

**REPORT FOR: OVERVIEW AND  
SCRUTINY COMMITTEE**

---

**Date of Meeting:** 27 June 2107

**Subject:** Street Trading Policy and Charges

**Responsible Officer:** Simon Baxter, Divisional Director  
(Environment and Culture)

**Scrutiny Lead  
Member area:** Councillor Manjibhai Kara, Community  
and Regeneration Performance Lead

**Exempt:** No

**Wards affected:** All

**Enclosures:** Appendix A - Street Trading Policy and  
Fees and Charges  
Appendix B - Benchmarking

# **Section 1 – Summary and Recommendations**

This report sets out update the Committee about the implementation of Street Trading Policy following its introduction in 2016, following approval from Cabinet and Council and the way forward in terms of fees for private land and tables and chairs.

## **Recommendations:**

- a) To note the contents of the report
- b) To comment on a possible review of fees and charges in terms of tables and chairs, and on the approach taken regarding private land

# **Section 2 – Report**

## **Background**

Harrow Council sought to introduce street trading in 2000, but never designated streets or introduced a policy. As a result, over the years premises have started to expand on to the public highway to increase their trading area. This is particularly seen in the main shopping areas, with shop front displays.

Harrow Council has an obligation to ensure the safe use and passage on the public highway, and has had to deal with the above expansion using existing legislation around highway obstruction. These provide little enforcement options and has proved to be unsustainable. Additionally, premises continue to gain commercially at the expense of those using the public highway. Other landowners, for example Transport for London, charge for the use of their land for such activities (e.g. Costa Coffee at Rayners Lane)

Up to 2016, Harrow Council only licensed tables and chairs on the highway under the Highways Act 1980.

At November 2015 and March 2016 Cabinets, the following aspects of street trading were approved:

- Street Trading Policy covering stalls, markets, shop front trade and tables and chairs
- Designation of 11 areas in Harrow to have “licensed streets” (any highway activity must be licensed) with an annual licence
- Rest of Borough can have street trading as long as Council is inclined to do so, but can issue a licence for up to 6 months at a time (temporary licence)
- Introduction of Fixed Penalty Notices for enforcement in this area

This Licensing regime moved all activities under the London Local Authorities Act 1990 (the Act), which superseded any previous scheme. A copy of the latest policy and fee regime are attached for reference (Appendix A)

Street trading (subject to certain exceptions and additional inclusions) is defined in the Act as the selling or the exposure or offer for sale of any article (including a living thing); and the purchasing of or offering to purchase any ticket; and the supplying or offering to supply any service in a street, for gain or reward.

With the introduction of street trading, a consistent standard of use is put in place to ensure the safe use of the highway. The London Local Authorities Act 1990 (as amended) expands the area that needs to be licenced, defining streets as:

- *any road or footway;*
- *any other area, not being within permanently enclosed premises, within 7 metres of any road or footway to which the public obtain access without payment,*
- *any part of such road, footway or area;*
- *any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985.*

*The designated areas approved as licensed streets by Cabinet are:*

- *Burnt Oak*
- *Edgware*
- *Harrow Town Centre*
- *Kenton*
- *Kingsbury*
- *North Harrow*
- *Pinner*
- *Rayners Lane*
- *South Harrow*
- *Stanmore*
- *Wealdstone*

By being designated, it allowed those commercial premises that wanted to trade on the highway to apply for a yearlong licence. The purpose of designating these areas was the recognition these were areas that the Council saw as suitable for this activity. Areas not designated could still get licences, for a maximum 6 months at a time, as were seen as potential areas that such activities were either not suitable or not to be encouraged (e.g. pavements may not be wide enough to support such activities)

All activities that are licensed will be required to meet the conditions attached to the licence, which include aspects of safety, cleaning, standard of display and hours of trade. The introduction of street trading brings the Council in line with the majority of London Boroughs who operate such schemes.

The Community and Public Protection Service, and more precisely the Environmental Compliance Team, were tasked with implementing this policy. No additional resources were provided for to enable this, and it was absorbed

as part of their other work. Implementation did not start until October 2016 as while the policy was in place, the operational aspects had not been arranged (e.g. licensing templates, database set up and so forth).

Ultimately the street trading licensing regime was put in place to ensure a consistent standard of approach for this activity, ensure the correct and beneficial use of the public highway, and to aid business through activities that enhanced an area that led to it being seen in a detrimental way.

## **Financial Implications**

On the introduction of the street trading licensing regime, Community and Public Protection were also set a £200,000 income target to meet from this. This was set out in the Medium Term Budget Strategy (MTBS) plans for the directorate.

While the role was absorbed into the Environmental Compliance Team, the pressures already placed on that team (e.g. fly tipping investigations and other highways enforcement) meant that an additional seconded resource was put into place to focus specifically on this area. The costs of this post were met within the service, as were the costs of implementation and set up.

The fees and charges agreed originally in 2016 as part of the Council report, and again in February 2017 as part of the annual fees and charges, can be found in Appendix A.

A benchmark exercise can be found in Appendix B in terms of other Councils fees and charges. As can be seen, Harrow is in line with these charges

## **Performance Issues**

### **Current situation**

72 premises have applied to date for a street trading licence

495 visits have been carried out to premises to assess whether a street trading licence is needed, provide information and seek to get applications where necessary.

An escalated enforcement process is being adopted: educating, warning then taking formal action (including Fixed Penalty Notices).

### **Business and Environment**

Harrow Council is committed to maintaining a vibrant economy for the benefit of those who live, work and conduct business in the borough. The Council has also committed itself to being more business friendly and business like.

The introduction of such a regime can be seen as contrary to this initially, as further financial burdens are placed upon the business. Ultimately there is no

requirement to have street trading, or for a business to use public highway, as the business sets itself up to operate within the confines of its own premise.

It is recognised though that street trading does form part of everyday commercial activity for a lot of premises and has done for a number of years, especially in areas such as grocer premises. What has been seen with this expansion is an ad hoc approach from the business in how this is carried out, including:

- Variety of “display” methods ranging from cardboard boxes to bread crates
- Lack of responsibility for clearing up afterwards, leading to expense being put back on the Council
- No set standard of how big these displays are, leading to restriction on those using the footway, especially disabled and those with prams

Ultimately instead of enhancing an area, in a lot it has led to being detrimental visually and practically. Those businesses who attempt to put in street trading properly, and manage it properly, are then undermined by those who do not.

By having a consistent approach, it does lead to an improvement in the perception of the area. An example seen since its introduction is Burnt Oak Broadway, and area that was constantly subject to complaints of premises taking over the highway and lack of footway for pedestrians. The introduction of the scheme has seen a marked improvement, noted by businesses and pedestrians



## Finance

Financially the scheme has not to date been able to meet the requirements of the MTFS target. This is as a result of a number of factors:

- In the designated areas, there are 134 premises that could be subject to street trading. This meant that, at £1150 and £42 administration fee, only £159,000 was the maximum realistic target if enforced rigorously in line with why street trading was introduced. In reality, a lot of these premises did not carry out street trading or withdrawn from conducting it.
- Premises that have been trading in this way for over a decade were faced with a new licensing regime and, in line with being more business friendly, Community and Public Protection chose to work with

them to introduce the scheme rather than impose it. The result is a slower take up, but a more sustainable approach

- Resource wise, the service put in place a dedicated resource to take this regime forward, but was one dedicated officer on a day to day basis.

Mitigation has and will take place around this including:

- Continued days of action where areas are targeted and additional staffing resources are available
- Work to expand the regime to cover other areas of the Borough (e.g. Shaftesbury Circle, Belmont Circle etc.) to allow more sustainable, consistent street trading to take place
- Enforcement review to look at improving efficiency and resource around this area amongst others.

All this action is in line with the fundamental reason for introducing street trading under the London Local Authorities Act, being to improve access to the highway and improve the environmental impact.

### **Private Land**

As the regime falls under the London Local Authorities Act 1990, the scheme automatically extends to cover more than just public highway, as “street” now includes:

- *any other area, not being within permanently enclosed premises, within 7 metres of any road or footway to which the public obtain access without payment,*

Section 5.5 of the Policy covers this aspect and provides exemptions being:

- *A shopkeeper who is selling goods which forms part of the business (of his/her shop) on his private forecourt, and the exposure for sale of those good during the shop opening hours does not need a street trading licence. If however the trade does not form part of the business then a street trading licence will be necessary.*

It should be noted that under the Highways Act 1980, where there is an established right of way over a private forecourt then it is deemed highway. For example, the premises opposite Debenhams in Harrow Town Centre:



The Council is taking a pragmatic approach and has looked to introduce the scheme where it is clear that the public would see the area as highway (and there is no clear delineation)

Harrow Council Street Trading policy reflects this, and therefore premises such as the Queens Head in Pinner, who have tables and chairs on their own land and is an extension of their own business, but is clearly set back from the highway, is not licensable.

## **Fees and Charges**

In line with this, the fees and charges report that went to full Council at the start of 2017 includes the provision to:

*Delegate authority to the Director of Finance and relevant Corporate Director, following consultation with the relevant portfolio holders, the ability to amend fees and charges in year with the introduction of a discount rate for fees that are discretionary if there is a business need to do so.*

Work is taking place to look at options to ensure fairness and equality going forward, with a current proposal being drafted to introduce a fairer fee regime for tables and chairs.

In terms of a fairer fee regime, this takes into account that the current fee regime for tables and chairs sets one fee regardless of number of tables and chairs. A scheme to set a baseline fee with increments depending on additional tables and chairs is being explored.

This is in line with other councils' approaches which work on either number of chairs and tables (e.g. Westminster based on number of chairs) or space taken (e.g. Hillingdon and Hounslow who charge at pm<sup>2</sup>)

## **Options**

Scrutiny is presented with the main issues that have arisen from the introduction of the new licensing regime. The options being considered are as follows:

## **Tables and Chairs**

*Option 1: Carry out a review of the fees and charges affecting table and chairs to be in line with neighbouring Boroughs*

This option would seek to take into account the diversity of approach from small to larger commercial premises, would be a fairer regime and is recommended by officers.

*Option 2: To continue with the current regime based on a fee for having tables and chairs regardless of numbers*

This option potentially discriminates against small traders with limited tables and chairs.

## **Private Land**

*Option 1: Continue with the policy that private land clearly identifiable as such will not form part of the licensing regime*

This is in line with being more business-like and takes into account that this land is private and clearly seen as the premises. It would still allow the Council to approach those premises that have established rights of way over their land to licence and make sure they contribute to the positive environment or to delineate properly to inform the public appropriately. This is also the approach taken by all neighbouring Boroughs. This is recommended by officers.

*Option 2: Seek to licence all land that abuts public highway*

This will lead to increased complaints and an increased view that the scheme is about income generation and not improving the public highway (and that perceived to be)

## **Environmental Impact**

The introduction of the street trading licensing regime does not have any diverse impact on the environment. Its introduction at a local level does seek to improve the environment through conditions placed on premises including:

- *The licence does not permit the playing of music, singing or performance of entertainments, or the use of an external public address system or speakers, on the highway, including within the licensed area. The licensee is to ensure that any noise disturbance to the neighbourhood, including noise from patrons, is kept to a minimum and does not cause offence.*
- *The licence holder shall not place any furniture or equipment in the immediate area of the premises other than as permitted by the licence. All goods or equipment on display under the terms of the licence shall be kept within the area specified in the licence. All displays, stands, etc. are to be removed from the highway outside of licensed hours.*



- *Waste from the licence holders operations must not be disposed of in the permanent litter bins provided by the Council. Any commercial premise must have a trade waste agreement in place and waste receptacles kept within the boundaries of the premises apart from on the day of collection.*

## **Risk Management Implications**

Street Trading does not appear on any Council Risk Register

The introduction of a consistent standard across an area also enables that premises trading on the highway are treated fairly and consistently, minimising any complaint regarding process or policy.

Risk included on Directorate risk register? No

Separate risk register in place? No

## **Equalities implications**

Was an Equality Impact Assessment carried out? Yes (accompanied Cabinet Reports)

No adverse effects were identified

## **Council Priorities**

The Council's vision:

### **Working Together to Make a Difference for Harrow**

Please identify how the report incorporates the administration's priorities.

- Making a difference for the vulnerable
- Making a difference for communities
- Making a difference for local businesses
- Making a difference for families

**Ward Councillors notified:**

**NO – applies to all wards**

## **Section 3 - Contact Details and Background Papers**

**Contact:** Richard Le-Brun. Head of Community & Public Protection, 020 8736 6267

**Background Papers:** Cabinet Report introducing Street Trading Regime