

## Part A

**Report to:** Licensing Committee

**Date of meeting:** Thursday, 8 July 2021

**Report author:** Senior Licensing Officer (AY)

**Title:** Review of Town Centre Street Trading Policy

### 1.0 Summary

1.1 Since 2015 the council has had a policy on allowing commercial street trading within the town centre. The current policy is due to expire on 31 December 2021.

1.2 This report sets out officers' recommendations on the renewal of this policy and the details of any consultation process that is to be undertaken as part of the renewal process.

### 2.0 Risks

#### 2.1

<b>Nature of risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> (treat, tolerate, terminate or transfer)	<b>Risk Rating</b> (combination of severity and likelihood)
Not implementing a new policy	The Parade would revert to a Prohibited Street and no commercial street trading would be permitted at any event	Ensure policy is properly implemented by 31 <sup>st</sup> December 2021	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the courts	Carry out consultation in accordance with the Government's published principles of consultation	Treat	2

### 3.0 Recommendations

3.1 That the Committee agrees to the approach of implementing a specific commercial street trading policy for the town centre.

- 3.2 That officers go out and consult upon the draft policy attached to this report with any amendments proposed by the Committee, and consult on this policy in the manner laid out in the report. Consultation on the policy would start after the July Committee and run until mid- to late August. The results of the consultation and the final policy and equalities impact assessment would be considered by the committee in September 2021.

**Further information:**

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**Report approved by: Justine Hoy, Head of Community Protection**

**4.0 Detailed proposal**

- 4.1 The council has powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading within the Borough. Streets may, with the agreement of the highways authority, be designated as;

- (1) prohibited streets, where no street trading activities may take place
- (2) licence streets, to allow street trading in those locations
- (3) consent streets, for more irregular and ad-hoc trading

In undesignated streets trading may take place without restriction

- 4.2 Street trading means offering for sale or selling any goods (including living things) but not the offer or sale of services. Therefore offering or selling balloons, food jewellery or DVDs would be within this definition, but not offering or selling entertainment subscription services or car breakdown membership subscriptions.

- 4.3 There are a number of exemptions from street trading controls prescribed by the legislation. These include:

- (1) sales of newspapers and periodicals
- (2) sales by holders of pedlar's certificates
- (3) sales for charitable purposes where a charity collection permit has been issued
- (4) the operation of refreshment facilities, such as the sale of food and drink at tables and chairs in outside dining areas, licensed under a pavement licence issued either under the Highways Act 1980 or the Business & Planning Act 2020
- (5) sales by a roundsman
- (6) trading as part of a charter market

- 4.4 Generally speaking, the council's current policy is that all streets outside of the town centre are designated as 'consent streets', where prior permission is needed to trade from a public highway or within 10 metres of a public highway. Major roads within the Borough such as the A405, A41, A411 and part of the A412 are generally designated as prohibited streets where trading is not allowed.
- 4.5 Within the town centre, the High Street and roads leading from the High Street are designated as prohibited streets as is Albert Road South. St Mary's Square and The Parade are designated as consent streets. In the case of The Parade, this has been restricted since 1984 to non-commercial trading. In the case of St Mary's Square any commercial trading was limited to street markets organised by the council but only for a one-year trial in 2006 – 2007.
- 4.6 To avoid confusion it should be made clear that this policy does not impact or regulate operations of the charter market, which operates separately.
- 4.7 Under the current town centre street trading policy, a maximum of 10 street trading consents can be issued at any one time to coincide with events and activities associated with council-run events or similar events approved by the Group Head of Community & Environmental Services. Consents will generally not be issued for more than one day at a time, but a flexible approach will be adopted depending on the duration and the nature of the event. The existing policy is attached at appendix 1.
- 4.8 Officers would advise that a new policy is approved to allow flexibility to consider street trading approval for town centre events and to continue the position of the council since such a policy was first approved in 2014. Officers would advise that this aim is consistent with the council's Cultural Strategy 2018-2025, which does highlight the events space in the town centre as being a cultural and community hub encouraging a more diverse footfall into the town centre. The council still has the aim of growing cultural and community activities.
- 4.9 Officers are not proposing significant changes to the policy and are not aware of any significant issues during the period of the policy. It is noted that the council and other organisations have been severely restricted in their ability to run a normal events programme over the past 15 months due to the Covid-19 pandemic.
- 4.10 With the lack of evidence to indicate that widespread amendments are needed, officers only propose the following changes:

Section of policy	Change	Reason
1 (3) Approval of events	Confirm approval of similar events to be made by the	Change in job title only

	Group Head of Community & Environmental Services	
3 (3) Application process	Remove reference to specify the number of passport-style photographs and photographs of equipment to be submitted as part of the application	Reduces burden on applicants and reflects that applications may be submitted electronically in which case duplicate documents are not required
Standard Conditions	Change condition 13 regarding notifying damage to the highway to the council	Updated contact details

4.11 The full proposed draft policy is attached at appendix 2. It is proposed to review the policy before the end of 2025 in line with the review of the council's Cultural Strategy. However, this does not prevent the policy from being reviewed before that date should it be appropriate to do so and in line with any renewal plans for the area.

## 5.0 Consultation

5.1 The Local Government (Miscellaneous Provisions) Act 1982 (as amended) does not require the council to pass a specific street trading policy, and therefore does not specify a consultation process. However, the council does recognise the importance of consulting with specific groups on such a policy, which is consistent with our previous approach

5.2 The council needs to take into consideration the Government's Consultation Principles. These principles state that:

- A. Consultations should be clear and concise
- B. Consultations should have a purpose
- C. Consultations should be informative
- D. Recognise that consultations are only part of a process of engagement
- E. Consultations should last for a proportionate amount of time
- F. Consultations should be targeted
- G. Consultations should take account of the groups being consulted
- H. Consultations should be agreed before publication
- I. Consultation should facilitate scrutiny
- J. Government responses to consultations should be published in a timely fashion
- K. Consultation exercises should not generally be launched during local or national election periods

5.3 In order to address the principle of targeting consultations, officers would propose consulting the following people and organisations directly:

- (1) Town centre residents and businesses in the policy area (The Parade between its junctions with Rickmansworth Road and Bentine Lane
- (2) Watford Borough Council's Events Team
- (3) Watford Borough Council's Community & Environmental Services (as contract managers for Watford Market)
- (4) Watford Borough Council's Transport & Infrastructure Team
- (5) Watford BID
- (6) Hertfordshire Constabulary
- (7) Hertfordshire County Council (as Highways Authority)
- (8) All consent holders issued a consent under the current policy

5.4 This review will be available for public consultation. It is proposed to provide details of this consultation on our website and by display of a public notice at the Town Hall. The consultation is proposed to run for 6 weeks from 14 July until 25 August.

5.5 We will bring the results of the consultation on the policy back before the Licensing Committee on 30 September.

## **6.0 Implications**

### **6.1 Financial**

6.2 The Shared Director of Finance comments that any financial implications arising from the consultation process will be met from existing budgets.

### **6.3 Legal Issues (Monitoring Officer)**

6.4 The Group Head of Democracy and Governance comments that the legal implications are set out in the body of the report.

### **6.5 Equalities, Human Rights and Data Protection**

6.6 The council's Equality Impact Analysis drawn up in 2018 upon the adoption of the current policy will be reviewed.

### **6.7 Crime and Disorder**

6.8 The council is required to consider the effect on crime and disorder when adopting any new or revised policy. It is proposed to seek the views of the Police on the adoption of this policy.

## **Appendices**

Appendix 1 – Existing policy (Town Centre Street Trading Policy 2019-2021)

Appendix 2 – Proposed draft policy (Town Centre Street Trading Policy 2022-2025)

### **Background papers**

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Watford Borough Council Cultural Strategy 2018-2025

Local Government (Miscellaneous Provisions) Act 1982

Consultation Principles 2018