Appendix 1

Rotherham MBC
Street Trading Policy

(DRAFT FOR CONSULTATION)

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Introduction

The aim of this Street Trading Policy ("the Policy") is to enable the Council to take a consistent and transparent approach regarding the control of street trading within the Rotherham Borough.

It is anticipated that the approach will create a street trading environment which complements premise-based trading, is sensitive to the needs of residents, provides diversity and consumer choice.

This Policy relates to all street trading activities within the Metropolitan Borough of Rotherham.

Whilst each application will be dealt with on its own merits, this Policy gives prospective applicants an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them should an application be granted.

The Policy recognises the importance of street trading in Rotherham and that it can add to the vibrancy and vitality of the area whilst not adding to nuisance, crime, and disorder, or cause other problems.

This Policy will be subject to monitoring and review after five years or more frequently should legislative changes deem this necessary. However, the Licensing Service will regularly review the policy and make any changes to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and the policy. Any significant changes (such as a significant change to the application process) will only be made after appropriate consultation and with the approval of the Council's Cabinet.

The overall objectives of this Policy are to:

- Ensure that any permitted street trading is properly regulated as to where, when, and how it takes place.
- Prevent obstruction of the Borough's highways.
- Ensure the safety of the public and of the traders permitted to trade.
- Ensure any activities do not cause nuisance or annoyance to the public and those traders surrounding the permitted street trader.
- Protect public health through the control of street trading.
- Ensure that appropriate safeguarding measures are in place for children and vulnerable persons.
- Ensure that traders operate within the law and act fairly in their dealings with the public.

Policy Application

Street Trading means the selling, exposing, or offering for sale of any article in a street. The term 'street' includes any road, footway, or other area to which the public have access without payment (this can include private land and car parks).

Rotherham Metropolitan Borough Council (hereafter referred to as "the Council" or "Rotherham Council") has adopted Schedule 4 of the Local Government (Miscellaneous Provision) Act 1982 which means that consent is required before trading in certain places.

This Policy applies to all street trading activity in Rotherham. The policy does not apply to:

- activities such as placing goods for sale on the street from a shop, street cafes operating from fixed premises or the siting of "A" boards on the street (as this is not within the remit of the Act), or
- activities which are not considered to be street trading, including:

    - Trading as a pedlar under the authority of a 'Pedlars Certificate.'
    - Trading conducted by a roundsman.
    - Trading in a charter market or a statutory market.
    - Trading as a news vendor (newspapers and periodicals).
    - Trading at a petrol station.
    - Trading in a trunk road picnic area provided by the Secretary of State under section 122 of the Highways Act 1980.
    - Trading on or at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
    - The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.

As a matter of policy, a Street Trading Consent will not be required for the following activities:

- Sales of articles by householders on land within the curtilage of their property, for example garage sales.
- Goods from working farms or smallholdings sold at the premises where they were produced.
- Trading as part of an established travelling fair where permission for the event has already been granted by the Council.
- Trading as part of a market where permission for the market has already been granted by the Council.

Street Designation

The Act states a Local Authority can designate its streets in three ways; these are:

- ‘Consent Street’ – which is a street in which street trading is prohibited without the consent of the local authority.
- ‘License Street’ – which is a street in which street trading is prohibited without a license granted by the local authority.
- ‘Prohibited Street’ – which is a street in which street trading is prohibited.

The Council has adopted Schedule 4 of the Act for the whole of its areas and on XXXXXXXXX made a Resolution to determine that all streets within the Rotherham Borough are designated as ’Consent Streets’ with effect from XXXXXXXXXX. The effect of this designation is that street trading in any street within this area is not permitted without first obtaining a Street Trading Consent from the Council.

It is a criminal offence to engage in street trading in a Consent Street without authorisation.

Food Traders

In addition to having a Street Trading Consent, any traders selling food must be registered with the appropriate Food Authority as a food business. If you operate a mobile food vehicle, you should be registered with the council where your vehicles are kept, this is not where you trade. All traders must be registered before applying and be able to provide evidence of your registration when applying for a Street Trading Consent.

Whether a trader is hot or cold food a current Level 2 Food Hygiene Certificate will still be required.

Most but not all, food businesses get a food hygiene rating, ratings range from 0 to 5, with 5 being the best. Ratings are allocated by inspectors following their inspection of your business, a sticker will be given stating your food hygiene rating, and this must be displayed where customers can see it.

As a food trader we would expect you to achieve and maintain a minimum Food Hygiene Rating of a ‘3’.

Existing businesses whose food hygiene rating falls below a ‘3’, will automatically suspend their current Street Trading Consent. The Consent will come out of suspension if and when the minimum food hygiene rating is regained. Continued suspension may result in the Consent being terminated.

New applicants will be required to supply evidence of their existing food hygiene rating of a ‘3’ or above, or their ‘awaiting inspection’ status.

All food businesses will be checked to ensure they are registered, and their hygiene rating or inspection verified.

Mobile Traders

Mobile traders must move from position to position remaining stationary for no longer than 20 minutes to initially attract customers and thereafter only long enough to serve customers present. The vehicle must move on as soon as the last customer has been served, and no other customer is clearly awaiting service.

The Consent Holder must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway and does not present any dangers to other road users or pedestrians.

A Street Trading Consent does not allow trading in Council owned car parks. Additional permissions would be required from Parking Services.

Mobile street traders must not stop within 100 metres of any school, measured from the main entrance to the school grounds, during the school day from an hour before and an hour after without the written consent of the school. Any written consents obtained from the school must be provided at the application stage.

The use of Chimes and other audible signals:

- Should be operated between the hours of noon and 7pm.
- Should be operated solely for informing members of the public that the commodity is on sale from the vehicle.
- Should be operated as not to give reasonable cause for annoyance to persons in the vicinity.
- Should operate producing a noise level in any direction of no more than L_{Amax} 80dB (at 7.5m)
- Should not operate with a playing time lasting more than 12 seconds.
- Should be played once only on the approach to each stopping place, and only once when the vehicle is stationary, and never at intervals of less than 2 minutes.
- Should not be played more often than once every 2 hours in a particular length of street. A ‘particular length of Street’ should normally be interpreted as being a length of street up to 500 metres long.
- Should not be played when in sight of another vendor whether moving or stationary, which might reasonably be taken to be in the street for trading purposes.
- Should not be played in areas where people may be especially sensitive to their sound. In particular, they should not be played:
    - Within 50m of any hospital or similar institution Within 50m of a school during school hours.
    - Within 50m of a place of worship on a Sunday or other recognised days of worship.

Mobile ice cream vans are vehicles adapted for the sale of ice cream and only sell ice cream, cold soft drinks, cold sandwiches, confectionary, crisps, and frozen lollipops.

Static Street Trading

Static Street Trading is trading in one site for more than 20 minutes. If a trader wishes to move around various parts of the borough, they are required to apply for the appropriate Mobile Street Trading Consent.

Static Street Trading is where a pitch is identified, and a Consent Holder trades only from that pitch within the terms and conditions of the Consent issued.

These pitches are usually very specific, and traders are given consent based on the detailed plan submitted with their application.

It would be up to the trader to locate a pitch and make an appropriate application with the Council.

Applicants must contact the appropriate services prior to submitting an application to discuss any issues they may have and whether any other permissions are required.

It is not possible for traders to move pitch, even just a short distance, without the prior consent of the Council.

A Multiple Static Site Consent can be requested for traders who wish to trade in more than one location on a different day(s) of the week under the same Street Trading Consent. A total of two trading pitches will be authorised.

All applications will be dealt with under their own individual merits, however when determining an application, the proximity of existing nearby shops, cafes, and other trades that primarily trade in the same articles will be taken into account.

Sale of Alcohol

To sell alcohol, as well as having to hold a Street Trading Consent, licence authorisation under the Licensing Act 2003 would also be required. Where authorisation is granted under the Licensing Act 2003 conditions may be attached to the Street Trading Consent. These conditions may include but are not restricted to the following:

- The trader adopting a challenge 25 policy.
- Restrictions on the sale of alcohol in open containers
- Times at which alcohol may be sold, and the locations not to be near schools, voluntary or third sector services.

Any street trader wishing to sell alcohol should contact the licensing team for further information.

Commercial Selling of Vehicles on the Highway

The commercial selling of a vehicle on the highway falls within the scope of street trading and therefore a Street Trading Consent is required from Rotherham Council.

Additional restrictions are set out in Section 3 of the Clean Neighbourhoods and Environment Act 2005. This states that a person is guilty of an offence if at any time, acting in the course of a business selling motor vehicles, leaving two or more motor vehicles parked within 500 metres of each other on a road(s) where they are exposed or advertised for sale.

Trading on Private Land

Where your proposed trading pitch is on privately owned land you must seek permission from the relevant landowner. You must provide us with a letter or email from the landowner confirming you have permission to trade on their land, including the days and times of permitted trade. We will require the landowners' details for verification purposes.

Unregistered land is land that has not been recorded in the Land Registry, which is the official database of land and property ownership in England and Wales. Unregistered land may have no clear title or evidence of ownership, or it may have been inherited or transferred informally over time. Trading on unregistered land without authorisation can expose you to legal risks and liabilities, such as legal proceedings from the owner of the land. If a Street Trading Consent is to be considered we may request further documentation to be signed and agree to trading at your own risk, for these types of requests we will always seek advice from our legal department before any decisions can be made.

The onus is on the applicant to research the proposed trading site, i.e. planning permission, legal right to trade, food and safety, waste provisions, highway restrictions etc.

Trading on National Highways' Trunk Roads

Any consent issued to trade on a National Highways operational assets (such as the A57), will be subject to the following additional conditions and restrictions:

- Applications will automatically be refused if there are any safety or environmental concerns.
- Semi-permanent structures such as 'portacabins' or sheds will not be erected in any of the laybys and must be in a position to leave at a moment's notice.
- A Street Trading Consent will not supersede National Highways right to ask a Street Trader to move or cease trading if they feel there are safety or environmental concerns.
- Vehicles/trailers should be sited in an 'ox bow' type layby where grass or concrete areas separate the layby from the main carriageway.
- All vehicles/trailer units must be removed at the end of each working day.
- No flags or signs are to be placed on National Highways land.
- All litter must be removed at end of each working day.
- Any Street Trader can be asked to move or cease trading by National Highways, the local authority or emergency services without notice.
- National Highways reserve the right to close any of the laybys on both a temporary and a permanent basis, Street Traders will have no right to recompense.

Street Trading in a Town or District Centre

Where appropriate, the Council will issue street trading consents that will permit trading from specific streets or pitches within a town or district centre within the Borough.

Any consent issued for such areas may be subject to additional conditions or restrictions, which may include limitations as to the number, location and trading times.

There may be times when the permitted area will be unavailable due to utility, maintenance or construction works. This is a normal function of the Highways Authority and utility companies and will not, therefore be subject to compensation.

For special events which may take place within these areas, the Council may issue a notice suspending or revoking all street trading consents for a particular area and / or period of time. No compensation will be offered for relocation or removal of a street trading consent under these circumstances.

Businesses may be permitted to place up to one 'A' board on the highway – this should not exceed 800mm in height and 500mm in width. 'A' boards and other free standing pavement signs should be placed, either in an area 600mm immediately in front of their stall or in line with an adjacent line of bollards. It should be remembered that at least 1.8m of clear footway must be retained between the board and the stall or bollards/obstruction, and boards should allow at least 450mm clearance between the board and the kerb edge.

External tables and chairs may only be used upon written approval from the Council.

Application Process

An application for a Street Trading Consent cannot be given tacit approval, as it is in the public interest that the Council must undertake checks before any application can be granted. Consents will be provided in writing to the person named on the application form.

Any application for a Street Trading Consent must meet the following criteria:

- The applicant must be over 17 years of age.
- The name of the business must not be the same as, or be similar to, that of an existing static retail business or another street trader

The application must be submitted with the following documents and information:

- A completed and signed Street Trading Consent Application Form
- The appropriate application fee, a non-refundable fee of £100, is payable for an initial enquiry to carry out checks including the suitability of a proposed location. If the site is not approved the £100 fee will be retained to cover administrative costs. If the application is approved the applicant must submit the balance of the relevant fee before the Council will issue the Street Trading Consent.
- A recent passport size photograph of all Consent Holders.
- Applicants must have obtained a valid basic DBS check dated within 6 months (see section 17 for more information on DBS's)
- Proof of identification for name and address (you cannot provide one form of identification for both:
    - Proof of name: current passport, birth certificate, current UK, or EEA photocard driving licence, or benefit letter.
    - Proof of address: utility bill or bank statement issued within the last 3 months, current council tax year bill, UK driving licence, tenancy agreement or mortgage statement.
- Proof of right to work in the UK: a current passport, drivers' licence, residence permit or a bank statement.
- In respect of an application for a Consent to trade from a fixed site, a location plan of where the vehicle or stall will be positioned in an appropriate scale to identify the exact location of the vehicle or stall and surrounding areas and streets. The plan must clearly identify the proposed street trading site, and the ground dimensions it will cover.
- Where the Consent area is on private land written approval is required from the landowner including trading days and times.
- Colour photographs of the vehicle/stall from which trading is proposed to take place, the images must show the front, back and side of the vehicle/stall.
- Dimensions of the vehicle or stall and any identifying marks, e.g. vehicle registration etc.
- Gas safety certificate for any trailer or vehicle.
- Vehicle test certificate
- Declare you have registered as a food business (where appropriate).

- If trading in food, evidence and details of any food hygiene qualifications, food hygiene score rating or awaiting inspections status.
- Any permissions or consents already granted about your proposed operation, for example, planning consents, late night refreshment premises licence, cafe licence or waste disposal agreement.
- A valid certificate of insurance policy covering third party and public liability risks for at least £5 million, which must cover street trading.
- Any other additional information specified on the application form or requested by the Licensing Service that may reasonably be required in order to assess the suitability of the applicant, trading unit or site.

Once all the above documents and relevant application fees have been submitted the Council will conduct all necessary checks and consultations before deciding on whether to grant a Street Trading Consent.

Other than judicial review, there is no statutory right of appeal against a decision to refuse to grant, amend, vary, or revoke a Street Trading Consent.

Street trading consents will be issued subject to a number of conditions, these will be applied to consents on a case by case basis. The general conditions outlined at Appendix A will normally apply to all consents, however the Council reserves the right to add, amend or omit conditions to individual consents as is considered necessary.

Following receipt of an application, advice may be sought from the Highways Authority with regards to the size of the layby and to ensure that there is safe access and egress.

Applicants shall ensure that any location supports the aims and objective of this Policy and should take the following into account when deciding on a location.

- Traffic flow – applicants should ensure there are enough potential customers to sustain a business.
- Size of layby – applicants should ensure there is sufficient room for numerous cars/lorries, etc.
- Proximity to competition – applicants must consider current trading of similar goods in the area. Street Trading Consent will normally be refused where there is similar trading of goods in the area.
- Toilet facilities – applicants must consider such facilities are provided if selling hot food and drinks.
- Access to and egress from layby – applicants must ensure that there is safe access into and egress from the layby.
- Crossing a carriageway – applicants must ensure that customers are not obliged to cross a carriageway to access the layby.

Renewals

Street Trading Consents that have not been renewed by their expiry date will automatically cease to exist and trading must cease until such time as a new Street Trading Consent has been granted.

All renewal applications must be submitted a minimum of 20 working days prior to the expiry of the current Street Trading Consent to allow for processing of the application. A completed renewal form and application fee will need to be submitted.

Generally, no further consultation will be necessary when dealing with a renewal application, however the Council reserves the right to consult where there are or have been concerns raised in the previous Street Trading Consent period.

Applications for renewal of a Street Trading Consent will be granted once proved that no substantiated complaints have been received regarding:

- The manner in which the Consent Holder has conducted their business.
- The Consent Holder or any authorised assistant's conduct
- Where no relevant objections have been received
- In addition, a new criminal record disclosure will only be required every 3 years.

The majority of documents requested in the initial application process will need to be produced at every renewal.

Checks will be made to ensure there have been no changes from the original application, these checks will include verification of any permissions granted including the trading location.

The responsibility for ensuring renewal of Street Trading Consents rests solely with the Consent Holder, the Council is not obliged to send out reminders. If a renewal application and fee are not submitted, then the Street Trading Consent will lapse.

A renewal application will not be accepted after the expiry of any existing Street Trading Consent. The effect of this will be that a trader will not be permitted to trade until a new application and fee has been submitted and the Street Trading Consent is granted.

Street trading consents will be issued subject to a number of conditions, these will be applied to consents on a case by case basis. The general conditions outlined at Appendix A will normally apply to all consents, however the Council reserves the right to add, amend or omit conditions to individual consents as is considered necessary.

Transfers and Amendments

Street Trading Consents are non-transferable, the Consent Holder may employ any person to assist in the conduct of the business but may not let, assign, or part with his/her interest or possession under this Street Trading Consent or any part thereof but he may surrender it at any time. The rights granted by the Street Trading Consent cannot be sublet, transferred, or shared with any other person or party and is personal to the Consent Holder.

No amendments (e.g., date changes, location, type of stall or van) may be made without the prior written consent of the Council.

Any Street Trading Consent which is valid but is no longer required should be surrendered to the Council in writing.

Fees

The fees associated with the Street Trading framework will be periodically reviewed by the Council.

Additional charges may be made for the recovery of reasonable costs associated with the collection of refuse, cleansing of streets or other remedial work required due to the acts or omissions of a street trader.

Should the Consent Holder wish to vary the Street Trading Consent at any time during the duration of the Street Trading Consent, an administration fee will be charged. The administration fee will be in line with administration fees charged for other licences and consents issued by the Licensing Service.

Where a Street Trading Consent is surrendered during the life of the Consent, no refund will be made unless there are exceptional circumstances.

If a Street Trading Consent is revoked by the Council due to a change in external circumstances (e.g. closure of a street due to roadworks) then a pro rata refund will be issued of any fee paid (excluding instalments that are due but not paid by the time of the revocation). Deductions may be taken from the remaining balance before refunding the Consent Holder for the reasonable cost of repair to any damage caused, removal of any discarded materials, additional cleansing costs, along with appropriate administration fees.

If a Street Trading Consent is revoked by the Council due to breaches of conditions or non-compliance with this policy by the Consent Holder, no refund will be made by unless there are exceptional circumstances.

Payment must be made in full when the application is submitted. The only exception to this is for 2 year consents where the trader opts to pay by instalments. In these cases, the consent would be issued until the date that the next instalment falls due and will be extended once each instalment is paid, If an instalment is not paid within 28 days of it becoming due, then the consent will lapse and the trader will be required to apply for a new consent.

Disclosure and Barring Service Checks

Whether you have been convicted of any relevant offence, we will ask for a basic DBS disclosure to be submitted with each application. Any convictions or proven criminal behaviour will be assessed. A basic disclosure will be required every three years once an application is granted.

Guidance regarding basic checks, including how to apply and the information disclosed on a basic certificate, please visit: https://www.gov.uk/government/publications/basic-checks

If any convictions are recorded on the certificate, the application will be referred for further internal evaluation to determine a decision.

See Appendix B for guidelines relating to the relevance of convictions.

General Data Protection Regulations

The Council is committed to compliance with all applicable Data Protection Law. This includes the Data Protection Act 2018, the Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR).

Further information about our use of personal information can be found on the Council's website. www.rotherham.gov.uk

Enforcement

Where activities are conducted without a Street Trading Consent or where conditions are breached, the Council will look to gather evidence and take enforcement action as appropriate.

The Highway's Authority and South Yorkshire Police have the power to remove any obstructions from the highway.

Any enforcement action will be undertaken in accordance with the Council's General Enforcement Policy, and in particular will be:

- Proportionate in applying law and seeking compliance.
- Consistent in approach.
- Targeted towards Consent Holders not complying with their Street Trading Consent and conditions or unlawful activity.
- Transparent in helping Consent Holders to understand what is expected of them.

APPENDIX A

STREET TRADING CONSENT STANDARD CONDITIONS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 SCH. 4

The Street Trading Consent will stipulate the Consent Area, the type of vehicle or stall, and description of goods, any other relevant information, and additional conditions. The Consent Holder must comply with all conditions outlined in this Policy. Failure to comply with any condition attached to the Street Trading Consent May result in the revocation of such Consent.

Rotherham Council reserves the right to alter or amend these conditions at any time.

1. Consent holders shall notify the Council of any changes to their details such as name, address, telephone number or email address as soon as it occurs. A fee is applicable for amendments.
2. The consent holder will be issued with a Street Trading Consent, certificate, and conditions.
3. The Consent Holder shall at all times have a copy of the Street Trading Consent available for inspection on request to any Police Officer or Officer of the Council.
4. The Certificate must be clearly displayed on the vehicle or stall and must be visible to the public and customers.
5. Where the Consent Area is on private land where the public have access without payment, there is a requirement to have a Street Trading Consent. The applicant for the Consent must first obtain prior written approval from the landowner and this must accompany the application.
6. Where the Consent area is on council land, unless approval is obtained from the council, no street trading activities will be allowed.
7. The grant of a Street Trading Consent shall not be deemed to give any approval or consent which may be needed under any Byelaw, enactment, or regulation other than schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
8. The Consent Holder shall meet all statutory duties and obligations placed upon them relevant to the nature of the street trading e.g., planning consent, Health, and Safety at Work Act 1974, Environmental Protection Act 1990, Food Safety Act 1990, Food Safety and Hygiene Regulations 2013, Regulations (EC) No. 852/2004, The Regulatory Reform (Fire Safety) Order 2005, and the Licensing Act 2003. This list is not exhaustive, and it is the responsibility of the Consent Holder to ensure full compliance of all relevant legislation particularly any relevant Highway legislation.
9. The Consent Holder is not and shall not hold themselves out as being the servant or agent of the council whether orally or in writing.

10. The Consent Holder shall not hold themselves out as having the power to make, vary, discharge, or waive any byelaw or regulation of any kind.

11. It is the duty of the Consent Holder to establish the ownership of the land to which the Street Trading Consent relates and seek permission from the owner to trade from that location. This may involve additional restrictions and payment for which the Council are not responsible.

12. Consent Holders and authorised assistants must be 17 years of age.

13. The Consent Holder must have a valid insurance policy for public liability providing cover to a minimum amount of £5,000,000, a certificate of which must be produced upon application.

14. There may be times when the permitted area will be unavailable due to utility, maintenance or construction works. This is a normal function of the Highways Authority and utility companies and will not, therefore be subject to compensation.

15. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his/her employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands, or costs arising from the Street Trading Consent.

16. No damage shall be caused to the public highway as a result of the street trading activity taking place and the Consent Holder shall reimburse the council of any costs in repairing any damage caused.

17. The Consent Holder shall not sell any type of food, goods, or merchandise other than that specified in the Street Trading Consent.

18. The Consent Holder must confine the selling of goods and merchandise within the approved consent area and will not be permitted to erect additional tables, awnings, or any other structure.

19. There shall be no sale of goods that are likely to conflict with those provided by nearby shops and premises.

20. No live animals (e.g., mammal, reptile, fish, or bird) shall be permitted to be sold from any stall or vehicle.

21. The Consent Holder shall not knowingly allow the sale of any counterfeit/fake material and shall comply with any relevant Trading Standards legislation.

22. The Consent Holder shall not knowingly allow the sale of any goods prohibited for sale by Rotherham Council. We have a range of items that are excluded, details can be obtained from the Licensing Service.

23. No trading of hot food or drinks shall be permitted before 5am or after 11pm or sales of alcohol unless a Premises Licence has been issued or a Temporary Events Notice served on the Council and objected to, in accordance with the Licensing Act 2003.

24. The Consent Holder shall not hold any auction or like sale.

25. Trading may only take place on the days and during the times specified on the Street Trading Consent.

26. The Consent Holder shall trade only from the consent area indicated on the Street Trading Consent.

27. A Consent Holder may employ any other person(s) to assist them in trading without a further Consent being required.

28. Consent Holders and any authorised assistant(s) shall ensure that the public and authorised officers are always treated with courtesy. Consent Holders shall ensure that their authorised assistant(s) are competent, courteous, and helpful.

29. The Consent Holder shall conduct a risk assessment to ensure that highway safety is not compromised and shall not prevent the Highways Authority, National Highways, and utilities from undertaking its duties.

    (Please note works such as excavations can be carried out without prior notice. The Council will revoke a Street Trading Consent following any reasonable request from the Highways Authority and National Highways (where applicable)).

30. The Consent Holder shall conduct their business in such a manner to ensure they do not:

    - Cause a nuisance to the occupiers of adjoining properties.
    - Cause an obstruction to the vehicles or pedestrians on the highway.
    - Cause a danger to occupiers of adjoining properties or to other users of the highway.
    - Cause annoyance or inconvenience to the users of the highway.

31. A Consent Holder may trade in a Consent Street from a vehicle or stall. The Consent Holder shall only trade from a vehicle or stall described in the Street Trading Consent.

32. Any vehicle or stall used must be positioned entirely within the approved Consent area.

33. Any vehicle or stall used by a Consent Holder in the course of street trading shall be constructed and maintained in accordance with any relevant legislation and to the satisfaction of all reasonable requirements of the Council and (where applicable) National Highways as to its construction, safety, appearance, and any display of advertisements. A high standard of presentation and appearance will be expected.

    In addition, the Consent Holder shall maintain the stall or vehicle in a clean state at all times and its structure shall be kept in good order, repair, and condition.

34. Any motor vehicle used for the purpose of Street Trading shall be in a roadworthy condition and have the relevant documents i.e. insurance, tax, and MOT to make the use of that vehicle on a road legal.

35. The vehicle or stall shall not be left unattended at any time and shall always be supervised by a person over the age of 17 years.

36. Outside of the permitted daily trading period the Consent Holder shall remove the approved vehicle or stall from the Consent area together with any and all objects or things of any nature whatsoever placed by the Consent Holder in the Consent area (whether directly and ancillary to street trading or otherwise) which for the avoidance of doubt shall include (but shall not be limited to) planters, ornamental devices of any description, furniture, portable or other fencing, waste bins, heating and lighting apparatus, unless the Council has agreed otherwise previously in writing.

37. The Consent Holder or authorised assistant(s) shall remove the vehicle/stall and goods within a reasonable time after the expiry of the time for trading specified in the Street Trading Consent.

38. The Consent Holder or authorised assistant(s) shall remove the vehicle/stall and goods for so long as may be necessary in the event of an emergency or in exercise of the council's highways power and duties, if reasonable required to do so by an authorised officer.

39. No Consent Holder shall trade at their authorised Consent area on dates when road closure directives are in place for special events other than with the permission of the organisation applying for the closure order.

40. The Consent Holder or authorised assistant(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description on or in the said surface.

41. External tables and chairs may only be used upon written approval from the Council after first obtaining the appropriate highways permission from the highway's authority.

    (Please note 'the highway' includes the carriageway and a portion of the footway and the verge, the highway is not just the road.)

42. The Consent Holder and the vehicle/stall must comply with all relevant road traffic and highways legislation. Possession of a Street Trading Consent does not override parking restrictions or other traffic regulations.

43. A Consent Holder shall not leave their vehicle or stall in the street in which they trade, apart from in an approved parking space, except for the purpose of loading and unloading goods. Such loading and unloading shall be conducted as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are in force.

44. All businesses have a legal responsibility under the Environmental Protection Act 1990 and other related legislation to safely contain and legally dispose of any waste produced from your business. You may be prosecuted should you not comply with these requirements.

45. The Consent Holder and authorised assistant(s) must provide adequate refuse storage adjacent to the sale area. The storage must be a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner. Public litterbins are not to be used.

46. The Consent Holder and authorised assistant(s) will be responsible for keeping the area surrounding the vehicle or stall in a clean and tidy condition.

47. The Consent Holder shall make such provisions as are necessary to prevent the deposit on any street of solid or liquid refuse and no discharge shall be made into any surface water drains.

48. Layby traders shall ensure that the whole of the layby and adjacent verge/footpath (but not the carriageway) to a distance of 10 metres be kept free of litter and refuse at all times, whilst resident.

49. The Consent Holder or authorised assistant(s) shall comply with any directions given by the council from time to time regarding the handling, storage, and removal of refuse.

50. No advertisements shall be displayed on the consent area that relates to any goods, commodities, or services other than what is approved in the Street Trading Consent.

51. No advertising is permitted other than on the stall or vehicle. The fixing of signs or marking of the highway or street furniture is specifically prohibited by the Highway's Authority.

52. No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold, or distributed on or about the vehicle or premises. For example, any material in breach of the Obscene Publications Act 1959, any material that is considered indecent, scandalous, offensive, or likely to be harmful to any person likely to purchase it.

53. Signage and similar material must not have the appearance of a traffic sign, or be of such a nature as to distract motorists and other road users on the highway,

54. A-Boards, flags or any other signage are not to be placed on National Highways land.

55. A-Boards should not exceed 800mm in height and 50mm in width. A boards and other free standing pavement signs should be placed, either in an area 600mm immediately in front of their stall or in line with an adjacent line of bollards. At least 1.8m of clear footway must be retained between the board and the stall or bollards/obstruction, and boards should allow at least 450mm clearance between the board and the kerb edge.

56. Any lighting provided at the Consent area by the Consent Holder must be approved by Rotherham Council. If the Consent Area is located on, or adjacent to the public highway, the lighting must also be approved by the highway's authority. Strobe lights will not be used in any circumstances.

APPENDIX B

Guidelines relating to the relevance of convictions for Street Trading

The Policy and guidelines relate to applications for the grant or renewal of a Street Trading Consent, as well as current holders of those authorisations.

These guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines or other conduct, which may be relevant to an individual's application.

Each application will be decided on its own merits and will be assessed whether an applicant is a suitable person to hold or to continue to hold a Street Trading Consent. Unspent convictions or conduct of applicants will take the following into consideration:

- Whether the conviction/incident is relevant.
- The seriousness of the offence/incident.
- The length of time since the offence/incident occurred.
- Whether there is a pattern of offending behaviour or similar conduct.
- Whether a person's circumstances have changed since the offence/incident occurred, and the circumstances surrounding the offence/incident, and the explanation offered by that person.

Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction.

The following are given as guidance to certain categories of offences for new applications or renewals of Street Trading Consents:

Dishonesty

Holders of a Street Trading Consent must be persons who can be trusted. It is easy for a dishonest trader to take advantage of the public. Members of the public using Street Trading outlets expect the trader to be honest and trustworthy.

For these reasons, a serious view will be taken of any unspent convictions involving dishonesty. In general, a new applicant or renewal application is unlikely to be granted a Street Trading Consent where an application is made within 3 to 5 years of a conviction or from the date of release from a period of imprisonment.

Violence

Street traders will have close contact with the public, therefore, to minimise any risks, a serious view will be taken where offences of violence involve a loss of life, a Street Trading Consent will be refused.

In other cases, a period of 3 to 10 years, free of convictions, or from the date of release from a period of imprisonment, depending upon the nature and seriousness of the offence(s), will generally be required before an application is likely to be considered favourably.

Drugs

Where an applicant as a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the release date from a period of imprisonment is less than 5 to 10 years before the date of the application, a Street Trading Consent will be refused. After 5 years from a conviction or the date of release from a period of imprisonment, the circumstances of the offence and any evidence which shows that a person is now suitable to hold a Street Trading Consent will be taken into consideration.

An application will normally be refused where the applicant has a conviction for an offence relating to the possession of drugs and the date of the conviction or the release date from a period of imprisonment is within 3 to 5 years of the date of the application. After a period of 3 years from conviction or the date of release from the period of imprisonment, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a suitable person to hold a Street Traders Consent.

An application will normally be refused where an applicant has more than one unspent conviction for offences related to the possession of drugs and the last conviction or the date of release from the period of imprisonment is less than 5 years before the date of the application.

Sexual and Indecency Offences

As the holders of Street Trading Consents (for example those who sell ice cream), have access to children, applicants who have unspent convictions for rape, indecent assault, any sexual offence involving children and any unspent conviction for an offence under the Sexual Offences Act 2003 will normally be refused a Street Trading Consent.

Where an applicant has a conviction for a sexual offence such as indecent exposure, they will normally be refused a Street Trading Consent until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from the period of imprisonment.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold a Street Trader Consent. It will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if any applicant for a Street Trading Consent is a suitable person. However, there may be instances where the nature of the Street Trading is such that, by its very nature the

applicant is required to drive (for example ice cream sellers) or the offences are of a serious nature.

In those cases, an applicant for a Street Trading Consent would be expected to show a period usually between 3 and 5 years of any such offences from the date of conviction or the date of release from the period of imprisonment.

Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will take into account cautions and penalty notices, however the longer the period since the caution/penalty notice was imposed the less relevance it is likely to have.