

Committee Name and Date of Committee Meeting

Cabinet – 06 July 2026

Report Title

Draft Street Trading Policy

Is this a Key Decision and has it been included on the Forward Plan?

No, but it has been included on the Forward Plan

Executive Director Approving Submission of the Report

Andrew Bramidge, Executive Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The effective regulation of street trading is central to the continued regeneration and economic vibrancy of the Borough. This report proposes a regulatory approach that would see the control of street trading achieved through the use of consents issued by the Council in accordance with a Street Trading Policy.

In order to introduce the framework, the Council must first adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Cabinet is asked to authorise officers to commence a period of consultation in relation to the adoption of Schedule 4 and approve a draft Street Trading Policy which will be consulted on at the same time. A further report will be presented to Cabinet later in the year outlining the outcome of the consultation and making a final recommendation with regard to the adoption of Schedule 4 and the introduction of a Borough-wide Street Trading Policy.

Recommendations

That Cabinet:

1. Approve consultation to determine whether the Council should adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
2. Approve consultation on the draft Street Trading Policy, as outlined in the report.

3. Note that, following consultation, a future report will be presented to Cabinet in late 2026, outlining the final recommendations with regard to the adoption of Schedule 4 and the introduction of a Borough-wide Street Trading Policy.

List of Appendices Included

Appendix 1 Draft Street Trading Policy
Appendix 2 Equalities Assessment
Appendix 3 Climate Impact Assessment

Background Papers

None.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None.

Council Approval Required

No

Exempt from the Press and Public

No

Draft Street Trading Policy

1. Background

- 1.1 Uncontrolled street trading can adversely affect local communities and undermine the economic stability of an area and the businesses that operate within it.
- 1.2 The current approach to regulating street trading within Rotherham is inconsistent. Street Trading is currently being utilised by a small number of traders that operate at locations within Rotherham using permissions provided many years ago, or through the misuse of parking bays and car parks.
- 1.3 Street traders are currently able to operate with minimal regulation and without appropriate consideration of the consequences of their activities on other local businesses (particularly those that trade from retail premises). In addition, the absence of a clear framework means that the way that street traders operate currently is not transparent, equitable or fair. In addition, the introduction of a street trading framework will allow well managed traders to develop and flourish, further supporting business growth and employment opportunities.
- 1.4 In order to effectively regulate street trading, the Council must first adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The adoption of this legislation, together with the introduction of a clear Street Trading Policy, will provide the Council with the framework to ensure that street trading is controlled, fair, appropriate and contributes to business growth throughout the Borough.
- 1.5 Cabinet are asked to consider the adoption of the relevant legislation and review the draft Policy. Cabinet are also asked to authorise officers to commence a period of consultation on both aspects as outlined in section 4 of this report.

2. Key Issues

- 2.1 The control of street trading in Rotherham is currently achieved through a combination of powers provided by Highways and Planning legislation. The control of street trading is not the primary purpose of this legislation, and so it is largely ineffective.
- 2.2 Although there is limited regulation of street traders through food hygiene and trading standards legislation, in general the traders that operate currently are not bound by any requirements regarding the safety and suitability of the unit that they trade from, the quality of the products that they supply or the hours of operation (and the consequential impact that this may have on the local area).
- 2.3 The ineffectiveness of the current approach has led to a small number of traders establishing themselves as a semi-permanent presence within the Borough or during particular events (events in Rotherham Town Centre or matches at the New York Stadium for example). In addition, the lack of

transparency about how the current traders operate has created a situation whereby new businesses that seek to trade on the Borough's streets are unable to do so, resulting in missed opportunities for traders to enhance the offer to residents during major events and to support wider business growth.

- 2.4 The Council recognises the positive impact that well managed street trading can have on the local area, and the wider Borough. Furthermore, it is considered likely that some smaller or niche traders may utilise street trading as a way of developing their business and growing their customer base. This may lead to the business establishing itself as a more successful, more permanent presence in Rotherham.
- 2.5 In order to address the issues identified above, and to assist with new business development within the Borough, the Council believes that it is necessary and important to introduce a new framework that will promote the benefits of street trading, whilst at the same time protecting local people and neighbourhoods from the negative effects of the current approach.
- 2.6 The Council has the option of utilising the provisions within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (referred to hereafter as "Schedule 4"), which would allow far more effective control over street trading within the Borough.
- 2.7 The provisions within Schedule 4 allow the Council to designate a street according to one of three statutory designations:
- Prohibited street – street trading is prohibited at all times.
 - Licence street – street trading is prohibited without a licence granted by the Council.
 - Consent street – street trading is prohibited without the consent of the Council.
- 2.8 Where a street is not designated according to one of the above categories, the Council is not able to regulate trading on that street (except for using existing powers within Highways and / or Planning legislation).
- 2.9 Street Trading Consents and Street Trading Licences are similar in nature and are both very effective at controlling street trading. Consents have all of the benefits of licences but are much more flexible and allow for a quicker more dynamic response to issues that may affect trading, such as safety or security concerns or events taking place within an area.
- 2.10 Although not required by the legislation, it would be best practice for the discharge of the provisions within Schedule 4 to be done in accordance with a policy that sets out the Council's approach to street trading in Rotherham.
- 2.11 The Street Trading Policy will allow the Council to ensure that trading takes place in an appropriate manner and without adverse impact on the local community (for example by minimising nuisance and regulating the number and location of traders within an area).

- 2.12 The Policy will also allow the Council to set out conditions and expectations that would apply to street traders, such as:
- the safety and suitability of trading units
 - the standard of hygiene for traders selling food items
 - waste disposal
 - trading times and limitations on trading in certain areas
 - background checks on traders.
- 2.13 As certain locations are expected to be in high demand (for example those in Rotherham Town Centre), the draft Policy makes it clear that in some cases the limitations on the number and locations will mean that trading can only take place from a designated pitch or pitches.
- 2.14 To use the provisions within Schedule 4, the Council must first adopt the legislation. The process by which this must be done is set out in law, but in summary it will include:
- Undertaking consultation with key stakeholders with regard to the adoption of Schedule 4.
 - Provision of notice to the Highways Authority and South Yorkshire Police.
 - Publication of a public notice in the local press.
 - Consideration of any comments received during the consultation period.
 - If appropriate, the adoption of Schedule 4 by full Council.
 - Publication of a notice confirming the decision to adopt Schedule 4.
- 2.15 As has been outlined above, it would be best practice to develop a Street Trading Policy that sets out the Council's approach to regulating street trading within the Borough. A draft Policy has been produced and is attached to this report as Appendix 1. It is proposed that the Policy is subject to a period of public consultation at the same time as the consultation on the adoption of Schedule 4. The outcome of the consultation and recommended next steps with regard to both of these elements will then be presented to Cabinet after the consultation has closed and the responses have been collated and analysed.
- 2.16 Schedule 4 makes it clear that the Council may charge such fees as is considered reasonable for the grant or renewal of a street trading licence or a street trading consent. It is difficult to quantify the costs that may be associated with the administration of a street trading framework within Rotherham. The most similar existing process is that of Pavement Licences issued under the Business and Planning Act 2020. This legislation allows Councils to charge fees up to £500 for new Pavement Licence applications and £350 for the renewal of existing licences.
- 2.17 With this in mind, it is proposed that the fee for a new consent is set at £500. The initial consent would be valid for a two-year period and will allow the Council to fully consider the impact and costs of the new framework and for any adjustments to be aligned with the annual budget and fee setting process.

Whilst full payment would normally be required in advance, in to support traders, the Council will accept the payment of the two-year consent fee by instalments (£170 payable on application, then three further payments of £110 due 6, 12 and 18 months after the consent is issued. In order to enable the instalment mechanism, traders will need to agree to setting up a direct debit arrangement. If a trader opts to pay by instalments, then the consent will be issued until the date that the first instalment becomes due, it will then be extended by the appropriate period once the instalment has been paid. The consent will lapse if the direct debit defaults and the instalment is not paid by other means by the due date and the trader will be required to apply for a new consent in order to continue to trade.

2.18 The Council recognises that the nature of street trading is such that some traders may only require a consent for a one-off event, or for a short period of time. In view of this, the Council is proposing to introduce lower fees for consents that last for a shorter period of time. The fees charged comprise an application fee and a contribution to the enforcement and monitoring of the street trading framework, and as a result the fee charged increases with the duration of the consent. The proposals for shorter term consents are as follows (these fees cannot be paid by instalments and must be paid in advance):

- one day consent £40
- one month consent £120
- three month consent £160
- six month consent £220
- one year consent £340

2.19 The fee for the one-day consent has been set at a low level as the Council recognises the importance of street trading for some new businesses. It is possible that the cost of the one-day licence may not cover the administrative cost of issuing the licence, but the Council is keen to support new businesses as they develop and as this is a new approach, full costs and overall levels of recovery are unknown. The suitability of this approach will be reviewed annually as part of the budget setting process.

2.20 The Council will charge an administration fee if the trader wishes to make any administrative amendments to the consent during the period that it is valid (for example and change of name or address). The fee will be comparable to the fees charged for administrative changes to other licences or permits that are issued by the Service (currently £28).

2.21 The proposal regarding the fee and the charging structure will be included in the consultation. The final fee structure will be confirmed and agreed when the Policy is brought back to Cabinet for approval later in the year (subject to the outcome of the consultation).

2.22 Although the provisions within Schedule 4 will significantly improve the Council's ability to regulate street trading in Rotherham, it is important to note that there are a number of activities that are not considered to be street trading and as result will fall outside of the framework outlined in this report. These exemptions include:

- Trading by any person that holds a Pedlar's Certificate issued under the Pedlars Act 1871 provided that the person is acting as a pedlar and not a street trader (Pedlar's Certificates are issued by South Yorkshire Police).
- Trading in a market or fair.
- Trading in a trunk road picnic area.
- Trading as a news vendor.
- Trading which is carried on at a premises used as a fuel filling station or is carried on at premises used as a shop or in the street adjoining premises so used and as part of the business of that shop.
- Selling items as a roundsman.
- Trading in accordance with a Pavement Licence (issued under Highways Legislation or the Business and Planning Act).
- Authorised street collections.

2.23 It should also be noted that if the provisions were adopted, it would be recommended for there to be a period of transition that would allow existing traders to adapt to the new framework and obtain relevant permissions if required.

2.24 Three approaches have been considered with regards to the control of street trading. With the exception of option one, all options will require the adoption of Schedule 4 and should be supported by a Street Trading Policy. The three approaches are outlined below.

2.25 a) Designate all streets in the Borough as "Prohibited Streets"

Designating all streets as prohibited streets will mean that street trading cannot take place in any part of the Borough at any time under any circumstances. As has already been said, street trading is beneficial to the local economy, provided it is effectively regulated. Indeed, in some circumstances the provision of street trading would be desirable and something that the Council would be keen to promote (for example, during an event). This option is not recommended.

2.26 b) Designate all streets in the Borough as "Licence Streets"

This option will see the introduction of a statutory framework that will allow the Council to implement conditions, limitations and other requirements that will allow the effective regulation of street trading. Under this option, street trading will only be permitted if the trader is in possession of a licence issued by the Council.

However, although there are benefits to this option, the statutory nature of the process restricts the Council's ability to vary or remove licences due to security, safety or operational reasons. For example, if circumstances were such that it would be undesirable to permit street trading in a particular area at a particular time (due to security or safety concerns), then the Council would be unable to vary a licence or prevent street trading taking place as these

reasons are not specified within the legislation. This would mean that the Council would be unable to take urgent action as a result of specific local circumstances. Therefore, this option is not recommended.

2.27 c) Designate all streets in the Borough as “Consent Streets”

This option will allow the Council to effectively control street trading across the Borough through the issuing of consents. Consents will be issued in accordance with a Street Trading Policy, and the Council will have the ability to apply conditions, limitations and other requirements (similar to the licences referred to in option three above).

The Council has the option of giving different designations to different streets across the Borough (e.g. designating some streets prohibited streets, and others as consent streets), and this option has been considered. However, this approach could potentially restrict the Council’s ability to deal with applications on a case-by-case basis. For example, a general prohibition on street trading in a particular area would prevent the trading from taking place even if the individual circumstances meant that such trading was desirable on a particular occasion (for example during a special event).

The use of consents will have the same benefits as the use of street trading licences, but their use will allow the Council to vary or remove a consent if this is required due to operational, safety or security reasons (which would not be possible if licences were to be used). The ability to effectively regulate street trading, combined with the additional flexibility that consents afford means that this option is the preferred approach. **This is the recommended option.**

2.28 All of the above approaches would require a level of enforcement in order to ensure that the specific requirements relevant to each approach are being adhered to. There will be requirement for enforcement in the first year as the requirements are phased in.

2.29 Enforcement of the street trading framework will primarily fall to the Council’s Licensing Service, and this activity will be undertaken in addition to the existing enforcement activity that is undertaken by the officers within the service. However, there will be an expectation that other Council teams will assist with enforcement of the framework where the opportunity arises.

2.30 Enforcement activity will include, but is not limited to, identification of traders operating without the relevant consents, failure to adhere to consent conditions and non-compliance with the requirements of individual consents (e.g. trading times and locations not being adhered to).

2.31 Enforcement will be undertaken in accordance with the Council General Enforcement Policy, with the ultimate sanction being the removal of a street trading consent and / or the prosecution of an individual trader.

3. Options considered and recommended proposal

3.1 There are two options that have been considered.

3.2 Option 1 – the Council does not consult on the adoption of Schedule 4 and the implementation of a Street Trading framework.

3.3 This may arise either because Cabinet chose not to introduce the framework or decides to introduce the framework without consultation.

3.4 This option is not recommended for the following reasons:

3.5 1. The current arrangement is ineffective and inconsistent. The effective regulation of street trading is considered to be a contributor to the Borough's regeneration plans and its continued economic success.

A failure to adopt Schedule 4 and a Street Trading Policy would allow this approach to continue, and the issues / concerns identified within this report will not be addressed.

2. Choosing to adopt Schedule 4 and introducing Street Trading Policy without having first consulted on them would open the Council up to legal challenge via judicial review. In addition, by not taking the views of stakeholders into account, the Council increases the likelihood of there being unintended consequences introduced by the policy (which may have a detrimental impact on the economic health of local businesses and the Borough in general).

3.6 Option 2 – consult on a proposal to adopt Schedule 4 and a Street Trading Policy.

This option will enable the Council to give consideration to introducing a street trading framework that has been developed after taking into account the views of all stakeholders that could potentially be affected by the policy.

The Council would also have the confidence that any policy introduced would withstand a legal challenge and would best deliver the aims and objectives of the Street Trading Policy.

4. Consultation on proposal

4.1 If approved by Cabinet, officers will commence a formal consultation exercise within three weeks of the decision. The consultation will last for six weeks, and include the following:

- Online consultation via the Council's website.
- Direct consultation with any existing street traders that the Council is aware of.
- Consultation with groups representing communities and businesses in the local area.
- Consultation with groups representing children and young people, vulnerable adults and those sharing a protected characteristic.

- 4.2 Following the consultation period, the responses will be analysed and collated and a report presented to Cabinet for consideration with a recommendation regarding the adoption of Schedule 4 and the approval of a Street Trading Policy (dependent on the outcome of the consultation).

5. Timetable and Accountability for Implementing this Decision

- 5.1 The consultation will commence by the end of July 2026 and will continue until the end of September 2026.
- 5.2 A report regarding the findings of the consultation will be presented to Cabinet in late 2026 or early 2027, following analysis of consultation responses.
- 5.3 As referred to in section 2 above, there is a statutory process that must be followed should the decision be made to formally adopt Schedule 4. Further detail on the timelines associated with this will be provided in the report that is presented to Cabinet following the consultation.

6. Financial and Procurement Advice and Implications

- 6.1 This report proposes introducing a range of fees for a new Street Trading consent. These are detailed in 2.17 and 2.18. These amounts are not final and may change as a result of consultation. It is not envisaged that any charging will take place before 1st April 2027. This timing would allow the proposed fee to be considered as part of the annual Budget and Council Tax Report and approved by full Council if agreed.
- 6.2 It is not known how much income this new fee will generate and whether it will cover the costs of administering and enforcing the licences. This will be considered as part of the next update to Cabinet.
- 6.3 There are no implications for procurement introduced by this report.

7. Legal Advice and Implications

- 7.1 Section 3 Local Government [Miscellaneous Provisions] Act 1982 provides the power for the Local Authority to resolve that Schedule 4 to the Act shall apply to their district and, if a council so resolves, that the Schedule shall come into force in their district on such day as may be specified in the resolution.
- 7.2 Schedule 4 of the Act relates to street trading which is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. Paragraph 2.22 of this report outlines the activities under Schedule 4 which are not deemed to be street trading.
- 7.3 The Local Authority cannot pass a resolution unless a notice of intention has been published in a local newspaper, a copy has been served on the chief of police for the area and on the responsible highway authority, and where applicable the consent of the highway authority or relevant corporation has been obtained. Schedule 4 sets out the publication requirements and detail as

to representations which can be made to the Local Authority in relation to the proposed resolution.

- 7.4 Schedule 4 Paragraph 9 sets out the provision around the setting of fees. A district council (which includes a Metropolitan Council) may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.
- 7.5 Adopting a Street Trading Policy will ensure that the Local Authority operates consistently and provides transparency to those who wish to apply, which in turn minimises the risk of legal challenge in relation to the decision-making process.
- 7.6 Consultation is legally required as set out within Schedule 4 once a decision has been made to adopt the provisions and pass a resolution; there are also strict notification requirements. There is no legal requirement to consult prior to this point but it is recommended, particularly given that the adoption of a specific policy is also being considered. To consult at this point ensures transparency and allows the views of businesses, residents, stakeholders etc to be taken into account.

8. Human Resources Advice and Implications

- 8.1 This report is seeking the approval of Cabinet to undertake a period of consultation with regard to the control of street trading, and as such there are no HR implications introduced by this report.
- 8.2 The administration of the Street Trading Policy (if introduced) will be undertaken by the Council's Licensing Service. The introduction of a framework is not expected to result in excessive demands being placed upon the service, and therefore at this stage any demand will be met utilising existing resources.
- 8.3 The need for additional staffing resources will be reassessed after the first year; any increase in staff numbers will be funded through the application fees associated with the framework. Fees will be reassessed if additional staff are required and will be set at a level that ensures full cost recovery (which will mean that fees may increase after year one).
- 8.4 The enforcement of the street trading framework will primarily be undertaken by the Licensing Service, however there would be an expectation that other services would offer support as appropriate (for example, the Street Safe and Trading Standards teams). The involvement of partners such as South Yorkshire Police will also be requested where appropriate, although it is accepted that the involvement of the police may not always be possible.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 This report is seeking approval to consult (rather than a decision to adopt the legislation or policy), therefore there are not thought to be any direct implications for children, young people and vulnerable adults.

9.2 However, the proposed street trading framework will help to protect children and vulnerable people through the restrictions / conditions that it will introduce. For example:

- Applicants seeking permission to trade on the street will be required to provide a Disclosure Certificate from the Disclosure and Barring Service (basic level). This will allow the Council to assess the suitability of applicants prior to providing permissions to trade.
- Restrictions with regard to the locations and times that traders can trade (not trading outside schools / colleges at certain times or on certain days).

10. Equalities and Human Rights Advice and Implications

10.1 An initial screening assessment has been carried out, and this indicates that the proposals within this report will not have any implications for equalities or human rights.

10.2 A full consultation process will be undertaken prior to any decision being made to adopt the legislation or approve the Street Trading Policy; this will include groups representing those that share protected characteristics. Any comments received will be fully considered prior to a decision being made.

11. Implications for CO2 Emissions and Climate Change

11.1 This report is seeking the approval of Cabinet to undertake a period of consultation with regard to the control of Street Trading, and as such there are no implications for CO2 emissions and climate change.

11.2 However, if the proposal is introduced, conditions will require a consent holder to dispose of waste in accordance with Environmental legislation – a failure to do so may result in the consent being withdrawn.

12. Implications for Partners

12.1 There are no implications for partners that are introduced by the proposals within this report.

12.2 As referred to above, it may be the case that the Licensing Service request support from partners such as South Yorkshire Police with regard to the enforcement of the street trading framework (if introduced). There is however no expectation that support will be provided as it will depend on the resources that are available.

13. Risks and Mitigation

13.1 A failure to effectively manage street traders within the Borough could have an adverse impact on the regeneration activity taking place within the Borough and the economic stability of businesses that operate in areas that are attractive to street traders (Rotherham Town Centre for example).

- 13.2 The introduction of the framework will address this risk but will itself present additional risks related to the efficient administration and enforcement of the street trading framework. As has been referred to above, in the first year it is expected that this activity will be met using existing resources – this will be reviewed at the end of year one and any additional resources will be funded through the fees that are charged as part of the framework (if adopted).
- 13.3 Any incidental costs associated with the introduction and implementation of a street trading framework will be met from within the Licensing Service budget (these costs include those associated with advertising/public notices, consultation etc.).

14. Accountable Officers

Alan Pogorzelec, Licensing Manager

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	John Edwards	19/06/2026
Executive Director of Corporate Services (S.151 Officer)	Judith Badger	19/06/2026
Service Director of Legal Services (Monitoring Officer)	Phil Horsfield	17/06/26

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