for both the Council and Market Traders, providing protection as it enables the Council to determine the number, quality and balance of other Market events held within its area and ensure they are properly regulated. Such a policy can make a meaningful contribution to the Council's overall market offer. This is one of the most important powers available to a Market Operator and has existed for hundreds of years. Such arrangements should give the traders confidence that the Council is protecting their Markets and their livelihoods. Opportunities may arise for existing market traders who may be interested in operating from other market locations on days they don't trade in the Market Square.

Section 37 of the Local Government (Miscellaneous Provisions) Act 1982

3.11 This Section deals with Temporary Markets and essentially provides that any person intending to hold a Temporary Market is required to give prior notice to the relevant local authority unless the proceeds of the Temporary Market are to be applied solely or principally for charitable, social, sporting, or political purposes. The provisions also do not apply to a Market held on any land where a planning permission has been granted for a Market to be held. Any local authority wishing to take advantage of Section 37 is required to adopt the Section and advertise their intention to introduce the provisions in their area. Some local authorities use Section 37 as part of their Market Licensing Policy as it gives them advanced notice of the intention to hold a Market event. It is recommended that this be considered alongside the introduction of a Market Licensing Policy.

3.12 The Market Licensing Policy document will follow industry best practice and advice, and it will be used for the licensing of other markets.

Market Byelaws

3.13 Section 60 of the Food Act 1984 provides for the making of Byelaws. Byelaws are intended, among other things, to regulate the use of the Market and are also directed at preventing nuisances or obstructions. Normally enforcement of the Byelaws is through prosecution in the Magistrates Court. There is a standard set of Market Byelaws available, and it is open to a local authority to make variations of the standard set provided they can justify such variations.

- 3.14 The City Council currently has Market Byelaws but there is no evidence that any action has been taken under them. There is also duplication with some of the Market licensing arrangements and other provisions in the Byelaws are irrelevant to current needs. Therefore, the Council is advised that the Byelaws should no longer be regarded as an important element of the management arrangements of the Council's Markets.
- 3.15 No formal action is required by the City Council currently. The existing Byelaws can simply remain in place and if, at some future time, the Council undertakes a comprehensive review of all its Byelaws then the status and role of the Market Byelaws can be considered at that time.

Market Licensing Arrangements – Changes to the General Market Terms and Conditions

- 3.16 The City Council is advised it needs to review and revise the current licensing arrangements for the operational efficiency and management of Cambridge Markets. It is proposed to consult formally with the Market Traders over their current licensing arrangements and terms and conditions and undertake this during 2024. The Council may wish to consider how to re-write them in a more generic style to reflect the ambitions of a modern vibrant market.
- 3.17 It is our intention to involve stakeholders and traders in helping to 'shape the future' of the market and development of other markets by consulting them to contribute ideas and suggestions on the content of the Balance of Trade and Market Licensing Policies (for other markets) and some aspects of their terms and conditions.
- 3.18 It is recommended that the changes to the Market Powers are agreed by the City Council prior to beginning the formal consultation with Market Traders over the General Market Terms and Conditions, as this will determine the legislative context the Council consult within.

General Market Trader Terms and Conditions (previously known as Regulations)

- 3.19 The current General Market Terms and Conditions have been in place since 2011 and were amended in 2018. It is considered by NABMA legal experts, that Market operators regularly review and update terms and conditions to ensure that they are in line with industry standards. Officers

have also identified the need to introduce revised policies for the market that align with Council wide corporate objectives such as, to reduce its emissions and impact on the environment.

3.20 Three documents are identified as being of importance in relation to the operational management of Cambridge Markets. These are:

- Current General Market Regulations.
- Byelaws.
- A new document relating to the General and Sunday Market Terms and Conditions to be developed within the consultation programme as outlined in appendices.

3.21 It is recommended that all three documents are consolidated into a single document which clarifies the relationship between the Council and the traders with the focus on the General Market Terms and Conditions document. The General Market Terms and Conditions document provide a comprehensive statement of the rights and responsibilities of the City Council and the Market Traders and whilst it should not be fundamentally changed; some additions and amendments have been identified for inclusion – in particular relating to bringing licences to an end/ defining notice periods which should be the same for both parties.

Benefits of Introducing New Policies

3.22 **Market Licensing Policy** - A Market Licensing Policy is important for both the Council and Market Traders. First, it helps to protect the Council's Markets and secondly it ensures that market events throughout the Council's areas are balanced and properly regulated. Such arrangements should give the traders confidence that the Council is protecting their Markets and their livelihoods.

3.23 **Balance of Trade Policy** - Balance of Trade Policies are considered industry standard documents, and a useful tool by which markets can clearly and transparently demonstrate a commitment to the creation of a diverse, prosperous, and fair market economy. The policy should promote a positive shopping environment through being attractive to customers which in turn generates better performance from the Market Traders thereby resulting in higher footfall and greater customer spend. Therefore, the Trader Mix is critical to the success of the Market. The policy should balance and address:

- Fair and reasonable retail business opportunities for the local community
- Provide the management with a policy that is appropriate to the trader/ produce/ product mix, which is not too prescriptive and best reflects the ever-changing retail environment.
- The needs of the customer wanting a real choice of products, produce and services.
- Maintaining a diverse retail offer with healthy competition between traders
- Careful consideration of whether a certain product, produce or service is under or over- represented and whether the produce/ product has a short shelf life.
- Reduce the number of vacant stalls which can be to the detriment of the wider market.
- The policy should be reviewed regularly so that the ideal trader/ goods mix reflects the customers' preferences.

3.24 The introduction of a Balance of Trade Policy will declare the City Council's 'statement of intent' for the future.

4. Implications

a) Financial Implications

There is a revenue cost associated with the proposed consultation and this will be funded from existing budgets.

b) Staffing Implications

Other than staff time to support the process of consultation and responding to feedback there are no other staffing implications identified.

c) Equality and Poverty Implications

An EQIA was completed to accompany this report. The EQIA in conclusion, found that the implementation of Part III, section 50 of the Food Act 1984 should be accompanied by proactive measures to address potential disparities and ensure equitable treatment across all equality groups, and this can be achieved using the proposed consultation. By considering the unique needs and circumstances of different demographics, the Council can promote fairness and inclusivity in the enforcement of market regulations. Ongoing monitoring and evaluation are essential to identify any emerging issues and refine strategies for promoting equality.

d) Net Zero Carbon, Climate Change and Environmental Implications

None identified.

e) Procurement Implications

None identified.

f) Community Safety Implications

None identified.

5. Consultation and communication considerations

In the scoping and preparation of the Market status change a range of consultation and communication tasks have been identified.

The overall aims of this consultation are to:

- To raise awareness of this and other related work that the Council is undertaking, offering the opportunity for all stakeholders to raise questions and have meaningful dialogue from the outset.
- Identify and engage Market Traders, their representatives, and other key stakeholders in this conversation, building strong working relationships throughout this period of consultation, and for the future.
- Fully and properly engage Market Traders and other key stakeholders to work collaboratively to review the impact of the proposed changes to terms and conditions and licencing policy.
- Develop an agreed licencing policy that allows the Council to run a modern, well-functioning market, and supports and protects MTs and their trading interests.

This report details the work which has already taken place to clarify the Council's position in terms of its legal requirements to update the status of the market, the regulations and licensing policy that supports the operational functioning of the market. In addition, a workshop with key staff members took place in January 2024 to clarify the requirements for the consultation process and scope (as detailed above).

To support this consultation, a document will be prepared and shared, identifying mandatory/legal requirements that will automatically be introduced, along with elements to be consulted on. This is essential in order to conduct a focused piece of work, achieve consensus, and establish agreed outcomes that the Council can take forward. This also manages expectations in terms of the aims and objectives for engagement.

The Markets team will ensure there is the coordination with the Civic Quarter team to ensure a coherent approach to consultation with traders.

6. Background papers

Background papers used in the preparation of this report:

- a) City of Cambridge Act 1985
- b) Part III Section 50 of the Food Act 1984

7. Appendices

Appendix A – Equalities Impact Assessment.

8. Inspection of papers

To inspect the background papers or if you have a query on the report, please contact Mr Alistair Wilson, Strategic Delivery Manager, 01223458514, alistair.wilson@cambridge.gov.uk

Appendix A

Cambridge City Council Equality Impact Assessment (EqIA)

This tool helps the Council ensure that we fulfil legal obligations of the [Public Sector Equality Duty](#) to have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Guidance on how to complete this tool can be found on the Cambridge City Council intranet. For specific questions on the tool email Helen Crowther Equality and Anti-Poverty Officer at equalities@cambridge.gov.uk or phone 01223 457046.

Once you have drafted the EqIA please send this to equalities@cambridge.gov.uk for checking. For advice on consulting on equality impacts, please contact Graham Saint, Strategy Officer, (graham.saint@cambridge.gov.uk or 01223 457044).

1. Title of strategy, policy, plan, project, contract or major change to your service
<p>Cambridge Markets an Update of Regulatory Powers</p> <p>The proposed Policy change relates to the future Council use of statutory powers under Part III of the Food Act 1984. By using these legal powers governing the operation of its Market the Council is entitled to introduce a Market Licensing Policy which enables the Council to control and manage the holding of other markets wishing to set up within the city boundary.</p> <p>It is good practice for Councils to publish a Market Policy (future publication date) and have a licensing regime that allows it to influence the nature and type of market for the benefit of the community; to distinguish between commercial and community-based markets or those with a strong charitable element; to ensure conditions are in place to meet legislative controls including to protect public safety; and that these can be consistently and fairly applied to all traders wishing to operate in the City</p> <p>This a preliminary EQIA and will be completed after a period of consultation on the proposed changes because of using Part III of the Food Act 1984.</p>

2. Webpage link to full details of the strategy, policy, plan, project, contract or major change to your service (if available)

Committee report to Environment and Community Scrutiny Committee – March 2024

[Agenda for Environment and Community Scrutiny Committee on Thursday, 21st March 2024, 6.00 pm - Cambridge Council](#)

3. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

The Council recognises the important contribution that the Market can make to the local economy and the character of the city. Markets can deliver economic growth and regeneration; they offer an opportunity for small businesses to get started for a relatively modest financial outlay, help increase city centre vitality and contribute to several ways to the local communities they serve.

The report going to Environment and Community Scrutiny Committee in March 2024 sets to.

- Act on advice given to use the operating mechanism of the Cambridge Act 1985 and Part III of the Food Act 1984.
- Revise and consolidate the Code of Practice, Byelaws and General and Sunday Market terms and conditions.
- Approve a consultation plan for the development of a Market Licencing policy, a Balance of Trade policy and propose changes to the terms and conditions of the Market Licence.

The legal advice received is that the Council's market powers are statutory in nature and are based on the Cambridge City Council Act 1985, particularly Section 11, and Section 50 of the Food Act 1984. The provisions in Part III of the Food Act 1984 are wider than those contained in Section 11, and it is recommended that the Council uses Part III to afford the opportunity to use the additional provisions which include:

Section 52 - Appointing Market Days and Hours

Section 53 - Determining Market Charges

Section 54 - Determining the time for payment of Charges.

Section 60 - Authority to make Market Byelaws

There is a consultation plan being developed which will reach out to Market Traders (current and future), statutory consultees, and residents. This will be developed to go live at the end of May 2024. This will seek engagement on the impact of changes to terms and conditions.

By using the full provisions within Part III of the Food Act this will enable the Council to:

- a) Introduce the licencing of other markets. Though the Act creates market rights which extend to 6 $\frac{2}{3}$ miles from the location of the operator's Market, the City Council would consult on limiting the Market Licencing Policy to the administrative area of the city.

- b) The introduction of licensing of other markets will require the current use of Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.
- c) Devise new policy (and an application process) for managing other markets both commercial and community based within the city boundary.

4. Responsible service

City Services - Streets and Open Spaces

5. Who will be affected by this strategy, policy, plan, project, contract or major change to your service? (Please tick all that apply)	<input checked="" type="checkbox"/> Residents <input type="checkbox"/> Visitors <input checked="" type="checkbox"/> Staff
Market Traders (current and future) and staff managing the Markets	

6. What type of strategy, policy, plan, project, contract or major change to your service is this?	<input type="checkbox"/> New <input type="checkbox"/> Major change <input checked="" type="checkbox"/> Minor change
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7. Are other departments or partners involved in delivering this strategy, policy, plan, project, contract or major change to your service? (Please tick)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Review of advice with Legal services. Discussion with Economic Development Manager regarding work being undertaken within City and South Cambs looking at developing Markets, and links with the wider Civic Quarter project.	

8. Has the report on your strategy, policy, plan, project, contract or major change to your service gone to Committee? If so, which one?
Environment and Community Scrutiny Committee March 2024

9. What research methods/ evidence have you used in order to identify equality impacts of your strategy, policy, plan, project, contract or major change to your service?

This Committee report impacts primarily the Market Traders, and staff managing the Markets. This is the focus for engagement at this stage of the work.

There is no anticipated or forecast impact to market visitors in relation to the market offer available to them.

There are ~180 market traders registered with the City Council, and we do not undertake equalities monitoring. The consultation process associated with this Policy change presents the opportunity to collect this data and make a meaningful analysis of impact based on that data.

As part of the proposed consultation, it is our intention to collect a range of protected characteristics information in our responses. This will enable us to consider impacts based on responses we receive.

10. Potential impacts

For each category below, please explain if the strategy, policy, plan, project, contract or major change to your service could have a positive/ negative impact or no impact. Where an impact has been identified, please explain what it is. Consider impacts on service users, visitors and staff members separately.

(a) Age - Please also consider any safeguarding issues for children and adults at risk.

None Identified at this time, and the use of future NEW data may change this position.

(b) Disability

None Identified at this time, and the use of future NEW data may change this position.

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(c) Gender reassignment

None Identified at this time, and the use of future NEW data may change this position.

(d) Marriage and civil partnership

None Identified at this time, and the use of future NEW data may change this position.

(e) Pregnancy and maternity

None Identified at this time, and the use of future NEW data may change this position.

(f) Race – Note that the protected characteristic ‘race’ refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

None Identified at this time, and the use of future NEW data may change this position.

(g) Religion or belief

. None Identified this time, and the use of future NEW data may change this position.

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(h) Sex

None Identified at this time, and the use of future NEW data may change this position.

(i) Sexual orientation

None Identified at this time, and the use of future NEW data may change this position.

(j) Other factors that may lead to inequality – in particular, please consider the impact of any changes on:

- **Low-income groups or those experiencing the impacts of poverty.**
- **Groups who have more than one protected characteristic that taken together create overlapping and interdependent systems of discrimination or disadvantage. (Here you are being asked to consider intersectionality, and for more information see: https://media.ed.ac.uk/media/1_159kt25q).**

There is a potential positive impact of ensuring that Markets are managed and supported and therefore indirectly creating opportunities for those on low incomes to access a range of competitively priced retail offer in one place. There is also a positive impact to ensuring the market has a culturally diverse offer.

11. Action plan – New equality impacts will be identified in different stages throughout the planning and implementation stages of changes to your strategy, policy, plan, project, contract or major change to your service. How will you monitor these going forward? Also, how will you ensure that any potential negative impacts of the changes will be mitigated? (Please include dates where possible for when you will update this EqlA accordingly.)

There is a consultation plan to sit alongside this work. We will ensure there are review periods built into this timeline, plus EQIA will be reviewed prior to any further recommendations.

12. Do you have any additional comments?

EQIA will be reviewed to reflect any changes during the consultation period and prior to formalising any policy change.

13. Sign off.

Name and job title of lead officer for this equality impact assessment: Alistair Wilson, Strategic Delivery Manager

Names and job titles of other assessment team members and people consulted: Sarah French, Project Manager, Tim Jones, Market & Street Trading Manager

Date of EqlA sign off: Feb 2024

Date of next review of the equalities impact assessment: October 2024

Date to be published on Cambridge City Council website: March 2024

All EqlAs need to be sent to the Equality and Anti-Poverty Officer at equalities@cambridge.gov.uk