

Local Government (Miscellaneous Provisions) Act 1982.

Draft Statement of Street Trading Policy



**2026-2029
Version 10.0**

Milton Keynes Draft Statement of Street Trading Policy 2026-2029

Document Control

Date	Version	Author	Comments
06.07.15	1.0	K Evans	Initial draft
08.07.15	2.0	K Evans	Draft following changes by Regulatory Committee, approved for consultation.
09.02.16	3.0	K Evans	Draft following consultation
08.11.16	4.0	K Evans	Endorsed by cabinet
14.03.18	5.0	K Evans	Initial draft
10.07.18	6.0	K Evans	Endorsed by cabinet
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09.02.22	9.1	J Sloan	Draft – Regulatory Committee minor amendments
14.06.22	9.2	J Sloan	Delegated Decision to endorse final version
30.05.25	10.0	K Evans	Initial draft

List of Proposed Amendments

Proposed change	Section / Paragraph	Page Number
Added paragraph regarding the 250 metre prohibited exclusion zone regarding proximity to schools. This is actioned through the schedule of prohibited designations (Prohibited Street List), but is now also referenced in the policy for informative purposes. The definition of what is a “school” has also been included.	Paragraph 2.3	16
Added “saturation of traders” to title. Expands on the 250 metres restriction reasoning.	Paragraph 5.0	18
Removed “new.” And added “similar businesses”- So will also cover situations where a consent holder applies to vary their permit which may then impact on other existing traders and businesses (such as takeaways) in the vicinity with the same hours.	Paragraph 5.1	18
Added to provide clarification on representations and the 250 metre vicinity.	Paragraph 5.2	18
Added to prevent unused/disingenuous permits. Such as blocking another application within 250 metres.	Paragraph 5.3	18
Added “and location”. Provides clarity.	Paragraph 6.1	18
Added in view of public safety and prevention of crime.	Paragraphs 6.2 and 6.3	19
Removed “Newport Pagnell” from Waste and Recycling Centre. – To allow for freedom	Paragraph 7.5	19

of choice. Replaced “ <i>may</i> ” with “ <i>must</i> ”. - So is enforceable.		
Added in view of prevention of public nuisance.	Paragraph 7.6	20
Added (“and minimum rating”) to Food hygiene legislation header. – Provides clarity.	Paragraph 9.2	20
Added additional information on separate requirements.	Paragraph 9.10	21
Added legislation relating to the ban of the supply of certain single-use plastic items and polystyrene containers.	Paragraph 9.11	21
Added “and Right to Work” to header. – Provides clarity.	Paragraph 10.0	21
Added “traffic/driving offences if a motorised food mobile” – In view of public safety and prevention of crime.	Paragraph 10.1(a)	21
Added “ <i>and non-compliance.</i> ” – Improves the sentence in relation to the decision making process.	Paragraph 10.1(c)	22
Updated fine amount regarding employing illegal workers. Included residency status and proof of right to work as part of the application process. - Legal requirement.	Paragraph 10.2	22
Removed “ <i>customer facing</i> ” and added “ <i>any staff</i> ” plus “ <i>including voluntary</i> ”. – Customer facing is a non-sensical term. It is extremely rare that a staff member would be non-facing to customers whilst street trading. And any staff whether employed or voluntary should be DBS checked, in the view of public safety.	Paragraph 10.3	22

Removed “ <i>individual who deals with members of the public by taking orders, supplying goods or handling cash</i> ” and replaced with “ <i>any staff engaging in street trading</i> ”. – Engaging in street trading is a term used in the legislation and is not limited to customer facing staff.	Paragraph 10.3	22
Added that a DBS check is required for all company officers if an applicant is applying as a company. – Ensures public safety.	Paragraph 10.4	23
11.5 Changed “ <i>should</i> ” to “ <i>must</i> ”. Added “ <i>and provide proof of that permission as part of the application process.</i> ” – A street trading consent permit does not override landowner permission.	Paragraph 11.5	23
Added “ <i>as this will form part of any granted consent</i> ”. – Provides clarity and is part of issuing the permit.	Paragraph 11.6	24
Added “ <i>or Temporary Events Notice</i> ” and “ <i>(i.e. Late Night Refreshment or sale of alcohol)</i> ”. Provides clarity.	Paragraph 12.0	24
Added “ <i>including travel time moving from point to point</i> ” to the trading hours window. – Provides clarity, for example a boroughwide trader operating 12:00 - 15:00 (3 hours trading), this will include the time moving from point A to point B.	Paragraph 13.1	24

Removed “ <i>working in a customer service role (i.e. street trading)</i> ” and replaced with “engaging in street trading”. Removed “ <i>working in a customer service role (i.e. street trading)</i> ” and replaced with “engaging in street trading”. - Consistency in connection to changes to 10.3.	Paragraph 13.5(c)	25
Removed “ <i>working in a customer service role (i.e. street trading)</i> ” and replaced with “engaging in street trading”. - Consistency in connection to changes to 10.3	Paragraph 13.6	25
Added “to supervise the business of street trading.” – Provides clarity.	Paragraph 13.7(a)	26
Added “ <i>and proof of landowner permission (where relevant).</i> ” - Landowner permission is required as part of the application process.	Paragraphs 14.2 (d), 14.3(g), 15.2(d), 15.3(g).	26,28,30,32
Added that declaration of convictions document is required by the applicant and any staff engaging in street trading. - Provides clarity and ensures public safety.	Paragraphs 14.2(f), 14.3(j), 15.2(f), 15.3(j), 16.2(e), 16.5	27,28,30,32,34,36
Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes. - Legal requirement.	Paragraphs 14.2(g) , 14.3(k), 15.2(g), 15.3(k), 16.2(f), 16.5	27,28,30,32,34,36
Removed “any staff/employee involved in <i>customer service</i> ” replaced with “any staff <i>engaging in street trading</i> ”. –	Paragraphs 14.2(e), 14.3(i), 15.2(e), 16.2(d), 16.5	27,28,30,34,36

Consistency in connection to changes at 10.3.		
Added that proof of commercial waste plan or contract, is required as part of application process. – To protect the environment and prevent public nuisance.	Paragraphs 14.2(i), 14.3(m), 15.2(i), 15.3(m), 16.2(h).	26,27,29,31,33
Added that proof of recyclable products to be used in trading activity, is required as part of application process. – To protect the environment and prevent public nuisance.	Paragraphs 14.2(j), 14.3(n), 15.2(j), 15.3(n), 16.2 (i)	27,28,30,32,34
Added “the applicant”. – The applicant for a Boroughwide Mobile Street Traders Operators Consent should be DBS checked, not only just for their staff engaging in street trading. – Ensures public safety.	Paragraph 14.3 (i)	28
Added the provision where an applicant wishes to apply for multiple traders to operate on one Consent Street (only one trader permitted at a time). – To facilitate themed food events.	Paragraph 14.4	29
Added “ <i>applicable to existing consent holders</i> ”. – Provides clarity	Paragraph 15.0	30
Changed “ <i>should be</i> ” to “ <i>must be</i> ” and “ <i>28 days</i> ” to “ <i>31 days</i> ”. – In line with the changes to 20.2.	Paragraph 15.2	30
Removed the requirement to provide a plan demonstrating	Paragraph 15.2 (d)	30

trading location for static traders, as this will be the same under a renewal application, and if this needs to be changed then a new application would need to be submitted. Added the requirement for a boroughwide trader to provide their plan, schedule or route, as these can change from time to time.		
Changed “28 days” to “31 days”. – In line with the changes to 20.2.	15.4 and 15.5	33
Added that “ <i>application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.</i> ” - Provides clarity on requirements and process.	14.2 (l) ,14.3 (p), 15.2(l),15.3(p),16.2(k),16.3(f)	27,28,30,32,34,35
Clarified that there is no consultation for this process, in updating a consent permit with a new or alternative vehicle. - This is to prevent loss of earnings for traders, such as instances to authorise a vehicle whilst the original undergoes maintenance or repair.	Paragraph 16.3	36
Removed “ <i>work in a customer service role</i> ” with “ <i>engage in street trading</i> ”. Added “and including any new company officers”.	Paragraph 16.5	36

Added “repetitious” to what is considered as not a relevant representation. – Adds clarity. Moved section regarding committee and granting process to 19.5.	Paragraph 19.2	37
New sections inserted that expands upon what is not a relevant representation.	Paragraph 19.3 and 19.4.	38
Removed “ <i>Unless otherwise stated fees for all General Licensing functions are payable on application.</i> ” – Contradicts application process requirements.	Paragraph 19.8	38
Added “ <i>or a boroughwide consent.</i> ” – Adds consistency through the process.	Paragraph 19.10	39
Removed “ <i>this could mean</i> ” and “ <i>(unless another arrangement has been made).</i> ” – Improves enforceability. Unauthorised street trading is an offence and may have an impact on other factors such as the validity of public liability insurance.	Paragraph 20.2	40
Added “ <i>Where an applicant has applied to renew at least 31 days prior to permit expiry, and in the instance where an application is to be determined at a Regulatory sub-committee meeting, a temporary consent permit may be issued to permit street trading beyond the expiry date of the consent applied for renewal.</i> ” – To ensure that applicants who apply to renew	Paragraph 20.2	40

their permit on time are not penalised.		
Added “within 2 working days”. – Provides an actual timeframe/deadline to work by.	Paragraph 20.3	40
Removed “ <i>expired</i> ”. Replaced with “ <i>concluded</i> ”. – Correct terminology.	Paragraph 20.3	40
Added “ <i>Trading hours do not include setting up or closing down time.</i> ” - Provides clarity.	Paragraph 20.5	41
Added “ <i>or Consent Permit</i> ”. - To clarify that this applies to static and mobile traders, not just the Pitch in CMK.	Paragraph 20.6	41
Added “ <i>exempt from street trading controls</i> ” and “ <i>A trader cannot speculatively arrive at a location without orders already made to warrant the arrival at the location.</i> ” – Provides clarity.	Paragraph 23.4	43
Added “If planning have an enforcement matter for an area concerned, a street trading consent application would not supersede this nor will it be accepted.” - A One Council value approach.	Paragraph 23.12	44
Amended “ <i>General Conditions to be Attached</i> ” to “ <i>Mandatory Conditions Attached.</i> ” – To prevent misinterpretation that these conditions are not default and selective.	Appendix A	45

Amended condition to add <i>"company officers"</i> . In line with application requirements.	Appendix A – Condition 8	44
Removed "customer facing" – This is a non-sensical term and the requirements should apply to any staff. It is extremely rare that a staff member would be non-facing to customers whilst street trading.	Appendix A – Condition 18 and 21	46,47
Added condition 23 regarding waste disposal. In line with application requirements. Essential for the safety of the environment and prevention of public nuisance.	Appendix A – Condition 23	47
Added condition 24. Procedures in place regarding litter. Static traders remove any litter dropped by customers in the vicinity and provide a bin for customers. – Protects the environment and any residential/business properties in the locality.	Appendix A – Condition 24.	47
Removed "that may" – To prevent misinterpretation that these conditions are not default and selective.	Appendix B	48
Added <i>"(in relation to the applicant and any staff engaged in street trading)"</i> . – Provides clarity that the applicant and staff are assessed in view of public safety.	Appendix C – Paragraph 2	49

Added “driving offences”. Inserted a new section (9 and 10) regarding driving-related offences. – Is relevant due to vehicles being used in street trading (motorised food mobiles).	Appendix C – Paragraph 2(a) and sections 9 & 10.	49
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Part One

Introduction

This document sets out the Council policy on street trading. This document also sets out the legislative framework in respect of street trading consents, government guidance and the procedures for obtaining such consents and the conditions attached to them. This policy is not a comprehensive statement of the law and applicants should, where necessary, obtain their own legal advice.

1.0 Scope and Purpose

- 1.1 The Council, in undertaking licensing functions, will have due regard to the need to eliminate discrimination, harassment and victimisation and will seek to promote equality and good relations between all persons having particular regard to their human rights.
- 1.2 Appendices that form part of this policy may be updated from time to time by the Regulatory Committee and any revisions will be publicised on the Council's website at least 28 days prior to commencement. Any amendments to the policy itself shall be made by the Regulatory Committee, ratified by the Executive, and take effect upon adoption unless a later date is specified.
- 1.3 The policy will be reviewed every three years, but a review could also be triggered at any time by a change in legislation or other relevant factors.
- 1.4 Milton Keynes adopted street trading provisions under The Local Government Miscellaneous (Provisions) Act 1982 Schedule 4 in October 1988 in response to members concerns that itinerant traders were having an adverse financial impact on other food businesses and there was also a concern of an increased risk of highway related injury due to roadside trading.
- 1.5 The Council's powers to regulate street trading are set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as "the Act".
- 1.6 Where controls are in place streets may be designated as either '**prohibited**', or '**consent**' streets for the purposes of street trading. However, community events may be exempted by the Council from the requirements of the street trading controls for the duration of the event. Definitions of the different street trading classifications are set out in section 23 of the policy.

- 1.6.1 Community Events are considered as cultural functions that are free for the public to enter. Notice should be given in writing to the Council's Licensing Department by the event organiser at least 28 days prior to the event requesting the exemption, providing information on the mobile operators attending, what they are intending to sell and their locations.
- 1.7 The Council has implemented a '60 metre rule', which prevents or controls street trading taking place on any highway land (verges, footways) or private forecourts that are adjacent to and within 60 metres of the centre line of a Prohibited or Consent Street. For dual carriageways this is the centre line of the central reservation. The 60m boundary of streets designated as Consent and Prohibited, does not apply to the internal areas of shopping malls, permanent structures with covered areas and the outdoor walkways within the building structure; and are therefore not regulated by Milton Keynes Council Street Trading controls.
- 1.8 Where a 60m consent boundary intersects with a prohibited boundary, in the interest of safety, the prohibited boundary will take precedence.
- 1.9 The purpose of this policy is to provide guidance for the consideration of applications for street trading consents and to help create a street trading environment which is sensitive to the needs of residents, visitors and businesses. It will create a level playing field for traders encouraging higher service standards of food hygiene and providing a service which does not detract from the local neighbourhood scene.

2.0 Prohibited Streets

- 2.1 If a street is designated as a **"prohibited street"** then a criminal offence is committed by any person engaging in street trading in that street. There could be several reasons to designate a street as prohibited. For example, there may be road safety concerns, or the Council may wish to restrict trading at a particular location because of business or resident concerns
- 2.2 A single trading pitch is maintained in Central Milton Keynes at the Xscape carpark to satisfy a need by the Late-Night Trade. This pitch has been given consent status and is excluded from the prohibited street restrictions of Central Milton Keynes.
- 2.3 Street Trading is prohibited within 250 metres of any school's entrances and/or exits, during main school hours and 30 minutes following a school's normal closing time. Meaning, if the street trader is within 60 metres of a consent street and that is also within 250 metres of a school, street trading is prohibited and not permitted at that location. The definition of a school is an institution for educating children.

Change: Added paragraph 2.3 regarding the 250 metre prohibited exclusion zone regarding proximity to schools. The definition of what is a "school" has also been included.

Reason: This is actioned through the schedule of prohibited designations (Prohibited Street List), but is now also referenced in the policy for informative purposes.

3.0 Consent Streets

- 3.1 If a street is designated as a “**consent street**” then street trading without consent is a criminal offence. The Council is required to act reasonably and be consistent with its general obligations (e.g. those under the Human Rights Act), but subject to that the Council enjoys a wide discretion with regard to the granting or refusal of street trading consents. The Council does not have to rely upon specific statutory grounds to refuse an application for grant or renewal.
- 3.2 There is no right of appeal against any decision made in respect of a street trading consent. A street trading consent can be granted for up to 12 months and can be revoked at any time following a hearing at a Regulatory Sub-Committee. When granting or renewing a consent the Council may attach any reasonable condition. Furthermore, the Council can, at any time, vary the conditions attached to a consent. Any such variations will be notified in writing to the person/business named on the consent and will take effect immediately or on another date as specified.

Part Two – Suitability criteria

4.0 Public Safety

- 4.1 The proposed location of street trading activity should not present a significant risk to the public in terms of highway safety or/and obstruction. This would include consideration of factors such as: - interference with sight lines for road users and access to pedestrian crossings. Applications in respect of sites that have previously been the subject of a refusal due to the unsuitability of the location are unlikely to be accepted.
- 4.2 If traders intend to leave the trading vehicle overnight on a public highway, they should consult directly with the Highways department. Trading vehicles will not be exempt from parking restrictions.

5.0 Commercial Need / Saturation of Traders

<i>Change: Added “saturation of traders” to title 5.0</i>
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<i>Reason: Expands on the 250 metres restriction reasoning.</i>
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- 5.1 Any application will include consideration of the number and type of existing similar traders and businesses in the vicinity. Consent is unlikely to be granted within 250 metres of an existing street trader or similar business.

<i>Change: 5.1 Removed “new.” And added “similar businesses”.</i>
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<i>Reason: So will also cover situations where a consent holder applies to vary their permit which may then impact on other existing traders and businesses (such as takeaways) in the vicinity with the same hours</i>
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- 5.2 Businesses more than 250 metres away may object to an application, but the committee are unlikely to uphold the objection without evidence or reasoned explanation of the impact on commercial needs.

<i>Change: Added paragraph 5.2.</i>
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<i>Reason: To provide clarification on representations and the 250 metre vicinity.</i>

- 5.3 If a consent permit is suspected of not being utilised, then it may be referred to committee for revocation, so that area may then become available for other applicants. Disingenuous or repetitious applications may also be rejected.

<i>Change: Added paragraph 5.3.</i>
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<i>Reason: To prevent unused/disingenuous permits. Such as blocking another application within 250 metres.</i>

6.0 Prevention of Crime and Disorder

- 6.1 The proposed activity and location should not present a risk to public order. This may be an issue in respect of applicants wishing to trade during later hours. This is because in some circumstances a trading location can act as a focus point of anti-social behaviour.

<i>Change:</i> Added “and location” to 6.1.
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<i>Reason:</i> Provides clarity.

- 6.2 Consent permits that are suspected to be a front for an illegal organisation or misused to dishonestly gain other benefits, may trigger a review and likely be revoked, and any future applications may be rejected.

<i>Change:</i> Added paragraph 6.2

<i>Reason:</i> In view of public safety and prevention of crime.

- 6.3 If consent permit holders are found to be breaching street trading in other local authority areas, then Licensing may provide information to assist those authorities’ investigation and also consider these breaches against a consent holder's suitability to hold a permit or make future applications in Milton Keynes.

<i>Change:</i> Added paragraph 6.3

<i>Reason:</i> In view of public safety and prevention of crime.

7.0 Prevention of Public Nuisance

- 7.1 Consideration will be given to those measures to be taken by a trader to reduce and control the risk of nuisance from noise, litter, vermin, fumes, odours, and the disposal of associated waste.
- 7.2 Applicants will be expected to have procedures in place to remove litter generated by their business, including litter dropped by customers. Traders will be expected to provide a litter bin during the hours of trade and remove litter related to their business in the vicinity after trading.
- 7.3 Boroughwide Street Traders will need to provide a similar practicable solution to preventing waste from customers ending up discarded in the locality.
- 7.4 Traders are reminded that they are not permitted to flypost on lampposts or use A-Boards.
- 7.5 Traders will need to develop a written plan to demonstrate how they will deal with their commercial waste. They must dispose of the waste at a Waste Recycling Centre as commercial waste or obtain a separate contract.

<i>Change:</i> Removed “Newport Pagnell” from Waste and Recycling Centre. Replaced “may” with “must”
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<i>Reason:</i> To allow for freedom of choice and so is enforceable.

- 7.6 Traders close to residential properties are more likely to pose a public nuisance concern.

<i>Change:</i> Added paragraph 7.6
<i>Reason:</i> In view of providing clarity the prevention of public nuisance.

8.0 Sustainability and Product Type

- 8.1 A trader should set out measures to reduce the environmental impact of their proposed activity as part of their application. Typically, this could include the use of recyclable products and energy efficient processes.
- 8.2 Consideration will also be given to the type of products sold and the suitability of the products at the location concerned. It should be noted that applications which propose to sell articles of firearms, replica firearms, tobacco or animals will not be accepted.

9.0 Suitability of Trading Unit

- 9.1 The vehicle, trailer or stall to be used will be of a good quality design/ build and should not be of an appearance to the detriment of the quality of the street scene. The unit may be inspected by an authorised officer of the Council prior to any consent being issued. The unit shall comply with any legal requirement relating to the trading activity proposed and in particular, the following legislation and any subsequent revisions thereof:
- 9.2 **Food Hygiene legislation and Minimum Rating**
- (a) The Food Safety and Hygiene (England) Regulations 2013
 - (b) Regulation (EC) 178/2002
 - (c) Regulation (EC) 852/2004
 - (d) Food Safety Act 1990
 - (e) Food Standards Agency – Food Hygiene Rating Scheme.

<i>Change:</i> Added (“and minimum rating”) to Food hygiene legislation header 9.2.
<i>Reason:</i> Provides clarity.

- 9.2.1 A minimum rating of three “Generally Satisfactory” is mandatory and failure to achieve this rating may lead to revocation or rejection of street trading consent.

- 9.2.2 Where a street trader falls below three stars, the street trader (Food Business Operator) must reapply for a re-rating. The applicant will agree a timeframe to achieve this re-rating. Failure to apply and achieve the minimum rating of three will result in suspension of consent until this rating is achieved. The applicant is responsible for applying for the re-rating.
- 9.3 Health and Safety legislation - Health and Safety at Work etc. Act 1974 and any regulations made under this Act.
- 9.4 Noise control legislation - Environmental Protection Act 1990.
- 9.10 Licensing - Licensing Act 2003. Sale of hot food between 11.00pm and 05.00am and the sale of alcohol, the requirement to obtain an authorisation under this act for these activities in addition to street trading.

<i>Change:</i> Added additional information on separate requirements to 9.10.
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<i>Reason:</i> Provides clarity.

- 9.11 Plastic items and polystyrene containers - The Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023

<i>Change:</i> Added legislation relating to the ban of the supply of certain single-use plastic items and polystyrene containers at 9.11.

<i>Reason:</i> Legislative update and to protect the environment.
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10.0 Suitability of Applicant and Right to Work

<i>Change:</i> Added “and Right to Work” to header 10.0.

<i>Reason:</i> Further application requirements.

- 10.1 When determining an application for the grant or renewal of a street Trading consent the Council will consider relevant information relating to the suitability of the applicant to hold such a permission including:

(a) Whether the applicant has any relevant unspent convictions:

A Basic Disclosure from the Disclosure and Barring Service (DBS check) shall be submitted with each application (see 15.2 e). The certificate must not be older than three months at the time of its submission. Any unspent convictions or proven criminal behaviour shall be considered in assessing the suitability of the applicant, such as dishonesty, violence, sexual and indecency related offences, drugs, theft, deception and traffic/driving offences if a motorised food mobile (attached as Appendix C).

<i>Change:</i> Added “traffic/driving offences if a motorised food mobile” to 10.1(a)
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<i>Reason:</i> In view of public safety and prevention of crime.

(b) Refusal or neglect in paying fees due to the Council for a street trading consent.

(c) Previous failures and non-compliance of the applicant, without reasonable excuse, in respect of a previous street trading consent.

<i>Change:</i> Added “and non-compliance” to 10.1(c).
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<i>Reason:</i> Improves the sentence in relation to the decision-making process.

10.2 Under the Immigration Act, introduced in 2016, the Home Office granted new duties for local authorities to deal with illegal workers and those who employ them. Anyone employing illegal workers, (those without the right to be working in the UK) can be fined up to £45,000 for each illegal worker they employ, and this can rise to £60,000 for repeat offenses. The wages of the illegal workers can also be seized as proceeds of crime. Applicants are required to check residency status and provide proof of right to work for themselves and anyone employed to trade under the street trading consent as part of the application process. For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the [Home Office guidance](#). Any trader found to be an illegal worker, or to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.

<i>Change:</i> Updated fine amount regarding employing illegal workers. Included residency status and proof of right to work as part of the application process to 10.2.

<i>Reason:</i> Legal requirement.
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10.3 In addition to the suitability of an applicant for a consent the Council will also consider the suitability of any person employed to work/any staff (including voluntary) and require a DBS for every such person assessed in line with the provisions of Appendix C. Applicants are expected to name any person working for them in such a role and notify the Council of any changes. Any staff engaging in street trading must be assessed by the Council following the provision of a DBS check. A consent permit holder who employs someone in such a role without a DBS check or fails to notify the Council is likely to have their street trading consent reviewed and/or revoked.

<p>Change: Removed “customer facing” and added “any staff” plus “including voluntary” to 10.3 Removed “individual who deals with members of the public by taking orders, supplying goods or handling cash” and replaced with “any staff engaging in street trading” to 10.3.</p>
<p>Reason: Customer facing is a nonsensical term. It is extremely rare that a staff member would be non-facing to customers whilst street trading. And any staff whether employed or voluntary should be DBS checked, in the view of public safety. Engaging in street trading is a term used in the legislation and is not limited to customer facing staff.</p>

- 10.4 Where an applicant applies as a company, a DBS check is required for all company officers (such as directors).

<p>Change: Added that a DBS check is required for all company officers if an applicant is applying as a company to 10.4</p>
<p>Reason: Ensures public safety.</p>

11.0 Landowner Permission and Trading Location

- 11.1 A person may already need and have permission from another department in the Council enabling them to engage in street trading on Council owned land.
- 11.2 In order to operate lawfully, such a person would also need to make a successful application for a street trading consent before they could trade.
- 11.3 Private land does not exempt traders from street trading consent provisions. Only where private land is self-contained, with no access permitted by members of the public can the trading be considered exempt from street trading.
- 11.4 Where traders wish to trade on Council owned, but non-adopted land, such as some community centre and local centre carparks, permission and a separate agreement may be required with the Council Estates Team or Town/ Parish Council. The applicant will be required to approach the relevant department or owner to determine if such an agreement is required.
- 11.5 When trading on private land, street traders must obtain the permission of the landowner and provide proof of that permission as part of the application process.

<p>Change: Changed “should” to “must”. Added “and provide proof of that permission as part of the application process” to 11.5.</p>
<p>Reason: A street trading consent permit does not override landowner permission.</p>

- 11.6 Applications must be accompanied by a plan indicating trading location as this will form part of any granted consent. In non-residential areas, some leniency may be provided to allow traders to move slightly when their location is inaccessible due to parking. This leniency is not permitted in residential areas due to the potential for increased public nuisance.

Change: Added “as this will form part of any granted consent” to 11.6.

Reason: Provides clarity and is part of issuing the permit.

12.0 Premises Licence – Licensing Act 2003

- 12.0 If a Premises Licence or Temporary Events Notice has been granted under the Licensing Act 2003 which permits licensable activities at a consent location (i.e. Late Night Refreshment or sale of alcohol) a street trading consent is still required before trading can commence.

Change: Added “or Temporary Events Notice” and (i.e. Late Night Refreshment or sale of alcohol)” to 12.0.

Reason: Provides clarity.

13.0 Mobile Traders at Multiple Locations

- 13.1 Many traders wish to operate from the same position every-day but some businesses may wish to trade at several consent streets across the borough. For example ice cream vans or other similar operations may visit multiple locations each day. The Council recognises that these traders will only be in one location for a short period of time and as a result such traders will be able to apply for a borough wide street trading consent, based on the maximum number of hours they wish to trade per day, including travel time moving from point to point. Such consents will be granted on condition that they allow no more than 20 minutes trading in any 100 metre part of any one street on any one day. This reflects the transient nature of their operation. Trading in one place for longer than this will require a specific consent for the street concerned.

Change: Added “including travel time moving from point to point” to the trading hours window to 13.1.

Reason: Provides clarity, for example a boroughwide trader operating 12:00 - 15:00 (3 hours trading), this will include the time moving from point A to point B.

- 13.2 If an applicant proposes to trade on streets where there is already an existing street trading consent, commercial need will be a relevant consideration when considering the application. The Council will also consider restricting borough wide consents if issues develop with multiple traders visiting the same location.
- 13.3 In some instances, an individual or company may use several vehicles to engage in street trading across the Borough as part of a larger business operation. The Council seeks to balance the need to protect the public, whilst removing unnecessary regulatory and administrative burdens from traders. Where several vehicles are being operated, the administration of the street trading regime and its enforcement may be more efficient, if the person or company with overall control of several vehicles applies to hold a consent permit for each vehicle.
- 13.4 A Boroughwide Mobile Street Trading Operators Consent will offer a reduction on the fees payable than if the applicant applied for separate consents for each vehicle.
- 13.5 In allowing such an application the Council will need to be satisfied of the following:
- a) The applicant intends to operate more than three vehicles;
 - b) The vehicles are owned and insured by the applicant;
 - c) Those engaging in street trading are employees;
 - d) All vehicles are recognisable as part of the same brand and the public can easily identify the vehicle as part of the applicant's business;
 - e) All vehicles sell the same product(s);
 - f) All vehicles are kept at the same location
 - g) The applicant can produce employer's liability insurance as well as public liability insurance.

Change: Removed "working in a customer service role (i.e. street trading)" and replaced with "engaging in street trading" to 13.5(c).

Reason: Consistency in connection to changes to 10.3.

- 13.6 In some instances, an applicant may not be able to meet all the above, for example, someone engaging in street trading may not be an "employee" but falls within the legal definition of a "partner" or "company director". Where the Council is satisfied that the majority of the above apply, it will consider the intention of allowing a Boroughwide Mobile Street Trading Operators Consent permit, namely that a reduced fee is acceptable where the Council's administration and enforcement costs will be less without compromising public safety. At all times, the Council will consider the overriding need to protect the public.

Change: Removed “working in a customer service role (i.e. street trading)” and replaced with “engaging in street trading” to 13.6.

Reason: Consistency in connection to changes to 10.3.

13.7 The Council will not consider an applicant to be suitable for a Boroughwide Mobile Street Traders Operators Consent Permit if:

- a) The business operates as a franchise and those involved in the street selling activity merely purchase the product from the applicant to sell and retain their profit. In this instance, the street seller is self-employed, and the applicant would not have sufficient ‘legal’ control over the seller, to supervise the business of street trading.
- b) The applicant does not legally own all the vehicles or, if they do own all the vehicles, they lease them to the street seller or another party;
- c) The applicant operates a business practice that is inconsistent with being an employer (i.e. individuals are required to have their own insurance, sales target, commission etc.) and indicates that the person engaged in the street selling activity is self-employed.
- d) The applicant is unable to collate and provide all the relevant documents themselves and provide them to the Council.

Change: Added “to supervise the business of street trading” to 13.7(a).

Reason: Provides clarity.

Part Three – Permits and Process

14.0 Submitting a New Application

14.1 Application forms and guidance are available from the Licensing section or can be downloaded from the Council’s website www.milton-keynes.gov.uk/licensing and clicking on the Street Trading link.

14.2 The following documents will be required with the street trading consent application:

- a. A completed and signed application form.
- b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
- c. A current MOT certificate (excluding vehicles not requiring MOT) and insurance documents where a motorised vehicle will be used for street trading.
- d. A plan detailing exactly where street trading is to occur and proof of landowner permission (where relevant).

- e. A DBS check for the street trading applicant and any staff engaging in street trading, dated within three months of the application.
- f. Declaration of convictions document for the applicant and any staff engaging in street trading.
- g. Residency status and proof of right to work for the applicant and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
- h. Photos of the street trading vehicle or unit.
- i. Proof of commercial waste plan or contract.
- j. Proof of recyclable products to be used in trading activity.
- k. The relevant fees.
- l. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Added “and proof of landowner permission (where relevant)” to 14.2(d).

Reason: Landowner permission is required as part of the application process.

Change: Removed “any staff/employee involved in customer service” replaced with “any staff engaging in street trading” to 14.2(e).

Reason: Consistency in connection to changes at 10.3.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 14.2(g).

Reason: Legal requirement.

Change: Added proof of commercial waste plan or contract is required as part of application process to 14.2(i).

Reason: To protect the environment and prevent public nuisance.

Change: Added that proof of recyclable products to be used in trading activity, is required as part of application process to 14.2(j).

Reason: To protect the environment and prevent public nuisance.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 14.2(l).

Reason: Provides clarity on requirements and process.

- 14.3 Where an applicant wishes to apply for a Boroughwide Mobile Street Traders Operators Consent permit the following will need to be submitted:
- a. A completed and signed application form.
 - b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
 - c. A copy of a valid certificate of employer's liability insurance indemnifying the applicant for a minimum £1,000,000
 - d. A current MOT (excluding vehicles not requiring MOT) certificate for each vehicle
 - e. Valid insurance document for each vehicle
 - f. Evidence of the ownership of the vehicle (normally v5 logbook).
 - g. A plan, schedule or route identifying the areas in which trading will occur for each vehicle and proof of landowner permission (where relevant).
 - h. The relevant personal details of each employee and the vehicle in which they will be employed in.
 - i. A basic DBS check for the applicant and any staff engaging in street trading.
 - j. Declaration of convictions document for the applicant and any staff engaging in street trading.
 - k. Residency status and proof of right to work for the applicant and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
 - l. Details of each vehicle as may be reasonably required by the Council, including the make, model, registration number and photos.
 - m. Proof of commercial waste plan or contract.
 - n. Proof of recyclable products to be used in trading activity.
 - o. The relevant fee(s).
 - p. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Added "and proof of landowner permission (where relevant)" to 14.3(g).

Reason: Landowner permission is required as part of the application process.

Change: Removed "any staff/employee involved in customer service" replaced with "any staff engaging in street trading" to 14.3(i).

Reason: Consistency in connection to changes at 10.3.

Change: Added "the applicant" to 14.3(i).

Reason: The applicant for a Boroughwide Mobile Street Traders Operators Consent should be DBS checked, not only just for their staff engaging in street trading. – Ensures public safety.

Change: Added that declaration of convictions document is required by the applicant and any staff engaging in street trading to 14.3(j).

Reason: Provides clarity and ensures public safety.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 14.3(k).

Reason: Legal requirement.

Change: Added that proof of commercial waste plan or contract, is required as part of application process to 14.3(m).

Reason: To protect the environment and prevent public nuisance.

Change: Added that proof of recyclable products to be used in trading activity, is required as part of application process to 14.3(n).

Reason: To protect the environment and prevent public nuisance.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 14.3(p).

Reason: Provides clarity on requirements and process.

14.4 Where an applicant wishes to apply for multiple traders to operate on one Consent Street (only one trader permitted at a time) the following will need to be submitted:

- a. A completed and signed application form.
- b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000 for all traders.
- c. A current MOT certificate (excluding vehicles not requiring MOT) and insurance documents where a motorised vehicle will be used for street trading for all traders.
- d. A plan detailing exactly where street trading is to occur and proof of landowner permission (where relevant).
- e. A DBS check for the street trading applicant, all traders and any staff engaging in street trading, dated within three months of the application.
- f. Declaration of convictions document for the applicant, all traders and any staff engaging in street trading.
- g. Residency status and proof of right to work for the applicant, all traders and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
- h. Photos of each street trading vehicle or unit.
- i. Proof of commercial waste plan or contract for each trader.
- j. Proof of recyclable products to be used in trading activity for each trader.
- k. The relevant fees.

- l. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Added the provision where an applicant wishes to apply for multiple traders to operate on one Consent Street (only one trader permitted at a time) at 14.4.

Reason: To facilitate themed food events.

15.0 Submitting a Renewal Application (applicable to existing consent holders)

Change: Added “(applicable to existing consent holders)” to 15.0.

Reason: Provides clarity.

- 15.1 Application forms and guidance are available from the Licensing section or can be downloaded from the Council’s website www.milton-keynes.gov.uk/licensing and clicking on the Street Trading link.
- 15.2 To ensure continuity of an ability to trade, renewal applications must be made at least 31 days prior to the expiry of any existing consent and the following will be required to be submitted to Licensing;
 - a. A completed and signed renewal application form or declaration of no changes.
 - b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
 - c. A current MOT certificate (excluding vehicles not requiring MOT) and insurance documents where a motorised vehicle will be used for street trading.
 - d. A plan, schedule or route identifying the areas in which trading will occur for each vehicle and proof of landowner permission (where relevant).
 - e. A DBS certificate for the street trading applicant and any staff engaging in street trading (if a period of three years has passed from when the last certificate was provided).
 - f. Declaration of convictions document for the applicant and any staff engaging in street trading.
 - g. Residency status and proof of right to work for the applicant and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
 - h. Photos of the street trading vehicle or unit if it has changed.
 - i. Proof of commercial waste plan or contract.
 - j. Proof of recyclable products to be used in trading activity.
 - k. The relevant fees.
 - l. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Changed “should be” to “must be” and “28 days” to “31 days” at 15.2.

Reason: In line with the changes to 20.2.

Change: Removed the requirement to provide a plan demonstrating trading location for static traders, as this will be the same under a renewal application, and if this needs to be changed then a new application would need to be submitted. Added the requirement for a boroughwide trader to provide their plan, schedule or route, as these can change from time to time at 15.2(d).

Reason: Self-explanatory.

Change: Added “and proof of landowner permission (where relevant)” to 15.2(d).

Reason: Landowner permission is required as part of the application process.

Change: Removed “any staff/employee involved in customer service” replaced with “any staff engaging in street trading” to 15.3(e).

Reason: Consistency in connection to changes at 10.3.

Change: Added that declaration of convictions document is required by the applicant and any staff engaging in street trading to 15.2(f).

Reason: Provides clarity and ensures public safety.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 15.2(g).

Reason: Legal requirement.

Change: Added that proof of commercial waste plan or contract, is required as part of application process to 15.2(i).

Reason: To protect the environment and prevent public nuisance.

Change: Added that proof of recyclable products to be used in trading activity, is required as part of application process to 15.2(j).

Reason: To protect the environment and prevent public nuisance.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 15.2(l).

Reason: Provides clarity on requirements and process.

- 15.3 To ensure If the holder of a Boroughwide Mobile Street Trading Operators Consent permit wishes to renew they must submit:
- a. A completed and signed application form.
 - b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
 - c. A copy of a valid certificate of employer's liability insurance indemnifying the applicant for a minimum £1,000,000
 - d. A current MOT certificate (excluding vehicles not requiring MOT) for each vehicle
 - e. Valid insurance document for each vehicle
 - f. Evidence of the ownership of the vehicle (normally v5 logbook)
 - g. A plan, schedule or route identifying the areas in which trading will occur for each vehicle and proof of landowner permission (where relevant).
 - h. The relevant personal details of each employee engaging in street trading and the vehicle in which they will be employed in.
 - i. A basic DBS check for any staff engaging in street trading (if a period of three years has passed from when the last certificate was provided).
 - j. Declaration of convictions document for the applicant and any staff engaging in street trading.
 - k. Residency status and proof of right to work for the applicant and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
 - l. Details of each vehicle as may be reasonably required by the Council, including the make, model, registration number and photos (if they have changed).
 - m. Proof of commercial waste plan or contract.
 - n. Proof of recyclable products to be used in trading activity.
 - o. The relevant fees.
 - p. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Added “and proof of landowner permission (where relevant)” to 15.3(g).

Reason: Landowner permission is required as part of the application process.

Change: Removed “any staff/employee involved in customer service” replaced with “any staff engaging in street trading” to 15.3(h).

Reason: Consistency in connection to changes at 10.3.

Change: Added that declaration of convictions document is required by the applicant and any staff engaging in street trading to 15.3(j).

Reason: Provides clarity and ensures public safety.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 15.3(k).

Reason: Legal requirement.

Change: Added that proof of commercial waste plan or contract, is required as part of application process to 15.3(m).

Reason: To protect the environment and prevent public nuisance.

Change: Added that proof of recyclable products to be used in trading activity, is required as part of application process to 15.3(n).

Reason: To protect the environment and prevent public nuisance.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 15.3(p).

Reason: Provides clarity on requirements and process.

- 15.4 Failure to apply to renew the consent at least 31 days prior to expiry may lead to a delay in the consent being issued or the suspension of street trading consent. See also to Section 20 regarding duration of consent.

Change: Changed “28 days” to “31 days” at 15.4.

Reason: In line with the changes to 20.2.

- 15.5 An application to renew a consent that is submitted earlier than 31 days before the expiry of a consent will be accepted but may not be determined until closer to the expiry date of that consent and only if all relevant documents are provided to the satisfaction of the Council. Where a consent holder applies to renew a consent, the existing consent shall continue until its expiry date. A renewed consent shall start the day following the expiry of the consent being renewed.

Change: Changed “28 days” to “31 days” at 15.5.

Reason: In line with the changes to 20.2.

16.0 Transfers of Street Trading Consent/Additional Vehicles and Employees

16.1 Street trading consents may be transferred to another operator subject to a 28-day consultation with:

- a. Thames Valley Police
- b. Environmental Health
- c. Relevant Parish/Town Councils

16.2 The following will be required to be submitted to Licensing to transfer a street trading consent to another operator:

- a. A completed application form.
- b. A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
- c. A current MOT certificate (excluding vehicles not requiring MOT) and insurance documents where a motorised vehicle will be used for street trading.
- d. A DBS certificate for the street trading applicant and any staff engaging in street trading. Existing consented traders may rely on certificates up to 3 years old.
- e. Declaration of convictions document for the applicant and any staff engaging in street trading.
- f. Residency status and proof of right to work for the applicant and any staff engaging in street trading (such as British Citizenship documents or Home Office share code).
- g. Photos of the street trading vehicle or unit if being changed from the original.
- h. Proof of commercial waste plan or contract.
- i. Proof of recyclable products to be used in trading activity.
- j. The administration fee.
- k. An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Removed “any staff/employee involved in customer service” replaced with “any staff engaging in street trading” to 16.2(d).

Reason: Consistency in connection to changes at 10.3.

Change: Added that declaration of convictions document is required by the applicant and any staff engaging in street trading to 16.2(e).

Reason: Provides clarity and ensures public safety.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 16.2(f).

Reason: Legal requirement.

Change: Added that proof of commercial waste plan or contract, is required as part of application process to 16.2(h).

Reason: To protect the environment and prevent public nuisance.

Change: Added that proof of recyclable products to be used in trading activity, is required as part of application process to 16.2(i).

Reason: To protect the environment and prevent public nuisance.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 16.2(k).

Reason: Provides clarity on requirements and process.

- 16.3 Street trading consent holders may apply for the permit to be updated with a new or alternative vehicle / food mobile. There is no consultation period for this process. The following will be required to be submitted to Licensing:
- A completed application form.
 - A copy of a valid certificate of insurance covering third party and public liability risks of up to £1,000,000.
 - A current MOT certificate (excluding vehicles not requiring MOT) and insurance documents where a motorised vehicle will be used for street trading.
 - Photos of the street trading vehicle or unit.
 - The administration fee.
 - An application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met.

Change: Clarified that there is no consultation for this process, in updating a consent permit with a new or alternative vehicle at 16.3.

Reason: This is to prevent loss of earnings for traders, such as instances to authorise a vehicle whilst the original undergoes maintenance or repair.

Change: Added that “application is not deemed served as complete nor accepted for processing, until all the above relevant requirements have been met” at 16.3(f).

Reason: Provides clarity on requirements and process.

- 16.4 The holder of a Boroughwide Mobile Operators Consent is permitted to add further vehicles to their consent in line with para 16.3 provided all other requirements of the initial grant of the consent remain fulfilled. A fee for this will be payable.

- 16.5 After a consent has been granted a consent holder may employ a person to engage in street trading, either as replacement for, or in addition to, a person previously named. A consent holder must notify the Council within 72 hours (and if relevant, including any new company officers) and provide:
Residency status and proof of right to work for the applicant and any staff.
Declaration of convictions document for any staff and a valid DBS certificate for the relevant individual if already issued or provide confirmation that a basic disclosure has been applied for and provide the relevant reference number for the Council to check. The certificate itself must be provided within 72 hours of being despatched by the DBS. Provided that a consent holder takes full responsibility for the new employee and confirms that they are satisfied of the suitability of the new employee, the Council will normally permit the new employee to work pending receipt of the DBS. The Council will, however, liaise with the Police where a DBS check is pending.

Change: Removed “work in a customer service role” with “engage in street trading”. Added “and including any new company officers” at 16.5.

Reason: Consistency in connection to changes at 10.3. Provides clarity and ensures public safety.

Change: Added that declaration of convictions document is required by the applicant and any staff engaging in street trading. Added “and including any new company officers”. to 16.5.

Reason: Consistency in connection to changes at 10.3. Provides clarity and ensures public safety.

Change: Removed “any staff/employee involved in customer service” replaced with “any staff engaging in street trading” to 16.5.

Reason: Consistency in connection to changes at 10.3. Provides clarity and ensures public safety.

Change: Added that residency status and proof of right to work for the applicant and any staff engaging in street trading is required as part of the various application processes to 16.5.

Reason: Legal requirement.

- 16.6 Should the consent holder unreasonably delay provision of the DBS, is found to have not taken reasonable steps to safeguard the public or the Police provide information that a new employee may pose a risk to the public the consent holder is likely to have their street trading consent reviewed and/or revoked.
- 16.7 A fee may be charged by the Council for the notification of employment of a person by a Consent holder to cover the work involved in the Council’s assessment that a new employee is suitable and poses no risk to the public.

17.0 Who will the Council Consult?

17.1 Before any new consent or renewal is granted the Council will normally consult with the following agencies or persons. A period of 28 days will be allowed for comments to be received:

- a. Thames Valley Police
- b. Highways (Council)
- c. Relevant Parish/Town Councils
- d. Environmental Health (Council)
- e. Milton Keynes Council Ward Councillors
- f. Trading Standards (Council)
- g. Estates (Council)
- h. Public Health (Council)
- i. Any other consultee that officers consider appropriate.

18.0 What do I need to do once I have submitted my application?

- 18.1 Once a valid application has been received, Licensing (with the environment permitting) shall display a site notice at the proposed site for 28 consecutive days. The notice shall state the application details of trading name, times applied for, consultation end date and where further details can be found. The notice requirement does not apply to boroughwide street trading consent applications.
- 18.2 The Council will maintain a public register of applications including mobile traders on its website which will be updated regularly.
- 18.3 If there are no valid objections / adverse comments to a new application then the applicant may trade for a maximum of three hours per day. After a period of 21 days of actual trading (meaning being operational and offering goods to customers) an application to vary the hours of trading can be made which again will have to be notified to the consultees listed above.

19.0 The Decision-making Process

- 19.1 The Head of Service and other delegated officers have delegated responsibility for exercising the Council's functions in respect of determining a new application's suitability in whether to refuse or proceed with the application consultation process.
- 19.2 Where an application is accepted the consultation process begins and any representations will need to be made within 28 days from the date the application is accepted. Any representations must be 'relevant', in that the representation must not be considered by the licensing authority to be repetitious, frivolous or

vexatious. They must be relevant to the particular trader/location and have reference to this policy.

Change: Added “repetitious” to what is considered as not a relevant representation to 19.2. Moved section regarding committee and granting process to 19.5.

Reason: Provides clarity.

- 19.3 The Council considers the frivolous and vexatious and repeated representations and requests is important in order to prevent the licensing function being used to pursue non licensing issues and to ensure that unjustified expenditure is not incurred or unnecessary burdens imposed as a result of or in dealing with such representations/requests.

Change: New paragraph added at 19.3.

Reason: Expands upon what is non-relevant representation.

- 19.4 The Council does however emphasise that it will not conclude that a representation or request is frivolous, vexatious or repeated unless there are sound grounds for such a decision, and interested parties will be notified of the grounds for any such decision.

Change: New paragraph added at 19.4.

Reason: Expands upon the process of a non-relevant representation.

- 19.5 Where a valid adverse representation is received and unresolved, the application will be referred to Regulatory Sub-Committee to be determined. Where no representations are made within the 28 days the decision will be made without referral to committee under the delegated powers.
- 19.6 If the application is decided by committee, the applicant, who will be expected to attend, will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented by a legal representative or some other person.
- 19.7 The Regulatory Sub-Committee will deal with applications and disciplinary matters referred to it by Officers.
- 19.8 A Licensing Officer will prepare a report for the committee regarding relevant applications or other matters relating to traders. The report will be made available to the applicant/street trader at least five days before the date of the hearing. When considering the report and relevant documents the committee will ensure that all parties are heard. A refund is payable for those applications that are refused following a hearing by the Committee.

Change: Removed “Unless otherwise stated fees for all General Licensing functions are payable on application” from 19.8.

Reason: Contradicts application process fee requirements.

19.9 The Council will not generally refund fees for surrendered or revoked consent permits but may do so in extenuating circumstances.

19.10 Where an application is refused and the applicant wishes to reapply for the same street, or a boroughwide consent, the application shall only be submitted after a minimum period of 12 months has passed from the date of refusal.

Change: Added “or a boroughwide consent” to 19.10.

Reason: Adds consistency through the process.

19.11 The Regulatory Committee or officers have delegated powers to grant or suspend, refuse or at Regulatory sub-committee, revoke street trading consents. Officers are also permitted to issue oral and written warnings, cautions and may instigate prosecutions wherever appropriate.

19.12 Where a trader has failed to renew key documents and policies such as insurance, food hygiene scores etc, officers are delegated to suspend licences.

19.13 An applicant has no right of appeal against the Council’s decision to refuse to grant a consent or to impose any conditions.

19.14 Delegated responsibilities:

Action	Officer	Committee
Reject application due to location/ incomplete application/ unsuitable applicant	Yes	(Not required)
Decision to suspend consent due to expiry of documents/ failure to obtain minimum food safety hygiene rating	Yes	(Not required)
Determination of application with unresolved relevant objections	Direct to Committee	Yes
Revocation of consent following complaints and review	Direct to Committee	Yes
Grant of uncontested application, or where	Yes	(Not required)

objections have been resolved / not relevant		
Update policy for inconsequential changes	Yes	(Not required)
Update policy every three years/ or for significant changes	Pass to Committee	Yes

20.0 Duration of Consent and Fees

- 20.1 Street trading consents will normally be granted for a maximum of 12 months unless a reduced period is considered appropriate.
- 20.2 No application to renew a consent will be determined until the appropriate fees have been paid. The applicant is not permitted to engage in street trading once the previous consent has expired. Where an applicant has applied to renew at least 31 days prior to permit expiry, and in the instance where an application yet is to be determined at a Regulatory sub-committee meeting, a temporary consent permit may be issued to authorise street trading beyond the expiry date of the consent applied for renewal.

Change: Removed “this could mean” and “(unless another arrangement has been made)” to 20.2.

Reason: Improves enforceability. Unauthorised street trading is an offence and may have an impact on other factors such as the validity of public liability insurance.

Change: Added “Where an applicant has applied to renew at least 31 days prior to permit expiry, and in the instance where an application is to be determined at a Regulatory sub-committee meeting, a temporary consent permit may be issued to permit street trading beyond the expiry date of the consent applied for renewal” to 20.2.

Reason: To ensure that applicants who apply to renew their permit on time are not penalised.

- 20.3 The grant fee is due within 2 working days once the application/ renewal period has concluded. Failure to pay the grant fee may result in temporary suspension of the consent until the grant fee is paid.

Change: Added “within 2 working days” to 20.3.

Reason: Provides an actual timeframe/deadline to work by.

Change: Removed “expired”. Replaced with “concluded” to 20.3.

Reason: Correct terminology.

- 20.4 Failure to renew or to pay renewal fees may result in any subsequent application being treated as a new application.
- 20.5 Applied for hours are expected to be whole hours i.e. 2pm not 2.30pm. Applications where a trader applies for limited hours to be used across a longer period, for example; three hours between the hours of 2pm and 7pm will not normally be permitted. Trading hours do not include setting up or closing down time.
- 20.6 Sub-letting of any Pitch or Consent Permit is not permitted.

<i>Change:</i> Added “or Consent Permit” to 20.6.
<i>Reason:</i> To clarify that this applies to static and mobile traders, not just the Pitch in CMK.

21.0 Conditions and Enforcement

- 21.1 General conditions (attached at Appendix A) will be attached to every consent detailing the holder’s responsibility to maintain public safety, prevent nuisance and generally preserve the amenity of the locality.
- 21.2 Additional conditions may also be attached which relate to the type of consent granted. Such additional conditions may include conditions in respect of motor vehicles (attached as Appendix B).
- 21.3 Persons engaging in street trading (as defined in the Act) without a consent or who fail to comply with the conditions will be liable to prosecution under paragraph 10 of Schedule 4 of the Act. Decisions regarding enforcement action will be made in accordance with the Councils Enforcement Policy. We will also consider the Better Regulation Delivery Office’s Regulatory Code.
- 21.4 Where an application is to be determined at a Regulatory Sub-Committee, the committee are permitted to amend any conditions to be attached to the street trading consent as required.
- 21.5 Failure to comply with a street trading consent and conditions or where there are justified complaints/ issues of concern may trigger a review of a street trading consent at any time and this may result in change of hours/location, conditions being added, suspension or revocation of consent, following a hearing at Regulatory Sub-Committee.
- 21.6 Where a trader is required to hold Public Liability Insurance, motor vehicle insurance and/or MOT, it is the responsibility of the trader to ensure they are renewed. If any such policy or certificate expires, the trading consent may be considered suspended until the policy or certificate is renewed.

22.0 Complaints

- 22.1 Legitimate complaints will be investigated, and consent holders shall be expected to liaise with the Council to resolve them. Substantiated complaints or any other reasonable grounds could trigger a review of a street trading consent which may result in the consent being brought before a committee and a decision made to:
- Revoke the consent
 - Add conditions
 - Suspend the consent
- 22.2 Complaints may be considered when considering an application to renew a street trading consent.

23.0 Street Trading Definitions

- 23.1 Street Trading is defined in paragraph 1 of Schedule 4 of the Act as: “the selling or exposing or offering for sale of any article (including a living thing) in a street”.
The Act defines the term “street” as including:
“Any road, footway, beach or other area to which the public have access without payment”; and a service area as defined in section 329 of the Highways Act 1980”.
- 23.2 Any part of a street is a “street” for the purposes of the Act.
- 23.3 The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:
- a. a pedlar trading under the authority of a pedlar’s certificate granted under the Pedlar’s Act 1871;
 - b. anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
 - c. trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
 - d. trading as a news vendor;
 - e. trading carried on at premises used as a petrol filling station;
 - f. trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop;
 - g. selling things, or offering or exposing them for sale, as a roundsman.
- 23.3.1 The Council requires that any trader relying on any of the above exemptions to be able to produce satisfactory evidence to the Council that the exemption applies to their trading activities.
- 23.3.2 A newsagent selling for example hot food in front of the shop would not normally be considered able to rely on 23.3 (f) above, if they do not normally sell hot food in the newsagents.

- 23.4 A roundsman conducts an activity of taking orders for goods or delivering goods previously ordered by “going the round of his customers” (for example, milkmen or coal men). Ancillary street sales made by a roundsman when acting in that capacity are exempt from street trading controls. The concept of a ‘roundsman’ was clarified in the cases *Stubbs v Torfaen County Borough Council* (2014) and *Kempin v Brighton and Hove Council* (2001). A trader cannot speculatively arrive at a location without orders already made to warrant the arrival at the location.

Change: Added “*exempt from street trading controls.*” and “*A trader cannot speculatively arrive at a location without orders already made to warrant the arrival at the location*” to 23.4.

Reason: Provides clarity.

- 23.4.1 The “street trading” must be “ancillary” to the non-street trading activity of a roundsman. The mere fact that someone has set routes or rounds that they travel, does not fulfil the definition of a roundsman and is therefore not exempted from Street Trading controls.
- 23.4.2 Persons conducting trading activities are expected to ensure that they comply with relevant legislation and where they seek to rely on the exemption of being a roundsman they shall be able to produce evidence of the number of pre-orders taken and fulfilled. Orders made and fulfilled on a designated street will be considered as street trading unless evidence to the contrary is provided. It is for an individual to evidence to the Council that the exemption above applies. When determining the evidence of whether someone is or is not a roundsman, the Council will give consideration as to the length of time between an order and the fulfilment of that order, the location of that order, the means used to make and fulfil that order and whether at the time of making the order, the goods were sold, exposed or offered for sale in a designated street.
- 23.5 All markets operated by a) Milton Keynes Council, b) a Parish or Town Council, c) English Partnerships, d) Milton Keynes business or business association, e) a person or body that has a legal interest in the site of an Historic Charter Market and f) Farmers Markets will be exempt under paragraph 1(2) (b) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 from the implications of the Council’s resolutions of designated Consent Streets and Prohibited Streets.
- 23.6 To satisfy the definition of a market under d) above there will normally need to be:
- 23.6.1 No less than five stalls.
 - 23.6.2 Suitable public liability in place.
 - 23.6.3 Be a Milton Keynes business or business association.
 - 23.6.4 Proof that it is a genuine market, and not an extension of a premises.
 - 23.6.5 That there will be no more than 21 cumulative days of holding the market within a single calendar year (the 21 days include set-up and break down days).

- 23.7 A market stall is typically an immobile structure erected by merchants to display and shelter their merchandise. Stalls can be easily erected, taken down or moved on wheels. Some commercial marketplaces, including market squares or flea markets may erect (or allow merchants to erect) more permanent stalls. There are many types of stalls from carts pulled by hand or cycles, makeshift structure like tents or converted caravans and motor vehicles.
- 23.8 Tabletop and garage yard sales on a resident's driveway or garden shall not normally be considered as street trading.
- 23.9 Premises, such as cafes, that have a tables and chairs licenced to use the public highway (pavement) outside, will normally be considered exempt from street trading requirements.
- 23.10 Charitable collections or the sale of lottery tickets under a small society lottery registration (where proceeds are applied to a charitable purpose) and where a street collection permit has been issued are not considered as street trading.
- 23.11 With exception of its use in paragraph 13.5(c), the terms "employ" or "employee" in relation to a street trading consent apply to an individual working for or on behalf of a consent holder, regardless of whether in fact that person falls under the legal definition of an employee or is self-employed, an agent, or other. The term "employee" in para 14.5(c) is intended to refer to the legal definition of employee only.
- 23.12 Street Trading and Planning permission. Where a trader has planning permission, they will not be expected to obtain street trading consent as well. If a street trader is using a 'non-mobile' trading vehicle or structure or for example removed the wheels of a street trading mobile, then they will still be considered street traders unless they obtain planning consent. If planning have an enforcement matter for an area concerned, a street trading consent application would not supersede this, nor will it be accepted.

Change: Added "If planning have an enforcement matter for an area concerned, a street trading consent application would not supersede this nor will it be accepted" to 23.12.

Reason: A "One Council" value approach.

Appendix A

Mandatory Conditions Attached to Street Trading Consents

Change: Amended “General Conditions to be Attached” to “Mandatory Conditions Attached” to title.

Reason: To prevent misinterpretation that these conditions are not default and selective.
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1. The consent holder shall only trade on the days and between the times stated on the consent. The consent holder shall only trade in the description of articles stated on the consent.
2. The consent holder shall not carry on business on any street to cause obstruction to road users or cause obvious danger to people using the street.
3. The consent holder shall not carry on business from any vehicle or erect or place any stall or other structure in any street except in the area mentioned in the consent.
4. The consent holder shall not sell, offer, or expose for sale any goods or articles other than those described within the principal terms of this consent.
5. The consent holder shall on all occasions, when trading, conduct themselves in such a way to not cause nuisance to a person in charge of any shop, business, resident, or any person using the street.
6. The consent holder shall ensure that a copy of the consent is clearly visible to the public whilst trading.
7. A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the Police.
8. If during the term of any consent any material change occurs in the trading arrangements (namely new staff, company officers or trading vehicle), the consent holder must report such changes to the Licensing Authority within 72 hours of that change.

Change: Amended condition 8 to add “company officers”.

Reason: In line with application requirements.

9. Neither the consent holder nor any assistant shall display merchandise which is likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation.
10. Advertisements or other notices shall not be placed in the immediate area of the premises without the approval of the Council.
11. The Consent Holder shall not place any furniture or equipment in the immediate area of the premises other than as permitted by the consent.
12. The Council reserves the right to alter or amend these conditions at any time.
13. The subletting of any consent is prohibited.
14. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and its subsequent removal from the site. The removal and disposal must be to the satisfaction of the Council and relevant legislation.
15. The consent holder shall not cause nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity.
16. No articles of firearms, replica firearms, knives, tobacco or fireworks shall be sold.
17. A valid third-party Public Liability Insurance certificate shall be held by the consent holder at all times to the satisfaction of the Council.
18. If the consent holder or staff are convicted of any relevant or similar foreign offence during the period between when the application is made and when the application is determined or withdrawn, the consent holder or staff must notify the Licensing Authority in writing within 14 days from the date of conviction. Failure to do so without reasonable excuse could lead to the revocation of the street trading consent.

<i>Change:</i> Removed “customer facing” from condition 18.
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<i>Reason:</i> This is a non-sensical term and the requirements should apply to any staff. It is extremely rare that a staff member would be non-facing to customers whilst street trading.
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19. Borough wide consents for traders visiting multiple locations are restricted to Trading of no more than 20 minutes in any one 100 metre part of any one street on any one day
20. Ice cream traders (and other similar traders) shall comply with the requirements of the Code of Practice on Noise from Ice-Cream Van Chimes Etc. 2013

21. Consent holder or staff convicted of any relevant or similar foreign offence during the period of the consent must notify the Licensing Authority in writing within 14 days from the date of conviction. Failure to do so without reasonable excuse could lead to revocation of street trading consent.

Change: Removed “customer facing” from condition 21.

Reason: This is a non-sensical term and the requirements should apply to any staff. It is extremely rare that a staff member would be non-facing to customers whilst street trading.

22. The street trading consent permit summary shall be displayed within the food mobile where it can be easily read by members of the public.
23. The consent holder shall have a written plan to demonstrate commercial waste disposal. The consent holder shall dispose waste at a Waste Recycling Centre as commercial waste or have a current and valid waste contract.

Change: Added condition 23 regarding waste disposal.

Reason: In line with application requirements. Essential for the safety of the environment and prevention of public nuisance.

24. The consent holder shall have procedures in place to remove litter generated by their business, including litter dropped by customers. Static traders shall provide a litter bin during the hours of trade and remove litter related to their business in the vicinity after trading.

Change: Added condition 24. Procedures in place regarding litter. Static traders remove any litter dropped by customers in the vicinity and provide a bin for customers.

Reason: Protects the environment and any residential/business properties in the locality.

N.B A consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, and obstruction, etc.

Appendix B

Motor Vehicle Conditions Attached to Street Trading Consents

<i>Change: Removed “that may” from header.</i>
<i>Reason: To prevent misinterpretation that these conditions are not default and selective.</i>

1. Any trailers used for the purposes of street trading shall be in a road worthy condition and removed from the highway when the consent is not in operation.
2. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e. insurance, tax and MOT (excluding vehicles not requiring MOT) to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any police officer or authorised officer of the Council.
3. Any food mobiles in residential areas shall be removed from the trading location site once trading has finished.

Appendix C

Guidelines on the Relevance of Convictions/Cautions/Warnings

1. The Council has a duty to ensure that a person is deemed suitable to operate as a street trader. The applicant must declare all convictions and cautions at the time of application. Failure to do so may result in the application being refused.

General Principles:

2. Each case will be decided on its own merits. However, the Council may refuse to grant a street trading consent or trigger a review of a street trading consent at any time on any of the following grounds (in relation to the applicant and any staff engaged in street trading):
 - a. There has been a conviction/caution for an offence involving dishonesty, indecency, any sexual offences, violence, drugs and driving offences;
 - b. There has been a conviction/caution for an offence under the relevant licensing legislation;
 - c. Applicant or any entity, or person associated with the applicant has been associated with, have or had any outstanding debts owed to the Council; and
 - d. Any other reasonable grounds.

Change: Added “(in relation to the applicant and any staff engaged in street trading)” to 2.

Reason: Provides clarity that the applicant and staff are assessed in view of public safety.

Change: Added “driving offences” to 2(a).
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Reason: Is relevant due to vehicles being used in street trading (motorised food mobiles).

3. If a period of imprisonment, community sentence or Court Order is imposed, the applicant must show a minimum of 3 years has passed without further convictions from the end of imprisonment or sentence, not from the end of any reduced sentence.

4. A person with an unspent conviction as defined in The Rehabilitation of Offenders Act 1974, for serious crime need not be permanently barred from registration but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application will be considered.
5. Some discretion may be appropriate if the offence is isolated, and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
6. Where an individual's suitability is called into question, the Senior Licensing Officer will normally determine the matter. In exceptional cases, the matter may be referred to a Licensing Sub-Committee for determination, whose decision is final.

Offences involving violence:

7. The following examples afford a general guide on the action to be taken where convictions are disclosed, or admitted, but it does not form an exhaustive list.
8. It is imperative that applicants with convictions for offences involving violence are considered carefully. When applicants have convictions for causing grievous bodily harm, wounding or assault, or other more serious offences involving violence, at least five years should normally elapse before an application is considered.

Driving-related offences:

9. The following examples afford a general guide on the action to be taken where convictions are disclosed, or admitted, but it does not form an exhaustive list.
10. It is imperative that applicants with convictions for offences involving driving are considered carefully. When applicants have convictions for serious offences involving driving under the influence of drink or drugs, dangerous driving, injury and death, at least five years should normally elapse before an application is considered. This carries particular significance for motorised food mobile traders.

<p>Change: Added "driving offences". Inserted new sections 9 and 10 regarding driving-related offences.</p>
<p>Reason: Is relevant due to vehicles being used in street trading (motorised food mobiles).</p>

Drug-related offences:

11. An isolated conviction for a drug offence, whether for unlawful possession - or involving the supply of controlled drugs, need not necessarily debar an individual from registration, usually the applicant will have at least three years free of convictions/cautions or five years since detoxification, if he/she was an addict.

Indecency offences:

12. Applicants with indecency or sexual offences would normally be debarred. However, this will depend upon the age and circumstances of the offence, along with any registration on the Sex Offenders Register.

Theft & Dishonesty:

13. Convictions for isolated minor offences would not normally debar an applicant, but in cases involving serious theft or fraud at least three years should elapse since the conviction or end of any prison sentence, whichever is the longer, before an application is considered. When offences of dishonesty have been accompanied by violence, normally it is considered that at least five years should elapse before an application may be submitted.

