

**DUNGANNON AND SOUTH TYRONE BOROUGH COUNCIL**

**ENVIRONMENTAL HEALTH DEPARTMENT**

**STATIONARY STREET TRADING POLICY**

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## **1 PURPOSE**

The purpose of this policy is to provide guidance on matters that should be considered when deciding whether or not to grant to a person a Stationary Trader's Licence. Its aim is to provide, insofar as is possible, consistent decision making so as to develop, and thereafter maintain, public confidence in Dungannon and South Tyrone Borough Council's performance of its duties.

## **2 SCOPE**

By virtue of Section 6 of the Street Trading Act (Northern Ireland) 2001 the Council may grant to a person a Stationary Trader's Licence authorising them to engage in trading in a Designated area or areas of the Borough.

This policy is intended to ensure that Dungannon and South Tyrone Borough Council Members and Officers are aware of those matters to be taken into consideration when determining whether or not to grant a Stationary Trader's Licence.

## **3 REFERENCES**

- 3.1 Street Trading Act (Northern Ireland) 2001
- 3.2 Guide to the Street Trading Act (Northern Ireland) 2001
- 3.3 Street Trading (Fixed Penalty) (Notice and Procedure) Regulations (Northern Ireland) 2001

## **4 BACKGROUND**

The Street Trading Act (Northern Ireland) 2001 enables District Councils to regulate street trading through designating, licensing and enforcement procedures. The Act received Royal Assent on 5<sup>th</sup> April 2001, with a run in period of six months and became operative on 1<sup>st</sup> October 2001. The new Act repealed most of the provisions of the 1929 Street Trading (Regulation) Act, except Section 10 which contains the provision whereby Market Rights can be acquired or extinguished.

Section 6 of the Act empowers Dungannon and South Tyrone Borough Council to issue a Stationary Traders Licence to engage in trading in a Designated area or areas of the district.

## **5 GENERAL PRINCIPLES**

5.1 Dungannon and South Tyrone Borough Council will consider all applications received, in accordance with Section 5 of the Act, for Stationary Trading within its area. Each application will be considered on its own merits, but there are general principles that apply in all cases. The duty of Dungannon and South Tyrone Borough Council is to make sure that each Stationary Trader's licence application is fairly and objectively assessed and that all relevant factors are considered. All applications will be treated in an equitable and fair manner regardless of the applicant's ability or disability, gender, age, religion, social, cultural and ethnic background, political persuasion or sexual orientation.

5.2 A Stationary Trader's Licence will only be granted if the applicant wishes to trade within an area Designated for the purposes of street trading. Designation of an area will have been in accordance with the Council's Street Designation Policy.

## **6 GRANTING A LICENCE**

6.1 All applications for the grant or renewal of a Stationary Trader's Licence must be made to the Council on the appropriate Application Form/ online application form. The correct fee must be included with the application. All applications will be considered. Each applicant will be required to provide evidence of Public Liability Insurance before a licence can be issued.

6.2 The Borough Council **will** consult with:

- (a) The Sub- Divisional Commander of the police sub- division in which the streets are located;
- (b) The Department for Regional Development as regards that department's functions with respect to roads and regulation of road traffic.

6.3 The Borough Council **may** also consult with any other persons, or bodies, as it considers appropriate

6.4 Without prejudice to its right to take into account any relevant consideration in determining the suitability of each Mobile Trader's Licence the Council will take into account:

- a) The safety of the public and any risks which may arise;
- b) The appropriateness and suitability of the area or areas;
- c) The potential adverse impact that Street Trading may have upon the character and appearance of the area in question;
- d) The extent to which the sale of the commodity will provide a useful service in the area;
- e) Environmental effects such as additional litter, cleansing requirements, odour and noise;
- f) The potential for the proposed said Street Trading Licence to have an adverse effect in terms of anti- social behaviour and public disorder;
- g) Any other Statutory Provision, Code or Standard as appears to the Council to be material;
- h) Previous complaints arising from street trading activities in that area, street or part thereof;
- i) The views, reports or opinions of such consultees as appear to the Council to be material; and
- j) The suitability of the applicant

6.5 The Council **will** refuse to grant a Stationary Traders' Licence on the following grounds:

- a) The applicant is not an individual, i.e. companies or partnerships cannot apply for a licence **UNLESS** there is a named individual on the application; or
- b) The applicant has not reached the upper limit of compulsory school age; or

- c) The trader wishes to trade in a street which is not a designated street; or
- d) The trader wishes to trade in or supply something that would be contrary to the terms of a designating resolution made in relation to the street in which the applicant wishes to trade.

6.6 Other reasons why the Council **may** refuse to grant a Stationary Trading Licence are:

- a) The location in a designated street in which the applicant wishes to trade is unsuitable;
- b) The space in the designated street in which the applicant wishes to trade is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street.
- c) There are sufficient traders trading in the street/ area, or at premises adjoining it, in the articles, things or services that the trader proposes to offer;
- d) The nature of the articles, things or services that are proposed to be offered is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area. Such factors would include, for example, the production of unwanted noise, odours and litter.
- e) The applicant has, in connection with the application, made a statement or provided information that he knows to be false in a material particular;
- f) The applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Stationary Trader's Licence. A record of complaints made relating to each individual trader will be kept. Any breach of licence conditions will also be recorded along with details of any verbal/ written warnings issued. Fixed Penalty notices issued and any conviction for an offence under the Act.
- g) The applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous Licence. However, in this case the licence may be granted subject to

conditions which permit the applicant to trade on fewer days, or during a shorter period in each day than is specified in the application. An alternative designated street may be offered as a further proviso.

- h) The applicant has failed to provide the particulars required by the Council to deal with the application;
  - i) The applicant has failed to provide or identify suitable or adequate arrangements for the storage of, (both during and after the cessation of trading,) articles, things or receptacles with which he proposes to trade.
- 6.7 If the Council decides to refuse to grant a licence on any of the grounds listed in 6.6 above it is obliged, by virtue of Section 12 of the Act, to give advance notice of its intention to do so. The Council will invite representations to be made before a final decision is reached.
- 6.8 Notification of the Council's intention to refuse a licence will be made in writing to the applicant.
- 6.9 The notification will state:
- a) **all** the grounds on which the proposed refusal is based; and
  - b) the rights of the person affected to make representations on the proposed course of action. This information will include the period during which representations should be made. This period will be at least 21 days from the date of the notice.
- 6.10 The Council will not refuse to grant the licence until the period for making representations has expired.
- 6.11 The Council will consider all representations made to it within this time period before reaching a final decision. If called upon to do so, the Council will confirm that all representations were fully considered and indicate the results of those considerations. The Council may, if it so decides, consider representations made outside the relevant period **but it is not bound to do so**.
- 6.12 The Council will write to the person affected by its final decision. This notice will set out every ground on which the final decision is based. It will also set out the rights of appeal against that decision.

- 6.13 Each Stationary Traders Licence will be valid for a period of one year.
- 6.14 A Stationary Traders Licence may authorise the holder to :
- a) trade at such places and in such a manner as appears appropriate to the Council; and
  - b) to sell such articles or things, or supply such services as the Council may specify.
- 6.15 A Stationary Traders Licence shall be subject to such conditions as the Council may specify in the licence.
- 6.16 Enforcement of traders operating under such a licence will be accordance with the Council's Enforcement Policy.

## **7 COMPETING APPLICATIONS**

- 7.1 In the event that there are two or more applications for the grant of a licence in a designated site, the applicants will be invited to address the appropriate committee of the Council by making a short presentation which may be followed by questions from the committee members.
- 7.2 The presentation should include such matters as how the business will be operated, the design of the stall/ vehicle, how the commodity which is proposed to be sold will add to the area etc. Where appropriate the applicant may also address any concerns or objections to their proposal.
- 7.3 In determining an application under this paragraph the Council may take into account any consideration which it deems appropriate and will take into account the discretionary grounds for refusal already mentioned in paragraph 6.6.
- 7.4 Without prejudice to the above, the Council may also take the following into account:
- a) The suitability of the application in the context of the area or street;
  - b) The suitability of allowing more than one application in the area or street;

- c) The commodities or services which each applicant intends to sell or supply;
- d) The merits of each application in the context of the character and appearance of the proposed area;
- e) Any potential adverse impact caused to the character and appearance of the proposed location by the application, trader or by a number of traders;
- f) The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.

## **8 APPEALS AGAINST DECISIONS**

- 8.1 An applicant for Stationary Trader's Licence who has been refused a licence, or whose licence is subject to conditions of which he is aggrieved has the right to appeal the Council's decision.
- 8.2 The process of lodging an appeal should be made in accordance with Section 13 of the Act.

Policy amended and approved by Council 4<sup>th</sup> July 2011