

REPORT TO LICENSING COMMITTEE

REPORT OF: Mark Jones- Service Manager, Community Safety and Licensing

REPORT NO: ENV540

DATE: 5 August 2011

TITLE:	Adoption of Street Trading Policy and review of existing conditions – Local Government (Miscellaneous Provisions) Act 1982	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Policy Adoption	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Paul Carpenter Engagement and Corporate Services	
CONTACT OFFICER:	P. Robinson- Licensing and Enforcement Officer p.robinson@southkesteven.gov.uk M. Jones- Service Manager, Community Safety and Licensing m.jones@southkesteven.gov.uk	
INITIAL IMPACT ASSESSMENT:	Carried out and referred to in paragraph (7) below Yes	Full impact assessment required: No
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	ENV 357- Adoption of whole District as a consent area	

1. RECOMMENDATIONS

It is recommended that:

- (a) The Licensing Committee give consideration to the Street Trading Policy (appendix 1) and instruct the Service Manager, Community Safety and Licensing to carry out a consultation with stakeholder groups and the general public.
- (b) That the consultation is for a period of six weeks commencing on 8 August 2011 and ending 19 September 2011.

2. PURPOSE OF THE REPORT

2.1 To bring to the attention of the Licensing Committee a new draft Street Trading Policy and to seek approval to carry out the necessary consultation, and thereafter report back to the Licensing Committee the responses to that consultation exercise.

3. DETAILS OF REPORT

3.1 The whole of the South Kesteven District is designated as a consent area for the purposes of street trading. However, Stamford Pedestrian Precinct currently has a different set of criteria to that of the remainder of the District. The new Street Trading Policy draws together best practice from each of the criteria into one document.

3.2 There are currently five street traders located in lay-bys paying £16.50 per day and four traders on Stamford Pedestrian Precinct paying £21.00 per day. It is proposed that the existing fees remain as they are, pending an authority-wide review of fees and charges. Schedule IV, Paragraph 9 of the Local Government (Miscellaneous Provisions) Act (1982) allows for the council to take into account the location of traders and likely profitability and set an appropriate fee.

3.3 Paragraph 1 (1) of Schedule IV of the Local Government (Miscellaneous Provisions) Act 1982 provides a wide definition of street and it is wide enough to include private land to which members of the public have access. The policy makes provision for the recovery of fees from traders operating on private land who have yet to apply for consent of which, we are currently aware of seven such traders.

3.4 Street trading means:

The selling, exposing or offering for sale of any article whether food or non food including a living thing whether with or without a stall from any road, footway, highway or other adjacent areas to which the public have access without payment.

3.5 The following activities are not street trading for the purposes of the 1982 Act

- Pedlars who sell their wares going from house to house
- Anything done in a fair or market which is held as a result of a grant or acquired or established by Act of Parliament or Order
- Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980
- A roundsman and a person who delivers orders to the customer's door
- News vendors
- Sales from the forecourt of a petrol filling station
- A stall outside a shop as an extension of that business
- Pavement Cafes (authorised by Lincolnshire County Council (LCC) as Highways Authority)

- 3.6 A set of conditions was introduced when the Street Trading Consent procedure was set up to assist the decision making process for consent to be granted or refused. These have been reviewed and are incorporated in the revised conditions as set out in the policy at appendix B.

4. OTHER OPTIONS CONSIDERED

- 4.1 To prohibit street trading in certain streets. This was considered to be too inflexible and difficult to enforce.

5. RESOURCE IMPLICATIONS

- 5.1 Any costs associated with the consultation and implementation of the Policy will be met from within existing budgets

6. RISK AND MITIGATION

- 6.1 No significant risk has been identified as part of the policy development

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

- 7.1 None identified

8. CRIME AND DISORDER IMPLICATIONS

- 8.1 None identified

9. COMMENTS OF FINANCIAL SERVICES

There are no specific financial comments to make in respect of this report. Any cost incurred in the consultation will be met from existing budgets.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

- 10.1 Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows licensing authorities to control street trading activities within its area. South Kesteven District Council on 1 September 2006 designated the whole of SKDC a consent area. The proposed new street trading policy must be in accordance with the powers granted in Section 3 and Schedule 4 of the LGMP Act 1982. As noted from the report historically, whilst all streets in the district have been designated consent streets since September 2006, different criteria have been adopted to the granting of trading consent and to different areas of the district and the policy seeks to address these inconsistencies.

11. COMMENTS OF OTHER RELEVANT SERVICES

Environmental Health –

The process of consultation with environmental health is noted and this will supplement the existing statutory requirement for food businesses to register with the food authority 28 days before opening or where ownership changes.

Planning –

We are content with the references made to consultation with SKDC planners, the listing of exemptions and to the fact that there may be a need for traders to seek for planning permission and other consents in some circumstances.

12. APPENDICES:

1 Street Trading Policy