Rotherham Metropolitan Borough Council
Where Everyone Matters

Rotherham Borough Council
Market Franchise Rights Policy

2014

Introduction

Market Franchise Rights are used by Rotherham Borough Council to manage the markets that take place within the Borough and ensure that the retailing environment created is successful. This process involves the strategic planning of the location and timing of markets across the Borough.

Rotherham Markets Service manages the Market Franchise Rights for the Borough of Rotherham. It operates markets, as well as approves and licences other markets. Any event deemed a market (private or charity), that is to fall within $6^2/_3$ miles of any market currently operated or licenced by Rotherham Borough Council falls within this Market Rights Policy. If necessary the Markets Service can take legal action to prevent the operation of an unapproved market.

The legal definition of a market, being "a concourse of buyers and sellers" with five or more trading positions, shall apply when determining whether an event is a market and falls within this policy. Car boot sales, craft fairs and table top sales all fall within the definition of a market.

Events which have 4 or less paying traders/vendors in attendance are not considered to be a market for the purposes of payment of a licence fee, however the event may still need to meet other planning or event considerations, you are advised to contact the relevant Authority to establish if this is the case.

Licensing

Rotherham Borough Council will allow private individuals or organisations to operate markets subject to their market events meeting certain qualifying criteria and, where applicable; subject to payment of a licence fee.

Irrespective of the location of the market, any permission from the owner of the land or premises, or any planning consent, a separate Market Rights Licence is still required. Without this licence the market cannot take place.

If a market is established without first obtaining the necessary licence from the Council, the market will be considered to be unlawful and the Council will take whatever legal action is deemed necessary to prevent that market from operating.

For successful applications Rotherham Markets Service will issue a Market Rights Licence which will detail the responsibilities of the both the operator and Rotherham Markets. Upon completion and return of the licence, permission will be granted for the market to operate. Where the market is intended to operate on a regular or permanent basis, a bespoke licence agreement may need to be negotiated.

All licensed markets will be monitored and Council Officers, including those of Rotherham Markets, may from time-to-time and without notice, visit the market to ensure the operator's commitments are being fully met. Any breaches or deviations from the Market Rights Licence may result in the removal of permission and closure of the market.

Rotherham Markets will require the licensee to assume full responsibility for all operational aspects of the market operation, including regulatory and legislative requirements such as health & safety management, site management and the relevant insurance(s) required for the market.

If a market is part organised on behalf of a Local Authority Partnership, or where all the proceeds are being donated to a charity, applicants must provide sufficient evidence to support any partnership agreement or charity donations. Rotherham Markets may, if it considers it necessary, contact the named beneficiary to ensure that they are aware of and have authorised the market taking place on their behalf.

Application Process

Applications for a Market Rights Licence are available by post, on the Council website or on request by email and should be submitted to Rotherham Markets at least 28 days in advance of the proposed market.

Rotherham Markets will review all valid applications and appraise each, paying particular attention to:

a) the economic detriment to Rotherham Borough Council or its traders on any established markets
b) the type of market, and the commodities being offered for sale
c) the purpose of the market
d) the overall size of the market, i.e. the number of individual trading spaces
e) suitability of the site, including but not limited to the nature of the surface, access and egress for buyers, vendors and emergency vehicles. Where applicable proof must be provided that the site owner has given permission for their land to be used for the purpose of holding a market
f) appropriateness of the site taking into consideration the proximity to residential property/ major road junctions.
g) the Health & Safety plans provided
h) the availability of on and off street parking, external to the site, for use by buyers
i) the intended duration and frequency of the market
j) the likely effect on the local amenity of the market
k) the number and type of markets operating within the locality
l) local opinion on the holding of the market
m) arrangements for dealing with any noise, litter, or environmental damage
n) health and safety of vendors and buyers, including access to toilet facilities if the market is to be over 4 hours in duration and the provision of acceptable first aid facilities
o) consultation with relevant emergency services and the Council's Streetpride Service
p) planning consent if more than 14 events in one calendar year are required
q) compliance with all current relevant legislation
r) the required public liability/market operators insurances
s) compliance with the quality standards

The licence as issued will exempt the Council from any liability or loss arising from the operation of the market.

Please note: gaming or betting, the sale of livestock or live animals, explosive materials of any kind and illegal or counterfeit goods is prohibited on all RMBC licensed markets.

The licence may be revoked at any time at the discretion of the Business & Retail Investment Manager.

Applications for a Market Rights Licence will not be valid where the required mandatory information and supporting documents have not been provided, and / or where the application is delivered less than 28 days in advance of the market, other than under exceptional circumstances.

Successful applicants will be issued with a Market Rights Licence to sign and return together with payment of the licence fee, by the prescribed deadline which will be prior to the commencement of the market. Where the signed licence and / or payment is not received by the deadline, the licence will not be completed and the permission will not be granted.

Markets on Rotherham Borough Council owned and operated land

Commercial operators of market type events who wish to use RMBC owned and operated land or public realm areas may also be required to pay an additional site fee to reflect the nature of the site and the involvement of RMBC staff.

The operator will be required to provide full details of the market including:

I) Layout plans

II) Risk assessments

III) Proof of Public Liability Insurance

IV) Details of any equipment to be used including stalls, generators, cabling etc.

V) Confirmation that the area has been booked with the relevant Council department.

VI) Provision of any Food Hygiene Certificates where the market will involve food traders.

VII) Details of the type of trader who will be attending the market.

This list is not exhaustive and other information may be requested following discussions between the operator and the Council.

Market Rights Licence Payments

All Market Rights Licences are subject to a payment, licences will not be completed until the corresponding payment has been received. The payment will cover to the processing and issuing of documentation, and the monitoring of the Market Rights Policy and licence.

Payments must be made to Rotherham Markets prior to the issue of the Market Rights Licence. Details of the licence fees can be found in the Market Rights Fee Guidance.

In addition, legal fees may also be charges to the applicant should there be a need to agree a bespoke licence agreement.

On occasions a market may apply for and be licensed for an amount of trading spaces, but then may find that the actual event operates with more trading spaces than initially expected. In such circumstances Rotherham Markets must be notified of the variation within seven days after the market has taken place and the operator will be required to pay any additional licence payment. In such circumstances a confirmation of the variation to the licence will be issued.

No refund of Markets Rights Fee will be paid should your market not take place on the date applied for. However, where possible the licence may be transferred to another mutually agreeable date.

Market Rights Fee Guidance

Type of Market	Licence Fee	Notes
Indoor Table top sale of up to 30 trading positions operated by a defined organisation*	£20 for up to three markets per calendar year.	Please see RMBC guidance notes relating to markets for charitable purposes
Non-commercial market/car boot sale of up to 30 stalls or 50 vehicles operated by a defined organisation*.	£20 for up to three markets per calendar year.	Please see RMBC guidance notes relating to markets for charitable purposes
Commercially operated market or car boot sale of up to 50 trading positions	£100 per day with a maximum of 12 markets per calendar year	Full charge applies regardless of number of vendors actually attending
Commercially operated market or car boot sale of 51 to 100 trading positions	£200 per day with a maximum of 12 markets per calendar year	Full charge applies regardless of number of vendors actually attending
Commercially operated market or car boot sale of 101 or more trading positions	£250 per day with a maximum of 12 markets per calendar year	Full charge applies regardless of number of vendors actually attending
Commercially operated market or car boot sale over 12 per annum frequency	By negotiation but not less than: £100/ day for 50 vendors £200/ day for 51-100 vendors £250/ day for 101+ vendors	Full charge applies regardless of number of vendors actually attending. Planning consent may be required
Specialist commercial market e.g. record or computer fair	£60 per day with a maximum of 12 markets per calendar year	

* A defined organisation is one that organises a market type event for genuine charitable, sporting, political or social fund raising purposes as opposed to personal financial gain.

At all markets each trading position (i.e. stall[s], stand[s], vehicle[s] and/or pitch[es]) is defined as an area of no more than 5.00m^2. Where a trading space exceeds this size it should be considered as a multiple unit.

Car Boot and Table Top Sales operated by defined organisation

Car boot and table top sales operated by defined organisations should be restricted, as far as possible, to householders selling surplus household or home-made/produced articles. No new goods should be available for sale.

Commercially operated Markets and Car Boot Sales

Car boot sales should be restricted, as far as possible, to the sale of second hand goods only but this may include vendors other than householders selling surplus articles.
Commercially operated markets are general retail markets where a variety of goods are offered for sale, including new, second hand or home-made items.

Specialist Markets

Specialist Markets are those where there is a specialised theme or grouping of commodities that make the event more than either a car boot sale or traditional market e.g. Record or Computer fairs, Antique or Farmers' Market, and exhibitions where retailing takes place.

Non-compliance with this Policy

Any non-compliance with this policy will be raised in the first instance with the individual or organisation in order to try to negotiate an agreeable outcome.

Should a suitable agreement not be reached, Rotherham Borough Council may take legal action against the individual or organisation in question.

In addition, Rotherham Borough Council reserves the right to refuse any future Market Rights Licences to events that are proposed by such individuals, businesses or organisations.

In any instance Rotherham Borough Council reserves the right to withdraw a Market Rights Licence and the associated permission for any market operation to continue, as and when necessary.

Appeals

Decisions in respect of all applications will be made by the Markets Manager.

Any applicant whose Market Rights Licence application is unsuccessful, or any licensee whose licence is withdrawn, may appeal in writing to the Council's Director of Planning, Regeneration & Culture within 14 days of receipt of any notice. The notice shall remain effective until the determination of the appeal by the Director of Planning, Regeneration & Culture (or his deputy). The written appeal must include your name, address and contact telephone number, and state the reason(s) why you are appealing.

Within 14 days following receipt of the written appeal, the Director of Planning, Regeneration & Culture (or his deputy) shall confirm his decision in writing, which shall either uphold the appeal or confirm the outcome of the notice."

Contact

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