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HAMBLETON DISTRICT COUNCIL

Report To: Licensing Committee
15 September 2014

Subject: **STREET TRADING POLICY**

All Wards
Portfolio Holder for Environmental and Planning Services: Councillor B Phillips

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to recommend that the Council extend the existing Street Trading scheme by the designation of all streets within Hambleton District Council area as Consent Streets with the exception of those streets controlled by market authorities in Stokesley, Northallerton, Easingwold, Thirsk and Bedale.
- 1.2 On 13 December 1982 Hambleton District Council's Policy and Resources Committee recommended to the Council that the provisions of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted for High Street, Northallerton, Market Place and North End, Bedale and Market Place, Thirsk with effect from 1 March 1983. This recommendation was approved by the Council at its meeting on 22 December 1982.
- 1.3 The background to street trading, related powers and controls are set out in the attached draft Street Trading Policy at Annex A.
- 1.4 In summary, the Policy would lead to the restriction of street trading by the introduction of "Consent Streets". Potential traders would need to obtain a prior consent to trade in any location where access is available by the general public without payment. Consents would only be considered once agreement has been reached with the landowner by the trader. Then consideration would follow using a process of consultation with numerous interested parties and the payment of a fee.
- 1.5 Informal consultation took place in 2012 with interested parties, including existing traders. Further discussions will be held with representatives of Stokesley, Northallerton, Bedale, Easingwold and Thirsk Town and Parish Councils to confirm boundaries of market charters. The Policy could be introduced with exemptions for areas, delineated on maps, where those market or other authorities would continue to exercise control over attendance by mobile traders.
- 1.6 Enforcement and administration would be undertaken by the Licensing Team within the Environmental Health Service. The fee income would be related to the time taken for administrative and regulatory activities and would exclude time taken for enforcement against traders trading without consents.
- 1.7 In order to continue to recognise the contribution to society made by charities, voluntary, educational or community organisations, it is proposed that their trading activities, although they may still need consent, would not result in a fee being charged.
- 1.8 The level of fees would be set annually, together with other licence fees.

- 1.9 Informal consultations did not result in requests for any prohibited streets. However the further consultation required may result in the nomination of streets that should be designated as Prohibited Streets where any form of street trading would be prohibited at all times.
- 1.10 The process involved in the introduction of the Street Trading Policy is as follows:-
- a) The Council would resolve that Schedule 4 of the above Act shall designate all streets within Hambleton as Consent Streets and that the Schedule shall come into force on such a day as may be specified in the resolution.
 - b) An advertisement would be published in a newspaper setting out the resolution for designation of streets as Consent Streets not less than 28 days prior to the Council's meeting. The advertisement would state that any representations on the proposed resolution are to be made in a specified period and after considering those representations they may, if they think fit, pass the resolution. A copy of the proposed resolution would be served on the Chief of Police and Highways Authority.
 - c) The Council may receive representations and pass the resolution.
 - d) The Council would then publish a notice, saying that the resolution has been passed, on two consecutive weeks not less than 28 days after the resolution.
 - e) If the designation of any street needs to change in the future, a further Council resolution should follow the same procedure from a) onwards.
 - f) The Council may also adopt standard conditions to attach to consents and set fees.
 - g) Before the scheme comes into operation, the Council can invite applications for consents from existing traders. These would be subject to individual consultation as described in paragraph 10.3 of the draft Policy.
- 1.11 A steady stream of enquiries is received by the Licensing Team from prospective traders. The introduction of a Street Trading Policy and extension of its scope would provide revenue towards the cost of necessary regulatory activity and extra controls over traders who may be competing with existing permanent traders.
- 1.12 The Government has recently consulted on amendments to the existing legislation in order to bring the UK legislation in line with the EU Services Directive. This may have consequences on the proposed scheme, is unlikely to affect the resolutions needed but may change details of the scheme. There is no known timetable for such amendments.

2.0 LINK TO CORPORATE PRIORITIES:

- 2.1 Agreement to a scheme would contribute to the financial position of the Council and improve the controls over street trading.

3.0 RISK ASSESSMENT

- 3.1 Overall the risk of agreeing with the recommendations outweighs the risks of not agreeing them and is considered acceptable. The majority of other Local Authorities have operative schemes and the trade generally expects such a scheme to be in operation.

4.0 FINANCIAL IMPLICATIONS AND EFFICIENCIES:

4.1 Fees would be set as part of the annual consideration of fees and charges and would provide an additional source of revenue to the Council and compensate for the additional administrative and regulatory activities involved.

5.0 LEGAL IMPLICATIONS:

5.1 The scheme needs to be operated within the existing legislative framework.

6.0 EQUALITY/DIVERSITY ISSUES:

6.1 There are no equality implications.

7.0 RECOMMENDATION:

7.1 That Council be recommended to approve that:-

- (1) all streets within Hambleton District Council's area be designated as Consent Streets with the exception of any designated as Prohibited Streets and those streets identified on maps showing areas controlled by market or other authorities in Bedale, Easingwold, Northallerton, Stokesley and Thirsk;
- (2) the draft Street Trading Policy attached at Annex A be adopted;
- (3) the draft General Street Trading Consent Conditions attached at Annex B be adopted;
- (4) responsibility for granting, refusing or amending Consents is delegated to the Licensing Committee or the Licensing Officer/Environmental Health Manager when no objections have been made; and
- (5) the proposed fees shown in Annex C be approved for the periods shown.

MICK JEWITT

Background papers: Local Government (Miscellaneous Provisions) Act 1982

Author ref: PM

Contact: Philip Mepham
Environmental Health Manager

Street Trading



HAMBLETON DISTRICT COUNCIL
ENVIRONMENTAL HEALTH SERVICE

STREET TRADING POLICY

Date of Issue:

Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Philip Mepham	16/8/2012
1.1	Philip Mepham	22/8/2013
1.2	Simon Fisher	20/2/2014
1.3	Philip Mepham	26/3/2014
1.4	Philip Mepham	12/8/2014

1.0 Introduction

- 1.1 The purpose of this policy is to establish a street trading environment which complements, but does not unfairly compete with, the permanent premises-based business environment.
- 1.2 This Policy provides a framework within which consents for individual sites or businesses will be considered for approval.

2.0 Relevant Documents

Local Government (Miscellaneous Provisions) Act 1982.

3.0 Responsibility

- 3.1 The management of the Street Trading Scheme (STS) would be the responsibility of the Licensing Team within the Environmental Health Service.

4.0 Policy Aims

- 4.1 The Aims of the STS are to:-
- a) control the conditions existing amongst traders selling goods throughout the District;
 - b) recover the cost of the essential regulatory and administrative work associated with the operation of mobile traders through fees;
 - c) help secure fair competition between mobile traders and businesses operating from fixed premises;
 - d) ensure that traders cause no obstruction or nuisance to anyone; and
 - e) recognise the important part that the voluntary, educational and community sectors play in the community.

5.0 Definitions

'Consent street' means a street in which street trading is prohibited without the consent of the district council.

'Licence street' means a street in which street trading is prohibited without a licence granted by the district council.

'Prohibited street' means a street in which street trading is prohibited.

'Street' includes:-

- a) any road, footway, beach or other area to which the public have access without payment
- b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

'Street trading' means the selling or exposing or offering for sale any article (including a living thing) in a street. (Exemptions apply as shown in the following paragraph).

6.0 Exemptions

- 6.1 The following are not street trading for the purposes of this scheme:-
- a) trading as a pedlar under the authority of a pedlar's certificate;
 - b) anything done in a market or fair established under a grant or charter;
 - c) trading in a trunk road picnic area
 - d) trading as a news vendor
 - e) trading on premises used as a petrol filling station
 - f) trading carried on at premises used as a shop or in a street adjoining a shop and as part of the business of the shop;
 - g) selling things as a roundsman;
 - h) the use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
 - i) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980; and
 - j) doing of anything authorised under a street collections permit.

7.0 General principles

- 7.1 The following general principles summarise the scheme in Hambleton District Council's area:-
- a) All streets throughout the District should be designated as 'Consent Streets' except those designated as 'Prohibited Streets'
 - b) The scope of the scheme does not include streets within areas in market towns and parishes where separate powers exist to authorise or control mobile traders.
 - c) If a trader applied for a Consent, they would first need the permission of the owner of the land on which they proposed to trade. No consent application would be accepted without this prior agreement. Any fee due for this permission shall be separate to the Consent fee.
 - d) Charities, voluntary, educational or community organisations, where they operate intermittently, would require a consent but no fee would be payable.
 - e) Mobile traders would require consent. These are traders of e.g. fish and chips, ice cream etc whose pattern of trade is to travel from road to road, and stopping for no more than 30 minutes in each location. Roads or sites would be listed or shown on a map. The "30 minute rule" could be regulated by condition. One Consent would be required for the round. If the trader stopped for more than 30 minutes at any location, separate Consents would be required for each site.
 - f) Fees for Consents would be based on the principle of recovery of the full cost of normal regulatory action, consumption of resources and administrative processes.

g) The number of Consents granted in any street would be limited through the specific consultation process, as would the types of goods that could be sold or could not be sold in order to prevent competition with permanent traders.

h) The sale of hot food or hot drink between the hours of 11 p.m. and 5 a.m. would also be subject to control through the provisions of the Licensing Act 2003 as it would constitute Late Night Refreshment.

i) Consents will be granted for a period not exceeding 12 months. A short term Consent is also available for periods of 4 weeks in order to facilitate attendance at short term events where the street trading scheme is applicable.

j) The consent holder may apply for a variation in respect of the site. Such application for variation must be in writing and give details of the proposed relocation. Any consent holder seeking to vary the sale of goods specified in the Consent must apply for a variation to the Consent. All variation applications shall be treated in the same manner as for new applications and renewals.

k) Any roadside sales where it is likely to cause a danger to road users will be prohibited and no street trading consent shall be granted.

l) The consent holder shall ensure that any vehicle used by them in connection with the business is in a roadworthy condition and, where necessary, taxed and insured.

7.2 Only lay-bys which are separated from the main carriageway, e.g. by a grassed or tarmac verge will normally be considered. Applications 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 lay by – applicants should ensure there is sufficient room for numerous cars/lorries, etc.
- Proximity to competition – applicants must consider existing street traders. Consent will normally be refused where there are existing street traders.
- Toilet facilities – applicants must consider ensuring such facilities are provided if selling hot food and drinks.
- Access to and egress from – applicants must ensure that there is safe access into and egress from the lay by.
- Crossing a carriageway - applicants must ensure that customers shall not cross a carriageway to access the lay by. This could be by way of adequate signage preventing customers from turning right into the lay by stating that if a customer turned right across the road in order to purchase an article, etc from a street trader they would be refused the sale.

7.3 The Consent will stipulate the permitted area for trading (“the consent area”), the type of vehicle/stall and description of goods and any other relevant information.

8.0 **Street Trading Conditions**

8.1 Standard conditions will be attached to all consents. In addition, the Council may add specific conditions to Consents in the light of circumstances of particular sites or trades.

8.2 The Council retains the right to amend or vary the conditions of a Consent at any time. Where this is the case the Council will notify the Consent holder of this intention and the Consent holder will be given the opportunity to make representations against any amendment or variation.

8.3 Consent will not be granted if it is considered that one or more of the conditions will be breached. The consent granted by the Council may be revoked at any time should one or more of the conditions be breached.

9.0 **Scope of the scheme**

9.1 Traders of all types of goods are included within the scheme where they form part of a trade or business.

9.2 Organisers of car boot sales to which the public have access without payment will need to apply for a Consent.

10.0 **Application process**

10.1 Applications must be made in writing on an approved form and made by an individual. Application forms are available from the Licensing Team at the contact address below or from the Council’s website.

10.2 The completed and signed application form must be accompanied by the following:-

- a) the full fee;
- b) a colour photograph of the proposed unit;
- c) a site plan of where the unit is proposed to be positioned showing its relationship to adjoining land and buildings, including dimensions of the site;
- d) where mobile trading is to take place, a list of the streets where trading is proposed;
- e) a valid public liability insurance policy of at least £2million;
- f) where applicable, a current 12 month Gas Safety Inspection certificate for any gas appliances and pipework is available;
- g) written proof of the landowner’s permission to use the land, whether that is private land, Council land or Highways land;

10.3 Applications for individual sites will be forwarded for consultation to:-

- North Yorkshire Police
- North Yorkshire County Council Highways

- Hambleton District Council Departments of Planning, Legal Services and Economic Development
- Where relevant, to North Yorks Moors National Park
- Hambleton District Council's Environmental Health Service
- Relevant Ward Members of Hambleton District Council
- Relevant Parish or Town Council
- Additional consultees as deemed appropriate in specific circumstances.

10.4 Applications will be considered on their individual merits and objections may relate to any of the following criteria:-

- a) public order
- b) public nuisance
- c) public safety
- d) commercial needs of the area
- e) suitability of the applicant or the proposed unit
- f) any other reasonable cause

10.5 Following consideration of comments or representations, the consent will be:-

- Granted with standard conditions
- Granted with standard and additional conditions
- Refused.

10.6 Applications for renewal will normally be approved upon application unless objections have been received or there has been a history on non-compliance with conditions. Renewal is not guaranteed and application fees may change on renewal.

11.0 **Levels of decision making**

11.1 The determination of applications for consents that fall within the scope of this Policy is delegated to the Environmental Health Manager and the Licensing Officer. Applications that fall outside this Policy or those that attract relevant objections will be determined by the Licensing Committee.

11.2 Following determination of an application, there is no right of appeal under the legislation against refusal to issue or renew a Consent or the imposition of conditions. If an applicant is aggrieved by the Council's decision they have the option to seek a Judicial Review of that decision.

12.0 **Administration and enforcement**

12.1 The scheme will be administered and enforced by the Licensing Team within the Environmental Health Service.

12.2 The Local Government (Miscellaneous Provisions) Act 1982, as amended, sets out the following offences:-

- Engaging in street trading in a prohibited street
- Engaging in street trading in a consent street without being authorised to do so

- Trading under the benefit of a street trading consent using a stationary van, cart, barrow, other vehicle or portable stall for which permission has not been granted;
- Contravening a condition imposed in relation to where the trader may trade and between what times or periods for which they may trade.

A person found guilty of an offence as listed above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000)

13.0 Fees

13.1 Fees are set annually by the District Council in relation to each period of Consent. Fees will be published on the Council's website and are available from the Licensing Team on request.

13.2 Applications must be accompanied by the appropriate full fee.

14.0 Policy Review

14.1 This Policy will be kept under review and a full consultation carried out when major changes are required to it. However, the Policy will be regularly evaluated and may be changed at any time to reflect minor administrative or legislative changes necessary or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any such changes will be agreed by the relevant Lead Member.

14.2 Major changes are ones where a significant amendment is necessary as one that:-

- Is likely to have a significant financial effect on consent holders;
- Is likely to have a significant procedural effect on consent holders; or
- Is likely to have a significant effect on the community.

15.0 Contact details

The Licensing Team is responsible for all aspects of the Street Trading Scheme. They can be contacted at:-

Licensing Team
Environmental Health Service
Civic Centre
Stone Cross
NORTHALLERTON
DL6 2UU

Tel: 01609 779977

Email: licensingteam@hambleton.gov.uk

L.G.st1



GENERAL STREET TRADING CONSENT CONDITIONS

1.0 CONDITIONS RELATING TO THE VEHICLE/STALL

- 1.1 The consent holder shall only trade from a vehicle/stall approved by the Council in writing and the consent shall only be valid in relation to a single vehicle/stall.
- 1.2 Any vehicle/stall used by a consent holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council as to its construction, safety, appearance and any display of advertisements. A high standard of presentation and appearance will be expected.
- 1.3 The consent holder must not store and sell goods and merchandise outside the approved area of the trading site.
- 1.4 A copy of the Consent, suitably protected against the weather, shall be prominently displayed at the consent site to which it relates whilst trading is taking place so that it can be seen and read by persons intending to purchase any article.
- 1.5 The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition.
- 1.6 Any vehicle/stall used for street trading must be readily removable at all times in the event of an emergency, or at any other time, be removed at the request of any officers of the emergency services or officer of the council.
- 1.7 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.
- 1.8 The consent holder shall ensure that suitable fire extinguishers are immediately available at the street trading site if required by North Yorkshire Fire & Rescue Service or the Licensing Officer. If fire extinguishers are required they must be maintained in a satisfactory condition and regularly checked by a competent person or company.
- 1.9 The consent holder shall, at the request of the Council, present the vehicle/stall for inspection at such time and place as required by the Council.
- 1.10 The consent holder must have a valid insurance policy for public liability providing cover to a minimum amount of £2,000,000 and a certificate of this must be produced upon application.
- 1.11 The consent holder, if using LPG/Gas, must produce a current (i.e. within 12 months) Gas Safety Inspection Certificate for the relevant gas appliances and pipe work upon application and upon every renewal.

1.12 The name and address of the consent holder shall be displayed conspicuously on the vehicle/stall.

2.0 CONDITIONS RELATING TO THE CONSENT HOLDER

2.1 The consent granted by the Council is personal to the consent holder and is not transferable. Where the consent holder is an employer, this consent will apply to named employees who have been previously notified to, and approved by, the Council. The consent may only be transferred to another vehicle, container or stall with the prior consent in writing of the Council.

2.2 Consent holders and authorised assistants must be 17 years of age and over.

2.3 The consent holder shall notify the Council in writing of any changes to their contact details.

2.4 Nothing in any Consent shall purport to grant to the consent holder any other licence or permissions required under any other Enactment or requirement and the consent holder is specifically advised to obtain such other approvals as may be required.

2.5 Nothing contained in these conditions shall relieve or excuse the consent holder or his 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 consent.

3.0 CONDITIONS RELATING TO THE SITE

3.1 The consent holder shall trade only on the site as specified in the consent.

3.2 Outside of the permitted daily trading period, unless prior approval by the Council has otherwise been given not to do so, the consent holder shall remove the approved vehicle/stall from the consent site together with any and all objects or things of any nature whatsoever placed by the consent holder in the consent site (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,

3.3 No signage, A boards or other such objects shall be placed on the highway or area surrounding the vehicle/stall without the appropriate authorisation. External tables and chairs may only be used upon written approval from the Council after first obtaining the appropriate highways permission from North Yorkshire County Council Highways Authority.

3.4 Any lighting provided at the consent site by the consent holder must be approved by the Council. If the trading site is located on, or adjacent to, the public highway, the lighting must also be approved by the Highways Authority. Strobe lights will not be used in any circumstances.

3.5 It is the applicant's responsibility to ensure that the site they are applying to use is suitable and they have a legal right to trade. No responsibility will be accepted by the Council for persons found to be trading from unsuitable or illegal sites.

- 3.6 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's costs in repairing any damage caused.
- 3.7 The consent holder will be responsible for keeping the area surrounding the vehicle/stall in a clean and tidy condition.
- 3.8 The consent holder, where relevant, shall ensure that the whole of the lay-by 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.
- 3.9 The consent holder and the vehicle/stall must comply with all relevant road traffic and highways legislation. Possession of a Consent does not override parking restrictions or other traffic regulations.
- 3.10 No consent holder shall trade at his/her authorised location on dates when road closure directives are in place for special events otherwise than with the permission of the organisation applying for the closure order.
- 3.11 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 although every reasonable effort will be made to identify an alternative site during such occasions.

4.0 CONDITIONS RELATING TO THE OPERATION OF THE ACTIVITY

- 4.1 A street trading consent holder ("the consent holder") shall not trade outside the time and days permitted by the street trading consent ("the Consent").
- 4.2 The consent holder shall not sell any type of food, goods or merchandise other than that specified in the Consent.
- 4.3 There shall be no sale of goods that are likely to conflict with those provided by nearby shops and premises.
- 4.4 The consent holder shall not hold any auction or like sale.
- 4.5 No live animal or bird shall be permitted to be sold from any stall or vehicle, etc.
- 4.6 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.
- 4.7 The consent holder must provide adequate refuse storage adjacent to the sale area. The storage must be of 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.
- 4.8 The vehicle/stall shall not be left unattended at any time and shall always be supervised by a person over the age of 17 years.

- 4.9 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. Material may also be considered unsuitable if it is of such a nature as to distract motorists on the highway.
- 4.10 The consent holder shall not allow the sale of offensive weapons including imitation firearms, firearms, airguns, swords and crossbows, etc.
- 4.11 The consent holder shall conduct their business in such a manner so as to ensure that they do not:
- (a) cause a nuisance to the occupiers of adjoining properties;
 - (b) cause an obstruction to the vehicles or pedestrians in the street;
 - (c) cause a danger to occupiers of adjoining property or to other users of the street;
 - or
 - (d) cause annoyance or inconvenience to the users of the street
- 4.12 No process or operation shall be carried out which would give rise to a nuisance by reasons of noise, vibration, smoke or smell.
- 4.13 No trading of hot food or drinks shall be permitted before 5am or after 11pm unless a Premises licence has been granted in respect of the Licensing Act 2003. A Premises Licence is required for each consent area that a trader seeks to operate from.
- 4.14 With regard to special events and markets the consent holder must comply with all the conditions.
- 4.15 The consent holder shall comply with all legislation relevant to the conduct of the business in which they are engaged.
- 4.16 The consent holder or any person employed by them shall not use any loudspeaker, whistle, horn, bell or other audible method to attract custom, provided that this shall not apply to the use of loudspeakers on vehicles during the permitted hours of 12 noon to 7 p.m. in accordance with the Code of Practice on noise from ice-cream van chimes etc in England 2013 made under Section 62 of the Control of Pollution Act 1974.
- 4.17 The consent holder shall comply with any reasonable requirements of the Council or any of its officers or of any police officer in relation to the siting or operation of their street trading business.



STREET TRADING FEES

Fee for full annual consent	£350
Fee for annual consent for a round	£350
Fee for a consent for up to 4 weeks	£75

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HAMBLETON DISTRICT COUNCIL

Report To: Licensing Committee
15 September 2014

Subject: **STREET COLLECTIONS POLICY**

All Ward(s)
Portfolio Holder for Environmental and Planning Services: Councillor B Phillips

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to present a proposal for a revised policy in relation to street collections within the District. The policy specifies the Council's expectations in relation to any proposed collections taking place within the District. The draft policy is attached at Annex A.
- 1.2 Application of the revised policy will enable the Council to exercise its discretion with a greater degree of flexibility whilst maintaining its ability to achieve legitimate objectives. The existing policy is overly restrictive in terms of the number and location of collections that the Council will permit. The legislation does not make provision for a Council to refuse an application on these grounds.
- 1.3 The revised policy encourages applicants to take steps to prevent collections from having a long-term negative impact in any given area within the district. Applicants are expected to take steps to check authorised collections with the Council and to target their collections accordingly.
- 1.4 A street collection is a collection of money or a sale of articles for the benefit of charitable or other purposes. Collections may be carried out by volunteers, charity officers, professional fundraisers and commercial participators. The definition of a street collection does not include collections taken at a meeting in the open air and it does not include the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
- 1.5 The proposed policy promotes consistency in the conduct of street collections and it should enable the Council to achieve the following objectives:
 - To safeguard the interests of public donors and their beneficiaries
 - To facilitate participation in charity support
 - To prevent unauthorised collections from taking place
 - To ensure that collectors operate within the law and act fairly in their dealings with the public
 - To prevent street collections from becoming a source of nuisance to the public.

2.0 LINK TO COUNCIL PRIORITIES:

2.1 This revised policy helps to promote the Council priorities of providing excellent and effective services to our customers. Implementation of the revised policy would enable officers to encourage applicants to make reasonable enquiries with regards to the time and location of any proposed collections as a means of maximising fundraising potential and minimising public disturbance.

3.0 RISK ASSESSMENT:

3.1 There are no significant risks associated with this policy.

4.0 FINANCIAL IMPLICATIONS:

4.1 This task is currently undertaken by the Licensing Team within the Environmental Health Service. This Policy should not result in any significant increase in workload.

5.0 LEGAL IMPLICATIONS:

5.1 Where the Council refuses to grant a licence, there may be a risk of judicial review. The policy should therefore help to protect the Council from a legal challenge.

6.0 RECOMMENDATION(S):

6.1 That Council be recommended to approve and adopt the Street Collections Policy.

MICK JEWITT

Background papers: Police, Factories, & c. (Miscellaneous Provisions) Act 1916
Street Collection Regulations

Author ref: SF

Contact: Name Simon Fisher
Author Licensing Officer
Direct Line No 01748 801180

150914 Street Collections



HAMBLETON DISTRICT COUNCIL
ENVIRONMENTAL HEALTH SERVICE

STREET COLLECTIONS POLICY

Draft

Date of Issue:

Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Simon Fisher	21/02/2014
2.0	Simon Fisher	23/07/2014

1.0 INTRODUCTION

1.1 This document represents Hambleton District Council's policy on street collections.

2.0 POLICY OBJECTIVES

2.1 This Policy has been adopted with a view to securing the following objectives:

- To safeguard the interests of public donors and their beneficiaries;
- To facilitate participation in charity support;
- To prevent unauthorised collections from taking place;
- To ensure that collectors operate within the law and act fairly in their dealings with the public;
- To prevent street collections from becoming a source of nuisance to the public.

3.0 APPLYING THE POLICY

3.1 The policies outlined in this document will be applied in the majority of cases when considering applications but the Council will consider each application on its merits and may, at times, allow exceptions to the general policy.

3.2 It will be necessary to consider, in relation to any particular application, whether the specific circumstances justify allowing an exception. It will be up to the applicant to show that an exception should be made to the policy and, if the objectives can still be met, the Council may exercise its discretion to depart from the general policy.

4.0 THE LAW

4.1 A street collection is a collection of money or a sale of articles for the benefit of charitable or other purposes. Collections may be carried out by volunteers, charity officers, professional fundraisers and commercial participators.

4.2 The definition of a street collection does not include collections taken at a meeting in the open air and it does not include the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

4.3 Street Collections are required to be authorised by local authorities in accordance with the Police, Factories, & c. (Miscellaneous Provisions) Act 1916 and the associated regulations.

4.4 Hambleton District Council has adopted the regulations outlined in Annex A.

5.0 PRE-APPLICATION REQUIREMENTS

5.1 Applicants are expected to take steps to try to avoid street collections overlapping in time and place with other collections.

5.2 It is the Council's intention to allow no more than one street collection in any given town at any given time.

5.3 The Council will maintain an up-to-date diary of collections. Prospective applicants may enquire about existing collections prior to making an application.

5.4 Collections that take place too frequently have the potential to have a long-term negative impact on collections in those areas. To avoid this, applicants are

expected to take steps to check the frequency of collections with the Council and to target their collections accordingly.

5.5 In order to avoid saturating an area's fundraising potential, the Council will expect applicants to apply for a period of no more than two days at a time and on no more than four occasions per calendar year.

5.6 The Council recommends that all organisations adhere to the Institute of Fundraising's Code of Fundraising Practice. A copy of the Code of Practice can be found at www.institute-of-fundraising.org.uk

6.0 APPLICATION REQUIREMENTS

6.1 Applicants are expected to allow sufficient time for the Council to consult on, process and issue the permit. Any applications received less than one month before the proposed first date of the collection may not be processed in time for the collection and, in these cases, the collection will not be authorised.

6.2 A completed application must be accompanied by some literature in relation to the organisation that will benefit from the collection.

6.3 A copy of the previous year's accounts must also be submitted and, where applicable, a letter from the charitable organisation authorising the applicant to undertake a collection on their behalf.

6.4 Any agreement or contract details with the registered charity or individual benefiting from the collection should also be included.

6.5 There is no application fee associated with a street collection permit.

7.0 POST-GRANT REQUIREMENTS

7.1 All of the requirements contained within the regulations (Annex A) must be fully complied with.

7.2 Any person who acts in contravention of the regulations shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

7.3 If no previous return forms have been supplied to the satisfaction of the Council after previous licensed collections within the district, then any future application is likely to be refused.

8.0 PERSONAL DATA

8.1 The Council will hold personal data (about applicants, licensees, complainants, etc.) in connection with its licensing function.

8.2 The Council will comply with its obligations under the Data Protection legislation.

8.3 The Council's aim is to minimise the unnecessary disclosure of personal data.

8.4 Personal data will only be obtained, kept or used as authorised by statute.



STREET COLLECTIONS REGULATIONS

The following is a summary of Regulations made by the Hambleton District Council and applicable in any streets or public places within the Council's Area where money is collected or articles sold for the benefit of charitable or other purposes:-

- (1) No collection (other than a collection taken at any open air meeting) shall be made in any street or public place within Hambleton District unless a promoter shall first have obtained from the said Council a permit.
- (2) Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection.
- (3) No collection shall be made except upon the day and between the hours stated in the permit.
- (4) No person may assist or take part in any collection without the written authority of a promoter. Every person so authorised shall produce written authority for inspection by a duly authorised officer or police constable.
- (5) No collection shall be made in a manner likely to inconvenience or annoy any person.
- (6) While collecting a collector shall remain stationary and a collector or two collectors together shall not be nearer to another collector than 25 metres.
- (7) No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.
- (8) Every collector shall carry a collecting box. All such boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken. All monies received by a collector from contributors shall immediately be placed in a collecting box.
- (9) A collector shall not carry or use any collecting box, receptacle or tray which does not bear prominently displayed thereon, the name of the charity or fund which is to benefit.
- (10) No payment shall be made to any collector or to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith.
- (11) Within one month after the date of any collection, the person to whom a permit has been granted shall forward to the Council a statement, certified by a qualified accountant, showing the amount received and the expenses and payments incurred in connection with such collection and shall, if required by the Council, satisfy it as to the proper application of the proceeds of the collection.

PENALTY

Any person who acts in contravention of any of the foregoing Regulations shall be liable on summary conviction to a fine not exceeding level 1 of the standard scale as contained in the Criminal Justice Act, 1982.

L.G.sc2

HAMBLETON DISTRICT COUNCIL

Report To: Licensing Committee
15 September 2014

Subject: HOUSES IN MULTIPLE OCCUPATION STANDARDS

All Ward(s)
Portfolio Holder for Environmental and Planning Services: Councillor B Phillips

1.0 PURPOSE AND BACKGROUND:

1.1 For a building or part of a building (such as a flat) to be classified as an HMO under the Housing Act 2004 it must meet all of the following tests:

The building test

An HMO is a building or part of a building (e.g. a flat):

- in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities¹ or
- which is a converted building that does not entirely comprise self contained flats (whether or not there is also a sharing, or lack, of amenities) ² or;
- which is comprised entirely of converted self contained flats and where the standard of conversion does not meet the minimum that is required by the 1991 Building Regulations, and more than one third of the flats are occupied under short tenancies.

The residence test

For a building to be classified as an HMO it must also be occupied by more than one household as their only or main residence. This includes occupation:

- by asylum seekers and migrant and seasonal workers
- as a refuge by persons escaping domestic violence; or
- by students in higher or further education.

1.2 Certain buildings exempt from the HMO definition include:

- those occupied by the resident landlord and a maximum of two other persons who are not part of his or her household; and
- those occupied by no more than two persons.

1.3 Section 3 of the Housing Act 2004 makes it a duty of every Housing Authority to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them.

1.4 The Management of Houses in Multiple Occupation (England) Regulations 2006 set out duties on a person managing an HMO in respect of:-

- providing information to occupiers;
- taking safety measures, including fire safety measures;
- maintaining the water supply and drainage;
- supplying and maintaining gas and electricity, including having it regularly inspected;
- maintaining common parts including fixtures, fittings and appliances;
- maintaining living accommodation; and
- providing waste disposal facilities.

- 1.5 The standards attached to this report specify the minimum standards for the size of the individual units of accommodation, sanitary facilities including W.Cs, bathrooms, shower rooms and wash hand basins, and the facilities for storing, preparing and cooking food.
- 1.6 Fire safety enforcement responsibilities are shared between the Housing Authority and the Fire and Rescue Service depending on the type of HMO.
- 1.7 Legislation also specifies that certain HMOs must be licensed. However, the attached standards would apply whether or not the premises were required to be licensed.
- 1.8 Hambleton District Council currently does not have any approved standards for amenities although many HMOs exist within the District. By adopting these standards, a consistent and transparent enforcement scheme can be implemented in relation to existing properties. In addition, proposals for new development can also be judged against a common standard.

2.0 LINK TO COUNCIL PRIORITIES:

- 2.1 This links to the Council's Housing priority in that it will drive up standards and improve the quality of the housing stock and make decent housing available for all sections of the local community.

3.0 RISK ASSESSMENT:

- 3.1 There are no significant risks associated with this policy.

4.0 FINANCIAL IMPLICATIONS:

- 4.1 There are no financial implications associated with the adoption of this Policy

5.0 LEGAL IMPLICATIONS:

- 5.1 By adopting this Policy, the Council will be able to demonstrate consistency in the application of standards for the benefit of residents and landlords.

6.0 RECOMMENDATION(S):

- 6.1 That Council be recommended to approve the Houses in Multiple Occupation Standards.

MICK JEWITT

Background papers: None

Author ref: PM

Contact: Name Philip Mepham
 Author Environmental Health Manager
 Direct Line No 01748 901171

HMO Standards

Minimum Space Standards

One person units of accommodation	
With kitchen facilities in the room	13m ²
Bedroom only with use of separate kitchen	10m ²

These sizes can be reduced at the discretion of the inspecting officer if there are adequate communal living room, kitchen, or dining facilities. No room of less than 6.5² m will be adequate.

Two person units of accommodation	
with kitchen facilities in the room	18.7m ²
Bedroom only with use of separate kitchen	15m ²

Room sizes can be reduced by up to 2m² at the discretion of the inspecting officer if there are adequate communal living room, kitchen or dining facilities.

Health and safety issues will also be taken into account when accepting reduced space standards and how useable the space is. **Please see notes.**

Minimum Amenity Standards

WCs, bathrooms, shower rooms and wash hand basins

Each WC cubicle, bathroom, shower room must have:

- Appliances of the type and number set out in the table below;
- Constant and adequate supplies of hot and cold water;
- Waterproof splash-backs to basins and baths and waterproof enclosure to showers;
- Smooth non- absorbent and easily cleaned walls and ceiling;
- Appropriate water resistant, non- slip flooring;
- All bathrooms must be suitably and adequately heated and ventilated;
- Where reasonably practicable wash hand basins should be provided to bedsit rooms, except where there is a sink provided as part of kitchen facilities within the room or where the HMO is a shared house. Wash hand basins must be provided in bath/shower rooms and separate WCs unless hand washing facilities are adequate elsewhere. **Please see notes.**
- There must be at least one bath or shower for every five occupants;
- All bathrooms and toilets in an HMO must be of adequate size and layout with suitable door and lock to provide privacy

Number sharing	Toilet facilities required
1-3 occupiers	1 toilet may be incorporated within the bathroom
4-5 occupiers	1 toilet to be separate from the bathroom (could be in second bathroom)
6-8 occupiers	2 toilets could be sited within 2 separate bathrooms
9-10 occupiers	2 toilets. 1 must be separate from any bathroom
11+ occupiers	3 toilets + on ratio of 1:5. 1 or more to be separate from bath/shower room

Reference to a bathroom may be a room containing either a bath or shower.

Facilities for storing preparing and cooking food

Location and availability

Each occupant must have 24 hour access to a suitable kitchen which should preferably not be more than one floor away from the letting room.

Layout, dimensions and space

A shared 'kitchen' should be suitably located in relation to the living accommodation and be of adequate size (see table below). Each 'kitchen' must have the following facilities;

- Sink and drainer of minimum dimensions 500 x 600 mm;
- An adequate supply of cold drinking water and constant hot water;
- A fixed worktop or table of smooth and impervious material of minimum size 500 x 1000 mm;
- 1 full sized oven with grill and 4 ring burners and /or microwave equivalent;
- Two double sockets plus one socket for each fixed appliance;
- Smooth impervious splash backs to the sink and draining board;
- Adequate storage (0.08 m²) and refrigerator space (0.075 m²) must be allocated.

Additional 'kitchens' to the same standard shall be provided on a ratio of 1 per 6 residents and based on the following floor area.

Number of occupants sharing	Minimum floor area
Kitchens	
1 - 3 people	5 m ²
4 people	6 m ²
5 people	7 m ²
6 people	9 m ²
Dining kitchens	
1 – 3 people	10 m ²

4 – 6 people	11.5 m ²
Living rooms or dining rooms	
1 – 3 people	8.5 m ²
4 – 6 people	11 m ²

In-room kitchen facilities can be scaled down from this with purpose built micro kitchens being acceptable.

Fire Protection

The council uses the fire safety guidance issued by the Local Authorities Coordinators of Regulatory services (LACoRS) and building regulations approved documents to determine what measures are appropriate to the level of risk.

Notes:

Bedsit type HMOs

These are HMOs which have been converted into a number of separate non-self-contained bedsit lettings or floor-by-floor lets. Typically there will be individual cooking facilities within each bedsit, but alternatively there may be shared cooking facilities or a mixture of the two. Toilets and bathing/washing facilities will mostly be shared. There is unlikely to be a communal living or dining room. Each bedsit or letting will be let to separate individuals who will live independently, with little or no shared communal living between tenants. Each letting will have its own individual tenancy agreement and there will usually be a lock on each individual letting door.

Shared House type HMO

There is no legal definition of a 'shared house' and so this term can sometimes cause confusion. Whilst shared houses fall within the legal definition of an HMO and will be licensable where licensing criteria are met, it is recognised that they can often present a lower fire risk and other management risks than traditional bedsit-type HMOs due to their characteristics.

Shared houses are described as HMOs where the whole property has been rented out by an identifiable group of sharers such as students, work colleagues or friends as joint tenants. Each occupant normally has their own bedroom but they share the kitchen, dining facilities, bathroom, WC, living room and all other parts of the house. All the tenants will have exclusive legal possession and control of all parts of the house, including all the bedrooms. There is normally a significant degree of social interaction between the occupants and they will, in the main, have rented out the house as one group and have a single joint tenancy agreement. In summary, the group will possess many of the characteristics of a single family household, although the property is still technically an HMO as the occupants are not all related

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