

REPORT TO:	LICENSING COMMITTEE 10 December 2014
AGENDA ITEM:	8
SUBJECT:	LONDON LOCAL AUTHORITIES ACT 1990 Adoption of revised Standard Conditions for Street Trading Licences in Surrey Street and shop front trading across the borough
LEAD OFFICER:	Executive Director, Development & Environment Department
CABINET MEMBER:	Councillor Mark Watson, Cabinet Member for Communities, Safety & Justice
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
FINANCIAL SUMMARY: There are no direct financial implications arising from this report.	
FORWARD PLAN KEY DECISION REFERENCE NO.:	

For general release

1. RECOMMENDATIONS

The Committee is asked to:

1. Approve adoption of the new standard conditions for street trading licences in Surrey Street and businesses displaying commodities or providing services for the purposes of shop front trading under the London Local Authorities Act 1990 (as amended) across the borough.
2. Note that subject to the above, officers will notify either licence holders or a body (bodies) representing them of the approval.

2. EXECUTIVE SUMMARY

- 2.1 This report details the outcome of the consultation undertaken in respect of proposed revisions to the standard conditions for street trading (the conditions)

LC20141210AR8

attached to street trading licences granted in Surrey Street and to businesses displaying commodities or providing services for the purposes of shop front trading (shop front displays) under the London Local Authorities Act 1990 (as amended) (the 1990 Act). If approved, these conditions will provide more effective powers of enforcement to Regulatory Services and give greater control of the waste management & recycling demands that arise from certain street trading activities.

- 2.2 New and updated conditions are included relating to the regulation of pitches, commodities sold, child protection, waste management, the conduct of street traders, their suitability to trade and the administration of licenses and they support the Council's functions and responsibilities in respect of these matters.

3. DETAIL

- 3.1 The 1990 Act allows a Local Authority to designate a street or part of a street for the purpose of street trading and in turn gives powers to the local authority to licence traders and make regulations prescribing standard conditions which they may attach to a licence on the occasion of its grant or renewal
- 3.2 Without prejudice to the standard conditions, a Local Authority may in addition attach to a licence such further conditions as appear to them to be reasonable in any individual case.
- 3.3 The Council's enforcement officers can only enforce to the extent of the licence conditions, by means of advice to traders, warnings, or if necessary, enforcement action. The current licence conditions (Appendix 1) do not fully reflect the essential powers required to correctly enforce and control street trading in Surrey Street and other designated streets to its maximum. In their current form the licence conditions are not providing sufficient control of street trading and do not include the necessary powers to enable enforcement action against those street traders who abuse the licence system with regard to attendance on their pitch, control of waste arising, duty of care for their pitch environment, cleansing standards and conduct and control of pitch size. .
- 3.4 At Appendix 2 to this report are the draft proposed new standard conditions. In preparing these, the current standard licence conditions used by the London Boroughs of Hackney & Walthamstow were considered, to benchmark best practice.

4 Procedure of Events and Consultation.

- 4.1 Before making regulations in respect of street trading the Council must undertake statutory consultation by publishing a notice in a local newspaper circulating in its area containing a draft of the resolution and state that representations relating to it may be made in writing to the Council within 28 days after the publication of the notice. The Council must also consult the licence holders or a body or representatives of them.
- 4.2 On 29th September 2014, each licensed trader in Surrey Street was sent a letter advising them of the proposed new licence conditions and inviting them to

make representations should they wish to do so. In addition 190 businesses across the borough holding street trading licences to display goods/services on their shop front were formally written to advising them of the proposed new licence conditions and invited to make representations should they wish to do so.

- 4.3 On 1st October 2014 a notice of intention (Appendix 3) was placed in the Croydon Guardian containing a draft resolution stating that representations relating to the introduction of new street trading licence conditions could be made in writing to the London Borough of Croydon within 28 days of the date of the notice.
- 4.4 As of the 31st October 2014 after the consultation period had ended, no representations had been received. .

5. Service Delivery and Performance Issues

- 5.1 Street markets often generate high volumes of waste, especially where perishable goods such as fruit and vegetables are sold. The proposed licence conditions place a duty of care on licence holders to manage their waste and assist in the recycling of waste arising. The reduction of waste being sent to landfill will lead to a reduction in waste disposal costs having a positive impact on the trading account.
- 5.2 Furthermore the proposed licence conditions give greater enforcement powers with regards to the regulation and control of street trading.
- 5.3 The overarching impact of new licence conditions will contribute to the vision of a cleaner, greener and safer street environment for the public to visit and enjoy.

6. Future savings/efficiencies

- 6.1 There are no savings or efficiencies arising directly from the recommendations in the report.

(Approved by: Dianne Ellender, Head of Finance and Deputy S151 Officer
– Chief Executive's Department

7. COMMENTS OF THE SOLICITOR TO THE COUNCIL

- 7.1 The Council Solicitor comments that the legal requirements to prescribe new standard conditions are as detailed in the body of the report.
- 7.2 Section 28 of the 1990 Act provides for a street trading licence to be revoked for, among, other things, persistent failure to comply with the licence conditions subject to having given the licence holder 21 days notice of the proposal to do so and the opportunity to appear before the officer or committee making the decision as part of which any representations made must be considered.

7,3 Contravention of any condition without reasonable excuse is also made an offence by s.34 of the 1990 Act, which on summary conviction carries a fine of up to £1,000.

(Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Officer)

8. HUMAN RESOURCES IMPACT

8.1 There are no direct human resources implications arising from this report. However, the Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams

8.2 Approved by Adrian Prescod, HR Business Partner, for and on behalf of Director of Human Resources, Chief Executive's Department.

9. CRIME AND DISORDER REDUCTION IMPACT

9.1 Paragraph 20 of the proposed licence conditions gives powers to enforcement officers for either:

- 1 The issue of verbal or written warnings
- 2 Seizure of Goods or other materials.

The Council reserves the right for its authorised officers to prosecute any person/s who contravene the conditions of their licence.

10. RISK ASSESSMENT

10.1 There are a small number of risks and consequences in implementing changes to licence conditions for street trading. The benefits of the new conditions far outweigh the risks involved in making new conditions. There is no risk register in place although risks and consequences have been identified giving the reason to implement new licence conditions. Traders have themselves identified reasons for the licence conditions to be reviewed in order to establish sustainable markets. It has been through open discussion that traders have prompted the market management to initiate this change to conditions.

10.2 There is a risk that licence holders do not comply with the new conditions resulting in dumping of waste, high volumes of litter, wrong commodities being sold and over-sized pitches. The control factors with the implementation of the new conditions will be that the enforcement officers will be given greater powers to control street trading practices.

10.3 A further risk in not implementing new licence conditions is that Croydon's main street market will decline due to lack of control from the Authority resulting in poor quality foods being offered for sale, rising debts due to poor recovery rates and eventual decline of the market. The control factor is the introduction of concise and equitable licence conditions that allow the Council to manage street trading and enforce licence conditions, reduce debt and promote well managed markets.

11. Climate Change implications and the effect on the Carbon footprint

11.1 Paragraph 8 of the proposed street trading licence conditions impose a duty of care on licence holders to manage and assist in recycling their waste. The contribution of reducing Markets waste and recycling such waste will have a positive impact on the reduction of the Councils carbon footprint. The reduction of waste going to landfill will in turn reduce gas emissions entering the atmosphere.

12. HUMAN RIGHTS IMPACT

12.1 Article 1, First Protocol of the European Convention on Human Rights provides for the right to peaceful enjoyment of possessions. That is both a person's business and an existing licence are a possession and cannot be taken away or interfered with unless the law allows it and the action is justified.

13. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

13.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

14. PROTECTING CHILDREN

14.1 Paragraph 15.3 of the proposed licence conditions imposes a duty on the licence holder to not employ any child, whether paid or not, in the business of street trading. "Child" means a person under the compulsory school leaving age as in the Education Act 1996.

CONTACT OFFICER: Michael Goddard, Licensing Manager, Ext. 61838

List of enclosures / Appendices:

Appendix 1 - Current street trading licence conditions

Appendix 2 - Proposed street trading licence conditions

Appendix 3 - Street Trading Public Notice

BACKGROUND DOCUMENTS: London Local Authorities Act 1990 (as amended)