

## **STREET TRADING PROTOCOL**

In 1998 Herefordshire Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, enabling street trading to be regulated within the county. Pavement Cafes are controlled via Pavement Licences issued under the 2020 Business and Planning Act

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

### **1. Aspirations for Street Trading**

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

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

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

### **2. Objectives of Regulating Street Trading**

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

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

### **3. Street Trading Panel - Terms of Reference**

The Council's Constitution and scheme of delegation permits the Chief Executive to delegate powers to the Director of Economy and Environment. In turn the Director is authorised to set up an Officer Panel to deal with certain matters relating to street trading applications and some other associated functions within the county e.g highways amenity licence applications.

The current 'membership' of the Street Trading Panel as at April 2023 is therefore made up of the following officers:

- Head of Regulation and Technical Services – Chair
- Direct Services Manager
- Street Trading Licensing Officer
- Representative from Environmental Health
- Economic Regeneration Officer
- Representative of Highways and Transportation (Balfour Beatty)
- Representative from Legal Services, as required
- Technical Support officer – if meetings are convened

In addition, a representative of the Hereford City Council where appropriate has input in an ex-officio capacity, plus a representative from the Hereford Business Improvement District for street trading applications within the HBID area. Other personnel may be invited to have input, if considered necessary when dealing with a particular application or issue e.g. from West Mercia Constabulary or other multi agency partners.

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

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

#### **A. Determining Applications**

Each application or matter will be carefully assessed against the objectives set out above, and the more detailed criteria set out below. The role of the Panel is to assist the Chair in reaching decisions and he/she will give due consideration to the points raised. Should more than one application be received for a new/vacated pitch, they will each be assessed on their merits (including but not limited to the criteria listed i) to v) below. The pitch may be offered to an applicant or should an application be deemed unsuitable, then no offer may be made.

Where applications are received for previously used sites and/or deemed to be 'non-contentious', the Chair may decide to utilise Panel involvement only if required to assist the overall decision.

For town/city locations, the local elected ward member(s) and the relevant town/city council will also be consulted for all applications received. For layby locations, consultation may take place with the local elected ward member(s) and parish council, though this will usually be reserved when any new locations are proposed that form part of an application.

The Panel members can use expertise from their own service area to judge applications on their individual merits but overall a broad range of criteria is used to assess suitability or otherwise. These can include:

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

- There are previous relevant convictions relating to the applicant, including those related to Food Safety or Health and Safety.
- Failure on any previous occasion to pay street trading consent fees within agreed timescales.
- The applicant is not at least 18 years of age.
- The applicant is not legally able to live and work in the UK.

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

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

**iii) Suitability of the proposed trading times:**

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

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

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

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

- There are already enough traders trading in the vicinity (from shops/outlets or other stalls) in the goods which the applicant desires to trade.
- The proposed products to be sold are considered unsuitable for the surrounding area in terms of potential odours, potential pavier staining, potential waste/litter issues.
- The proposed products are deemed of an unsuitable or objectionable nature, especially where they could conflict with the proposed sales location.

## **B. Fees**

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

### **C. Offences**

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

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

### **D. Renewal of Consents and Licences**

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

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

There is no automatic right of appeal against a decision of the Street Trading Panel.

## **4. Application Process**

- i) An application for a street trading consent must be made on the Council's approved application form.  
EMFST ST 4.

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

<b>EMFST ST 3</b>	<b>STREET TRADING INFORMATION &amp; GUIDELINES</b>
<b>EMFST ST 4</b>	<b>STREET TRADING APPLICATION FORM</b>
<b>EMFST ST 5</b>	<b>STREET TRADING TERMS &amp; CONDITIONS</b>

- ii) For Pavement Licences, an application for a pavement licence must be made on the Council's approved application form accessed via the appropriate website page.

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

New applications for consents/licences can usually take a minimum of 30 days to be considered on receipt of submitted forms but can take up to 60 days. Applications for previously used sites may shorten this process.

## **5. Use of High Town/Commercial Street, Hereford for Promotional Use**

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

An application for hiring space in High Town must be made on the Council's approved application form EMFST HS 5.

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

<b>EMFST HS 3</b>	<b>HIRE OF HIGH TOWN SPACE INFORMATION &amp; GUIDELINES</b>
<b>EMFST HS 5</b>	<b>HIRE OF HIGH TOWN SPACE LICENCE APPLICATION FORM</b>

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

Full information regarding this scheme can be found at the appropriate webpage on the council's website.

Political Parties are limited to no more than three booking dates per party in any one pre-election period (dates specified by Electoral Services). This is to ensure all parties have a reasonable opportunity to book space and to leave dates free for the usual wide variety of other bookings and events.