

<b>LICENSING COMMITTEE</b>	<b>Agenda Item 29</b>
(Non-Licensing Act 2003 Functions)	Brighton & Hove City Council

<b>Subject:</b>	<b>Street Trading – Review of mobile street trading near schools in Brighton &amp; Hove</b>		
<b>Date of Meeting:</b>	<b>2 March 2017</b>		
<b>Report of:</b>	<b>Director of Neighbourhoods, Communities &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg</b>	<b>Tel: 01273 292438</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

## FOR GENERAL RELEASE

### 1. PURPOSE OF REPORT AND POLICY CONTEXT:

- 1.1. The Council's Street Trading Policy was set by Members at Licensing Committee after extensive consultation and was last considered at Licensing Committee on the 21<sup>st</sup> November 2013.
- 1.2. At the November 2016 Licensing Committee (Non-Licensing Act 2003) the Committee requested officer's undertake a limited review of all street activity within 50m of schools and report back to a future meeting to inform the Committee such that a decision can be taken whether to consult on a school exclusion zone being considered for the street trading policy.

### 2. RECOMMENDATIONS:

- 2.1. That the committee notes the contents of this report.
- 2.2. That officers should continue to monitor trends of applications/complaints and illegal activity to inform future policy.

### 3. CONTEXT / BACKGROUND INFORMATION

- 3.1. The regulation of street trading by consents covers infrequent, itinerant trading. There is no right of appeal against refusal and so it is vital that licensing authorities behave in a fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. This department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.
- 3.2. On 8<sup>th</sup> December 2016 we wrote to all schools in Brighton & Hove as a result of Members asking officers to carry out a review of street trading within the

vicinity of schools. The consultation was also posted on the Council schools bulletin board asking for responses by the 31<sup>st</sup> January 2017. Please see the questions and responses below.

- Q.1 Are you aware of any mobile street traders, such as burger or ice cream vans, operating within 50 metres of the schools boundary (please provide the vehicle registration details if possible and frequency of trading)?
- Q.2. How do mobile street traders impact on the school?
- Q.3. Have you complained to the Council about street traders operating near your school?
- Q.4. Have the school received any complaints relating to street traders operating near your school? If so, please indicate the number and nature of the complaints.

SCHOOL	Q1	Q2	Q3	Q4
St Mary Magdalen's Primary School	No	No	No	No
St Joseph's Catholic Primary School	No	No	No	No
Downs Infant School	No	No	No	No
Saltdean Primary School	Yes - summer ice cream van	No	No	No
West Hove Infant School	No	No	No	No
Hillside School	No	No	No	No
Carden Primary School	Yes - Christmas tree seller using school fence to prop up trees	No	No	No
Patcham Junior School	No	No	No	No
Mile Oak Primary School	No	No	No	No
Patcham High School				
Downs Park School	No	No	No	No
St Nicolas CE Primary School	No	No	No	No
Moulsecoomb Primary School	No	No	No	No
Bilingual Primary School	No	No	No	No
St Joseph's Catholic Primary School	No	No	No	No
Patcham House	No	No	No	No
Peter Gladwin Primary School	No	No	No	No
St. Paul's CE Primary and Nursery School	No	No	No	No
St. Pauls Primary School	Yes - summer ice cream van - outside school hours	No	No	No
Queen's Park Primary & Nursery School	Burger van Freshfield Way	traffic issues	No	No

Dorothy Stringer	No - but had previously been a burger van	selling unhealthy food	Yes	No
Aldrington CE Primary School	No	No	No	No
West Hove Infant School Portland Road, Hove	Ice cream van - daily in the Summer from approx 14.50-15.50	Parents complain about pressure to buy and messy exhaust fumes	Not recently, if ever.	At least 5-10 parental complaints each year
City Academy Whitehawk	Yes - summer ice cream van - outside school hours	No	No	No

3.3 One school (West Hove Infant), of the 24 schools that responded, has highlighted parental complaints relating to an ice cream van operating during the summer. This will be investigated further by officers, but looking at the responses overall and lack of complaints, street trading in the vicinity of schools does not appear to be an issue. Officers will continue to monitor complaints but do not believe a review of the street trading policy is necessary regarding this matter.

#### **4. ANALYSIS & CONSIDERATION OF ALTERNATIVE OPTIONS**

4.1 If the Committee decide that street trading should be reviewed, a full and measured consultation should involve residents (via the council's website), residents associations and Community Associations including the North Laine Community Association, businesses (including individual street traders) in Brighton & Hove, Police and Highway Authority, Economic Development and Regeneration regarding the corporate markets policy, Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, City Clean, Legal, Finance, Ward Councillors, City Centre and Hove Business Fora, Trader Associations including North Laine Traders Association, Upper Gardener Street Traders Association, Brighton & Hove Albion Football Club, and the Education Authority (Children's Trust).

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 Brighton & Hove Schools, finance and legal services.

#### **6. CONCLUSION**

6.1 Officers will continue to monitor complaints but do not believe a review of the street trading policy is necessary regarding this matter.

#### **7. FINANCIAL & OTHER IMPLICATIONS**

##### Financial Implications:

7.1 Street Trading fees are set at a level that officers reasonably believe will cover the costs of administering the service. Any costs associated with the Street Trading

Policy will be met from within existing Licensing budgets. Fees are set as part of the annual Council budget setting process.

Finance Officer Consulted: Monica Brookes      Date: 17/01/17

Legal Implications:

- 7.2 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 enables a district council in England and Wales to adopt a code for the regulation and control of street trading within its area and the Council has adopted Schedule 4 of the Act which governs street trading. Schedule 4 permits the Council to designate by resolution streets as prohibited, licence or consent streets. There is no obvious mechanism for creating exclusion zones, but part of a street could be re-designated a prohibited street. There is a statutory procedure for this involving publication of a notice in a newspaper and inviting representations which must then be considered. There should be good justification for changing the designation of streets. Challenge might reasonably be expected from those adversely affected by changes to street designation both on administrative law and human rights grounds.

Lawyer Consulted: Rebecca Sidell      Date: 17.01.17

Crime & Disorder Implications:

- 7.3 Diversity is valued and strong, safe communities are vital to future prosperity.

Sustainability Implications:

- 7.4 H Some street trading supports recycling of goods. Farmers markets may reduce "food miles".

Crime & Disorder Implications:

- 7.5 Transparent, proportional street trading controls minimise danger of obstruction and nuisance. Street trading can be a source of stolen or counterfeit goods.

Risk and Opportunity Management Implications:

- 7.6 Street trading is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

Corporate / Citywide Implications:

- 7.7 Street trading represents some traditional, historic heritage