

Council Policy on Street Trading



Wigan
Council

(1) An application for the grant or renewal of a Street Trading Consent shall be made in writing to the Licensing Section.

(2) The Licensing Section shall determine the form of the application and supporting documents for a Street Trading Consent or the renewal of such consent and shall from time to time review and amend the form of application and supporting documents as he considers necessary.

(3) An application for the grant or renewal of a Street Trading Consent shall be accompanied by a statutory declaration of convictions of

(a) the applicant, and

(b) any person or persons who is/are to assist the applicant in the course of street trading.

(4) Upon application for the grant or renewal of a Street Trading Consent, the Licensing Section shall consult with Greater Manchester Police and the Council's Property Division, Business Compliance Section, Environmental Protection Section and Traffic Group.

(5) An application for the grant of a Street Trading Consent shall be advertised by way of a notice in such form as the Licensing Section may determine. That notice shall be displayed for a period of not less than 28 days from the date on which the application is made to the Council at or near to the location for which the application is made. Except that this shall not apply where the application is for a mobile consent.

(6) Any person who wishes to make a representation in respect of an application must do so not later than 28 days from the date on which the application is made to the Council.

(7) The Licensing Section may

(a) grant or renew a Street Trading Consent either unconditionally or subject to one or more of the conditions as set out at Appendix "A",
or

(b) inform the applicant (1) that he intends to place the application before the Council's Regulation Committee with a recommendation for refusal and (2) the reasons for that recommendation.

(8) An applicant may make representations orally and/or in writing to the Regulation Committee in circumstances where an application is placed before the Committee by the Licensing Section with a recommendation for refusal.

(9) The Licensing Section may grant or renew a Street Trading Consent for any period not exceeding twelve months.

(10) The Licensing Section shall not ordinarily grant a Street Trading Consent within a radius of 200 metres from an existing business (including a consented street trader) dealing in goods of a similar nature, subject to each application being considered on their own merits.

(11) The Licensing Section shall not ordinarily grant a Street Trading Consent for the sale of motor vehicles subject to each application being considered on its own merits.

(12) The Licensing Section shall from time to time review the Conditions set out at Appendix "A" and may from time to time add to, delete or amend the conditions as he sees fit.

(13) The Council may at any time reduce the number of days or the period in any day during which the consent holder is permitted to trade or restrict the description of goods in which he is permitted to trade or revoke a consent to trade on any of the following grounds:-

(i) that owing to circumstances which have arisen since the grant of the Street Trading Consent there is not enough space in the street for the consent holder to engage in trading permitted by the consent without causing undue interference or inconvenience to persons using that street;

(ii) that the consent holder is unsuitable to hold a Street Trading Consent by reason of having been convicted of an offence, caution or fixed penalty which falls within the Councils "Guidelines as to the Relevance of Convictions".

(iii) that since the grant or renewal of the Street Trading Consent, the consent holder has failed to pay any fees due to the Council for the grant of the consent;

(iv) that the consent holder has since the grant or renewal of the

consent failed without reasonable excuse to make use of the Street Trading Consent;

(v) that, where the consent authorises the sale of food in a street the consent holder or any person who assists the consent holder has been convicted of an offence under food safety or health and safety legislation.

(vi) any other reasonable cause.

(14) Where a consent to trade is revoked, amended or surrendered, the Licensing Section shall not ordinarily remit any part of the consent fee subject to each application being considered on its own merits.

Pool of conditions that are imposed on a consent to trade (Appendix "A")

In these conditions

"The Council" means Wigan Council.

"You" means the holder of the consent to trade.

"Your Assistant" means any person or persons who assists the holder of a consent to trade whilst trading under that consent and who has been notified to and approved by the Council.

(1) You shall display the Street Trading Consent issued by the Council in a position where it can be clearly seen and read by a member of the public when you or your assistant are street trading.

(2) If you or your assistant moves home or registered office, you shall write to the Council giving details of the new home address or new address of the registered office within seven days of moving.

(3) If you or your assistant are convicted of any offence(s), given a formal caution(s) for any offence or have any fixed penalty notice(s) imposed, you shall write to the Council giving full details of the offence(s), caution(s) or fixed penalty notice(s) within seven days of the imposition of the offence(s), caution(s) or fixed penalty notice(s).

(4) If there is any change in any of the circumstances on which the consent was granted, you shall write to the Council giving details of the change within seven days of it taking place.

(5) You shall not trade under this consent unless you are registered in accordance with the Regulation (EC) 852/2004 (Hygiene of foodstuffs) (where appropriate).

(6) You shall not cause any avoidable nuisance which affects any member of the general public or their right to the peaceful enjoyment of their homes or businesses in the vicinity of the trading site.

(7) You shall, where applicable at all times when trading comply with all "Codes of Practice" relating to noise in particular the "Codes of Practice on Noise from Ice Cream Vans Chimes etc. 1982".

(8) You shall provide sufficient and suitable waste containers to enable customers to dispose of any litter generated by the business carried out under the consent.

(9) You shall ensure that the area surrounding the consent site is kept free of litter, waste food, food spillage and grease staining originating from the business by the following means:

(a) Cleaning the area as often as is necessary and at the end of each day.

(b) Removing from the site at the end of trading on each day, all litter contained in the waste containers provided and collected from the area of the site and dispose of it in a lawful manner.

(10) You shall not place any table, chair or similar item on any highway.

(11) You shall not display any signs, posters or similar other than those approved by the Council in writing.

(12) No animal shall be present on any stall or vehicle.

(13) No goods other than those set out in the application for the consent shall be sold.

(14) You shall obtain insurance in the sum of £2,000,000 to insure against third party liability claims and to indemnify the Council against all claims, actions, demands and expenses arising in respect of the grant of this consent and shall produce evidence of that insurance on demand to the Council.

(15) You shall ensure that, where applicable, you have the written permission of the landholder from whose land you are trading before you trade.

(16) You shall not trade at any location other than that specified in the consent.

(17) You shall not trade at any time or on any day other than those times and days specified in the consent.

In addition to these conditions, the Council may also impose conditions which are

specific to individual consents to trade.

Guidelines relating to the relevance of convictions for

- (1) applicants for the grant or renewal of a street trading consent,
- (2) persons who wish to be registered as an assistant to a holder of a street trading consent or to renew such registration and
- (3) the holders of street trading consents and persons registered as an assistant to the holder of a street trading consent.

General Policy

Each case will be decided on its own merits.

- (1) The Council will assess whether
 - (a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent,
 - (b) a person who wishes to be registered as an assistant to a street trading consent holder or to continue to be registered as an assistant to a street trading consent holder is a suitable person to be registered as an assistant to a street trading consent holder.

In making that assessment, the Council consider the previous convictions of such persons.

- (2) In considering the previous convictions of those persons mentioned in paragraph

1 the Council will consider the following:-

- (a) whether the conviction is relevant;
- (b) the seriousness of the offence;
- (c) the length of time since the offence occurred;
- (d) whether there is a pattern of offending behaviour;
- (e) whether that person's circumstances have changed since the offence occurred;

(f) the circumstances surrounding the offence and the explanation offered by that person.

(3) The following is a description of the Council's general approach to certain categories of offences.

(a) Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public.

Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy.

For these reasons a serious view will be taken of any conviction involving dishonesty. In general, an applicant for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the application is made within 3 to 5 years of a conviction or the date of release from jail.

Similarly a person wishing to be registered as an assistant to a street trading consent holder is unlikely to be registered where registration is sought within 3 to 5 years from the date of conviction or the date of release from jail.

(b) Violence

As street traders and their assistants have close contact with the public, a firm line will be taken with applicants who have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent or registration as an assistant to the holder of a street trading consent will normally be refused.

In other cases, a period of 3 to 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence(s) will generally be required before an application is likely to be considered favourably.

(c) Drugs

Where an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused.

After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a street trading consent or to be registered as an assistant to the holder of 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 from jail, where a custodial sentence for such an offence has been imposed, is within 3 to 5 years of the date of the application.

After a period of three years from conviction or the date of release from jail where a custodial sentence has been imposed, 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 trading consent or to act as an assistant to the holder of a street trading consent.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

(d) Sexual and Indecency Offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent or registration as an assistant to the holder of 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 or registration as an assistant to the holder of 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 jail where a custodial sentence has been imposed.

After a period of 5 years from conviction or the date of release from jail, where a custodial sentence has been imposed, 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 trading consent or to be registered as an assistant to the holder of a street trading consent.

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 trading consent or to be registered as an assistant to the holder of a street trading consent.

In cases where the Council considers that information shows an applicant is not a suitable person, 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.

(e) Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person.

However, there may be instances where the offences are of a very serious nature. In those cases, an applicants for a street trading consent or to be registered as an assistant to the holder of a street trading consent would be expected to show a period usually between 3 and 5 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

(f) Formal Cautions and fixed penalty notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.