

London Borough of Sutton

STREET TRADING LICENSING POLICY

**This policy is written in accordance with the provisions of the
London Local Authorities Act 1990 as amended**

Amended March 2016

Introduction

For the purposes of controlling street trading in the borough, the Council have previously adopted the relevant provisions of the London Local Authorities Act 1990 (as amended). This policy is intended to provide a framework for the Council's approach to the licensing of street trading throughout the borough.

Legislation

Street trading can include the sale, display or offering of goods or services for sale outside a shop premises, street markets or the placing of tables and chairs outside a café, restaurant or bar. These activities are controlled by licences under the London Local Authorities Act 1990 (as amended) ("the Act"). Under the Act the Council is responsible for granting, renewing varying or revoking all street trading licences. This function is undertaken by the Enforcement Services Group of the Kingston and Sutton Shared Environment Service.

The aim of this Policy is to set out the general approach of the Council when considering:

- Applications for street trading licences;
- Applications for temporary licences;
- Enforcement of street trading activities.

Nothing in this Policy will:

- Undermine the rights of any person to make an application under the Act for a licence and to have that application considered on its merits; or
- Override the right of any person to make objections or appeal against any decision.

Definitions (Section 21 of the Act)

'Street trading' – means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

'Street trading licence' – means a licence granted under the Act for a designated street.

'Temporary licence' – means a licence granted under the Act valid for a single day or for a period not exceeding 6 months.

Designation of Sites for Street Trading

If the Council considers that street trading should be licensed in an area, they may pass a resolution designating any street or part of a street as a licensed street. In determining whether a street or particular site should be designated for the purpose of street trading the following matters may be considered:-

- The presence of existing street furniture;
- The proximity and nature of any road junctions and pedestrian crossing points;
- The number of sites already designated in the same street;
- Whether the proposed site for designation would ensure continued free access to members of the public using the road or pavement or cause obstruction to e.g. pedestrians, prams and wheelchairs;
- Whether it leaves the recommended minimum clear passage of 1.5 metres between the front edge of any display and the edge of the kerb or any item of street furniture (railings, lamp posts etc) – whichever is the nearer to the display;
- Put the safety of pedestrians at risk;
- Have a negative effect on the character and appearance of the area;
- Any relevant Council policies relating to the town or district centre in question whose implementation might be impeded or compromised by the designation.

During the 28 days consultation period the Police, ward councillors and the Highways Authority are consulted. For certain parts of the borough Traffic for London (TfL) is the Highway Authority.

Similarly the Licensing Committee may from time to time determine that due to a change in circumstances parts of streets may have their designation as a licence street removed.

Currently there are only 3 areas designated as licensed streets, which are:

- High Street, Sutton
- The Market Wrythe Lane – Rosehill
- Woodmansterne Lane

Licences

Temporary Licence

There are a number of activities which require a temporary licence.

These include:

- Buskers and street entertainers selling their goods
- Companies selling their services or goods
- Individual stalls e.g. fairground ride, selling balloons
- Organised speciality markets e.g. French market
- Items for sale displayed on the public footway immediately outside a shop;
- Tables and chairs on the public footway immediately outside their food and drink premises
- Trading from a mobile vehicle e.g. burger van.

A temporary licence may be granted for a single day or other periods of time up to a maximum of 6 months dependant on whether the activity/event is a one-off of short duration e.g. promotions or an event taking place over a longer period such as a Christmas market.

Note: Use of the street by customers as a smoking area outside premises is not considered to be street trading.

Street Trading Licence

The following activities require a street trading licence:

- Sutton High Street market stalls
- Rosehill market stalls.
- Street trading in Woodmansterne Lane

Note: The placement of 'A' boards outside premises is not street trading. However, they must not cause an obstruction and be maintained so as not to cause injury or accident to passersby.

Temporary Licences – Procedure

On submission of an application for a licence the appropriate fee must be paid for the application to be valid. The completed application must be received a minimum of 10 working days before the first day of trading is to take place. The police, highways authority and ward councillors may be consulted on the application and any views received will be considered by the licensing authority. Consultation will always take place if street trading has never been undertaken from that location before.

It may also be necessary for a Licensing Officer to inspect the proposed site of trading to establish if it is suitable.

If the application is granted the standard licence conditions for the type of trading applied for will be attached to the licence. In some circumstances it may also be necessary to attach further additional conditions to control the activities covered by the licence. The relevant standard conditions are attached in appendix A.

It should be noted that there is no right of appeal against the decision to refuse a licence or the attachment of conditions to a temporary licence. If a licence is refused the application fee will be refunded provided bank details are provided to enable BACS payment.

There are certain restrictions on street trading in Sutton Town Centre which are set out below:

- Shop front trading is not permitted
- Car sales are not permitted

For the purposes of this street trading policy Sutton Town Centre is defined as the area in appendix B.

There are also restrictions in place for street trading in the Rosehill Market area as set out below:

- No sales of hot food are permitted
- No sales of hot beverages are permitted

Street Trading licence – procedure

The main licences issued in this category apply to Sutton High Street Market. On submission of an application for a licence to trade from the market the appropriate fee must be paid for the application to be valid.

For new traders there is a discounted fee for the first 3 months of trading to allow a settling in period. If after this initial 3 months the trader wishes to continue trading the normal fee structure will apply. Applications will only be accepted if there is a vacant pitch on the market; it is therefore advisable to contact the council before submitting an application to ensure there is a pitch available.

If a licence is granted the standard conditions set out at annex A will be attached to the licence dependant on the type of trading covered.

Any changes to the goods covered by the licence will only be approved if a variation application is received and accompanied by the required fee.

Monitoring & Enforcement Action

Officers regularly inspect all areas where street trading takes place to ensure compliance, for example that trading is taking place within the area granted by the licence. In addition all complaints of unlicensed trading or breaches of the licence conditions are investigated.

Enforcement action will be in line with the Council's Enforcement Policy.

Without prejudice to the Council's powers to prosecute for any offences under the Act, the Council may take the following enforcement steps where appropriate dependant on the severity of the breach or offence:

- Verbal / Written warning to trader
- Issue of Fixed Penalty Notice
- Refuse to renew a licence
- Revocation of licence
- Prosecution

The Council has the power to seize any goods where it is believed that there has been a serious breach of the licence conditions or the Act, such as unlicensed street trading. It may decide to refer the matter to a licensing subcommittee to determine.

The decision to revoke, refuse to renew a licence or to prosecute a licence holder or assistant will generally be taken by officers under the relevant scheme of authorisation. However in some circumstances it may be referred to a licensing subcommittee to determine.

In determining what course of action is necessary the following matters will be considered:

- Seriousness of the breach or offence
- Previous trading history
- Level of past compliance
- Traders response to previous warnings

Failure to pay a licence fee will normally result in the revocation or refusal to renew the street trading licence.

Review

This Policy may be reviewed by the Licensing Committee when required or minor amendments made to it by the Group Manager-Enforcement Services in consultation with the Chair of Licensing Committee

Appendix B

