

STREET TRADING PROTOCOL

In 1998 Herefordshire Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, enabling street trading to be regulated within the county. Pavement Cafes are controlled with Highways Amenity Licences, issued under the auspices of Section 115E of the 1980 Highways Act.

This protocol gives information as to the way street trading regulation and its associated functions are administered and managed in the county.

1. Aspirations for Street Trading

It is the aim of the Council to encourage on street trading and pavement cafe activity where possible and appropriate to assist in providing a quality ambience in the streetscene, through a range of diverse quality trading activity. Historically, the national *Portas Review* highlights the need to encourage entrepreneurial talent and recognises the social benefits of street sales. Such vibrancy is of key importance to ensure an attractive environment in market towns, and in particular High Town, Hereford forming part of the wider improvements to this area through the 'Hereford 2020' initiative. The design and management of prominent streets will aim to maximise trading and exchange in the public realm. The temporary use of streetscapes for trade displays, cafes and temporary events will be encouraged.

Following on from this, the Council will in addition apply the following principles where possible in relation to street trading in the county:

- i) To encourage and promote the use of Fairtrade products.
- ii). To encourage local traders who reside within the county and also the use of locally produced goods and food items.

2. Objectives of Regulating Street Trading

- i) To protect public health and wellbeing through the control of street trading within the county of Herefordshire
- ii) To improve standards of food safety, health & safety and environmental management and enhance the image of the district and streetscene experience
- iii) Ensure that traders operate within the law and act fairly in their dealings with the public.
- iv) Preventing and detecting statutory nuisance and unsafe practices with regard to street trading.

Applications for street trading consents and highways amenity licences are each considered against a range of criteria as well as on their own merits so that individual circumstances, where appropriate, are taken into consideration.

3. Street Trading Panel - Terms of Reference

The Council's Constitution and scheme of delegation permits the Chief Executive to delegate powers to the Director of Economy, Communities and Corporate. In turn the Director is authorised to set up an Officer Panel to deal with certain matters relating to street trading and some associated functions.

The current membership of the Street Trading Panel as at Feb 2017 is therefore made up of the following officers:

- Head of Technical and Parking Services – Chair
- Market Services Manager
- Street Trading Licensing Officer
- Representative from Environmental Health
- Economic Regeneration Officer
- Representative of Highways and Transportation (Balfour Beatty)
- Representative from Legal Services
- Technical Support officer – for minute taking only

In addition, a representative of the Hereford City Council attends in an ex-officio capacity, plus a representative from the Hereford Business Improvement District. Other personnel may be invited to join the Panel if considered necessary when dealing with a particular application or issue e.g. from West Mercia Constabulary or other multi agency partners.

Applicants are not permitted to appear in person before the Street Trading Panel. However they do have the right to appeal within 28 days any decision to the Regulatory Sub Committee of the Council, on payment of an appeal fee of £150 and to attend any such appeal.

The Council may/will not consider any subsequent applications for the same site, from the same applicant and/or with the same trading unit and/or on the same occasions, where a decision has already been made, within 6 months of that decision.

Meetings are held as and when required, with some matters dealt with by written procedure. Minutes of each meeting are taken and approved by the Chair, with any decisions taken outside meetings recorded in a 'decision log' document. The Chair or his nominated deputy (an equivalent Head of Service), as authorised officer has the final say with regard to decisions made.

A. Determining Applications

Each application or matter will be carefully discussed and debated against the objectives set out above, and the more detailed criteria set out below. The role of the Panel is to assist the Chair in reaching decisions and he/she will give due consideration to the points raised.

The Panel members judge applications on their individual merits but use a broad range of criteria to assess suitability or otherwise. These can include:

i) Suitability of the proposed applicant – e.g. The Council may/will decline a grant or renewal application if:

- There are previous relevant convictions relating to the applicant, including those related to Food Safety or Health and Safety.
- Failure on any previous occasion to pay street trading consent fees within agreed timescales.

- The applicant is not at least 18 years of age.
- The applicant is not legally able to live and work in the UK.

ii) Suitability of the proposed trading location – e.g. The Council may/will decline a grant or renewal application if:

- The proposed location is named within the designated 'Prohibited Streets' list.
- There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.
- There are already enough traders trading in the vicinity (from shops/outlets or other stalls) in the goods which the applicant desires to trade.
- There is undue concentration of traders trading in the street or area in which the applicant desires to trade.
- There is likely to be resultant nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which may be caused.

iii) Suitability of the proposed trading times:

- The trading times should reflect the expectations and requirements of the locality.
- Permitted hours will normally be between 7:30am and 8.00pm, though this may be amended in appropriate circumstances.
- Should an application be received for late night/overnight trading for refreshments, then this will only be considered in conjunction with the Licensing Department who would require a Premise Licence application to be made.

iv) Suitability of the proposed trading unit/stall/furniture: e.g. The Council will decline a grant or renewal application if:

- The size, nature or appearance of the proposed stall (and any associated equipment) is deemed inappropriate for the proposed location in terms of visual amenity and/or public or highway safety.

v) Suitability of the proposed product range: e.g. The Council may/will decline a grant or renewal application if:

- There are already enough traders trading in the vicinity (from shops/outlets or other stalls) in the goods which the applicant desires to trade.
- The proposed products to be sold are considered unsuitable for the surrounding area in terms of potential odours, potential pavier staining, potential waste/litter issues.

B. Fees

The fees charged by the authority for consents/licences to trade should cover the cost of administering, managing and enforcing the service. Fees are determined for each pitch on an individual basis using an approved system taking certain factors into account. The final fee level though is set by the Markets, Fairs and Street Trading Department.

C. Offences

Under the Local Government (Miscellaneous Provisions) Act 1982, there are a number of prescribed offences under which enforcement can be taken. In addition, breaches of the standard trader terms and conditions can also result in appropriate enforcement action which could range from a written warning or caution, revocation of consent or even prosecution. The Street Trading Panel will consider any such offences and make recommendation with regard to enforcement action.

Enforcement action will be taken in accordance with the guidelines contained within the Council's enforcement and prosecution policies. Any decision to prosecute would be taken after consultation with and authorisation from the appropriate designated officer.

D. Renewal of Consents and Licences

Each Consent runs for a maximum period of one year, with the Street Trading Panel assessing renewal requests. Thereafter applications must be renewed in accordance with the standard council procedure. To ensure traders have a period of security with regard to business planning/investment, the Council will normally approve a renewal unless there are fees owing, there have been breaches of trading terms and/or conditions or there are other circumstances deemed reasonable by the Council not to permit trading.

NB – The preceding list is not intended to be exhaustive and the Panel may consider other relevant criteria as appropriate, plus representations from consultees such as Herefordshire Council Local Ward Member(s), plus the relevant Town/City Council.

There is no automatic right of appeal against a decision of the Street Trading Panel. However the Council has in place an appeal mechanism through its Regulatory Committee. Any appeal to the Regulatory Committee must be accompanied with a fee (currently £150, although this will be subject to annual review). This assists in ensuring that only genuine cases are heard.

4. Application Process

- i) For Street Trading, the application procedure is laid down in the 'process flow chart' document EMFST ST 2 which is available from the Council website. An application for a street trading consent must be made on the Council's approved application form EMFST ST 4.

Current forms in use for Street Trading are listed below and should be considered in conjunction with this document:

EMFST ST 2	STREET TRADING APPLICATION PROCESS CHART
EMFST ST 3	STREET TRADING INFORMATION & GUIDELINES
EMFST ST 4	STREET TRADING APPLICATION FORM
EMFST ST 5	STREET TRADING TERMS & CONDITIONS

- ii) For Highways Amenity Licences, the application procedure is laid down in the 'process flow chart' document EMFST SF 2 which is available from the Council website. An application for a highways amenity licence must be made on the Council's approved application form EMFST SF 4 or electronically via the appropriate website.

Current forms in use for Highways Amenity Licences are listed below and should be considered in conjunction with this document:

EMFSF SF 2	HIGHWAYS AMENITY LICENCE APPLICATION PROCESS CHART
EMFST SF 3	HIGHWAYS AMENITY LICENCE INFORMATION & GUIDELINES
EMFST SF 4	HIGHWAYS AMENITY LICENCE APPLICATION FORM

New applications for consents/licences will usually take a minimum of 30 days to be considered on receipt of submitted forms but can take up to 60 days.

5. Use of High Town, Hereford for Promotional Use

The Council is committed to creating a vibrant city centre that offers a whole day experience, which external event and bookings in High Town can contribute to. Furthermore, with the planned refurbishment of the city centre, it is envisaged this will be a boost to the evening economy. Being 'alive after five' should encourage daytime events extending in duration or see standalone evening events in their own right.

For hire of High Town Space, the application procedure is laid down in the 'process flow chart' document EMFST HS 2 which is available from its website. An application for hiring space in High Town must be made on the Council's approved application form EMFST HS 5.

Current forms in use for Highways Amenity Licences are listed below and should be considered in conjunction with this document:

EMFSF HS 2	HIRE OF HIGH TOWN SPACE APPLICATION PROCESS CHART
EMFST HS 3	HIRE OF HIGH TOWN SPACE INFORMATION & GUIDELINES
EMFST HS 5	HIRE OF HIGH TOWN SPACE LICENCE APPLICATION FORM

Bookings are designated Commercial, Not for Profit and Charitable organisations. The Licensing Officer for Street Trading has delegated powers to approve such bookings, with charges dependent on amount of space taken up and the nature of the organisation making the booking.

With regard to the hire of the Council's exhibition trailer, this facility is not available to Political Parties or any group/individual seeking to run a promotion or activity that runs contrary to Council policies and consultation programmes. Furthermore, the Council reserves the right to refuse the hire of its trailer to any other group/individual as it so wishes. Political Parties are limited to no more than three booking dates per party in any one pre-election period (dates specified by Electoral Services). This is to ensure all parties have a reasonable opportunity to book space and to leave dates free for the usual wide variety of other bookings and events.