

REPORT TO CABINET

REPORT OF: Engagement and Corporate Services Portfolio Holder

REPORT NO: ENV 549

DATE: 3rd October 2011

TITLE:	Adoption of Street Trading Policy and review of existing conditions – Local Government (Miscellaneous Provisions) Act 1982	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Key Decision	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Paul Carpenter Engagement and Corporate Services Portfolio Holder	
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INITIAL IMPACT ASSESSMENT:	Carried out and referred to in paragraph (7) below	Full impact assessment required:
Equality and Diversity	Yes	No
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 ENV 540- Pre consultation report to Licensing Committee	

1. RECOMMENDATIONS

- 1.1 That Cabinet note the content of this report and adopts the Street Trading Policy (Appendix 1) to be effective 1st January 2012.

2. PURPOSE OF THE REPORT

- 2.1 The purpose of this report is to inform members of the recent Street Trading Policy consultation exercise which provides the necessary information to allow members to endorse the recommendation as above. The report also provides background information regarding the existing street trading arrangements.

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 different 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 The new draft Policy was presented to the Licensing Committee on the 5th August 2011. The Committee recommended that a consultation exercise be carried out and that, providing there were no representations, the Policy be presented to Cabinet for adoption.

Background Information

3.3 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.

3.4 Paragraph 1 (1) of Schedule IV of the Local Government (Miscellaneous Provisions) Act 1982 provides a broad 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. We are currently aware of seven such traders.

3.5 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.

3.6 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)

3.7 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.

3.8 Consultation

The consultation was undertaken between 8th August 2011 and 19th September 2011. The following stakeholders were consulted:

- Current consent holders
- Lincolnshire Police
- Lincolnshire County Council
- General public
- Town and Parish Councils
- SKDC Internal Departments

3.9 A policy consultation page was created on the Council's website which included a copy of the draft policy and an explanation of the process for making a representation; no representations were made during the consultation process.

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

9.1 As confirmed in section 5 of this report that minimal costs associated within the implementation of this policy, therefore any resource required will be met within the existing budget framework.

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