

# **Isle of Wight Council**

## **Interim Statement of Licensing Policy**

### **(Street Trading Consents)**

**JULY 2008**

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## Section 1 Introduction

- 1.1. This document sets out the Isle of Wight Council's policy in respect of its licensing functions for street trading in the Isle of Wight.
- 1.2. This Policy will be applied to street trading activities in the Isle of Wight to ensure consistency in decision making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.
- 1.3. The purpose of licensing is to regulate the carrying on of street trading in the Isle of Wight. There are a number of exceptions and details of these are set out in Paragraph 1(2) of Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982 (The Act).
- 1.4. Street trading covers:
  - Markets
  - Mobile Traders
  - Static Traders
- 1.5. This policy does not apply to any "licence" streets for the time being in place.
- 1.6. On 20 April 2004, Isle of Wight Council designated all current and future streets, council car parks, recreation grounds and open spaces along with all public parks, gardens, amenity areas, sports areas, play areas and parking bays adopted by the council in the Isle of Wight as consent streets with effect from 28 May 2004.
- 1.7. Any person selling or exposing or offering for sale any article (including a living thing) in any street shall require a street trading consent issued by Isle of Wight Council.
- 1.8. The Council recognises that street trading may provide an important part in the cultural life of our community. In regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 1.9. The Council also recognises that street trading may play a vital part in the cultural identity of the Island and contributes to local economy. It attracts tourists and visitors and can make for vibrant towns and communities, while at the same time providing employment.

- 1.10. The Licensing functions under Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982 will be discharged by the Licensing (Determinations) Sub-Committee and Officers acting under delegated authority.

## Section 2 Definitions of terms

- 2.1 Within the terms of the Isle of Wight Council's Street Trading Consent the following definitions apply:

- |    |                              |  |
|----|------------------------------|--|
| 1  | <b>Authorised Officer</b>    | An officer employed by the Isle of Wight Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.                             |
| 2  | <b>Consent</b>               | An authorisation to trade on a street given by the Isle of Wight Council.  |
| 3  | <b>Consent Holder</b>        | The person or company to whom the consent to trade has been granted by the Isle of Wight Council.  |
| 4  | <b>The Council:</b>          | The Isle of Wight Council.   |
| 5  | <b>Market</b>                | An outdoor space where three or more stalls are situated together for the purpose of allowing people to sell goods; offer goods or expose goods for sale   |
| 6  | <b>Mobile Trader:</b>        | A trader who moves from street to street but trades for less than 60 minutes at any one point and does not return to a similar trading position within 2 hours.  |
| 7  | <b>Static Street Trader:</b> | A trader granted permission by the Isle of Wight Council to trade from a specified position.   |
| 8  | <b>Street</b>                | Any road, footway, beach or other area to which the public have access without payment   |
| 9  | <b>Street Trading:</b>       | The selling or exposing or offering for sale of any article (including a living thing) in any street or service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street. |
| 10 | <b>Renewal</b>               | An application will be taken as renewal only if consent exists and the application is received before the expiry of the existing consent.  |

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## **Section 3      Approach to Licensing Applications**

- 3.1 Each application will be determined on its individual merits. The Licensing Authority will have regard to this policy and Schedule 4 to part III of the Local Government (Miscellaneous Provisions) Act 1982 when determining a street trading consent.
- 3.2 Nothing in this Licensing Policy will:
- Undermine the rights of any person to apply under the 1982 Act for a street trading consent and have the application considered on its individual merits.
  - Override the right of any person to make representations on any application.
- 3.3 If an application for a street trading consent is approved it will be granted subject to the Council's standard conditions as may exist from time to time. Additional conditions may be tailored to the individual characteristics of the consent and area. Disproportionate and over burdensome conditions on consents will not be imposed however, the licensing authority may draw upon a pool of conditions from which necessary and proportionate conditions may be attached in particular circumstances.
- 3.4 If valid representations are received by the licensing authority in response to an application the matter may be decided by the LSC in accordance with paragraph 10 of this policy.

## **Section 4      The Application**

- 4.1 Application for a street trading consent is to be made in writing or electronically to the Isle of Wight Council and addressed to:

Isle of Wight Council  
Environmental Health  
Licensing Section  
Jubilee Stores  
The Quay  
Newport  
Isle of Wight  
PO30 2EH

Email: [licensing@iow.gov.uk](mailto:licensing@iow.gov.uk)

Fax: (01983)823158

Web: <http://www.iwight.com/council/departments/licensing/>

- 4.2 The application must be:

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- Made in writing.
  - Made on the correct application form as prescribed by the Head of Consumer Protection
  - Accompanied by a deposit of 25% of the full fee.
  - Accompanied by the necessary documents as shown in paragraph 4.8 below
  - In respect of a new application for a street trading consent the applicant must advertise the application by publishing a notice in a local newspaper, a local newsletter, circular or similar document circulating in the vicinity of the premises. The notice shall be published on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the Council.
  - A correctly completed application for a new street trading consent should (apart from in exceptional circumstances to be determined by the Licensing Authority) be received at least 42 days before the proposed start date of the street trading consent. This period will allow for a full consultation of 21 days to be conducted and if necessary, for the application to be determined by the LSC within 21 days.

4.3 A street trading consent application will not be considered until at least 25% of the total fee has been paid.

4.4 If the application fee is paid by cheque, the fee shall not be deemed to have been paid until the funds have cleared.

4.5 An incomplete or incorrectly completed application may be rejected and returned to the applicant

4.6 An application received after the renewal date will be considered as a new application and not a renewal

4.7 Fees shall be determined under delegated authority by the Head of Consumer Protection and in accordance with the legislation.

4.8 Documents

### **Static Traders**

- Where the proposed street trading is from a fixed position the applicant must submit a map of the proposed site.
- The map must clearly identify the position of the proposed site by marking the boundary with a red line.
- The map must be to the scale of 1:1000 unless an alternative scale has been agreed in writing by the licensing authority.
- If a map is not supplied an inspection of the site may be carried out by the highways authority the cost of which shall be paid by the applicant.
- An original certificate of insurance that covers the street trading activity for third party and public liability risks

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## Mobile Traders

- Three colour photographs of the vehicle, stall, barrow cart etc that will be used for the proposed street trading activity showing the front, rear and side view.
- A written list of proposed locations to include road names and locations where the applicant proposes to trade.
- An original certificate of insurance that covers the street trading activity for third party and public liability risks.

## Markets

- The applicant must submit a map of the proposed site.
- The map must clearly identify the position of the proposed site by marking the boundary with a red line.
- The map must be to the scale of 1:1000 unless an alternative scale has been agreed in writing by the licensing authority.
- If a map is not supplied an inspection of the site may be carried out by the highways authority the cost of which shall be paid by the applicant.
- An original certificate of insurance that covers the street trading activity for third party and public liability risks
- Three colour photographs of the market stall that will be used for the proposed street trading activity showing the front, rear and side view.

## Section 5 Inspection of Street Trading Unit

- 5.1 The proposed vehicle, trailer, stall or other device shall be inspected by an authorised officer prior to the grant of a street trading consent. It shall be presented to an authorised officer on request for the purpose of being inspected to determine the suitability of the vehicle.

## Section 6 Consultation – New Applications

- 6.1 Before a new Street Trading Consent is granted the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons shall be consulted.
- Isle of Wight Council (Highways Authority)
  - Isle of Wight Council Environmental Health
  - Hampshire Constabulary
  - Isle of Wight Fire & Rescue Service
  - The Isle of Wight Councillor who is the ward member for the proposed area or location
  - The appropriate Parish or Town Council (Unless it is the applicant).

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- 6.2 The consultation period will last for a period of 21 days starting the day following receipt of a valid application for a street trading consent and Consultees will be given 21 days in which to make comments..
- 6.3 The applicant must advertise the notice in accordance with paragraph 4.2 above.
- 6.4 Written observations from the above consultees in section 6.1 will be sought and taken into consideration when determining an application.
- 6.5 Written observations may also be invited from residents and those persons with a business interest in the area of the proposed application.

## **Section 7 Consultation – Renewal Applications**

- 7.1 Before a Street Trading Consent is renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons shall be consulted.
- o Isle of Wight Council Highways Department
  - o Isle of Wight Council Environmental Health Department
  - o Hampshire Constabulary
  - o Isle of Wight Fire & Rescue Service
  - o The Isle of Wight Councillor who is the ward member for the proposed area or location
  - o The appropriate Parish or Town Council (unless it is the applicant)
- 7.2 Written observations from the above consultees in paragraph 7.1 above will be sought and taken into consideration when determining an application.
- 7.3 The purpose of the consultation is to determine whether there has been any significant change in circumstances since the grant of the previous street trading consent.

## **Section 8 Representations to an Application**

- 8.1 Interested parties may make representations to the licensing authority in writing on any application for grant, variation or for the renewal of a street trading consent. Interested parties are defined as:
- o A person living in the vicinity of the premises in question
  - o A body representing persons living in the vicinity of the premises in question
  - o A person involved in a business in the vicinity of the premises
  - o A body representing persons involved in such a business in the vicinity of the premises



- 8.2 A representation will not be relevant if it is considered by the licensing authority to be frivolous, vexatious or repetitive or unrelated to the application.
- 8.3 If a relevant representation is received authorised officers of the Licensing Section will make efforts to consult with the applicant and the person or body making the representation in an attempt to resolve any issues informally. Where agreement cannot be made a hearing will be held unless authorised officers make the decision that the representation is repetitive or is vexatious or frivolous.
- 8.4 LSC and authorised officers having had regard to any relevant representations received during the course of the consultation, will assess the impact of the application on the following in determining a street trading consent application:
- Public Safety
  - Crime and Disorder
  - Nuisance

## **Section 9 Determination of the application**

- 9.1 Attendance at the Licensing (Determinations) Sub-Committee will not always be necessary when determining the grant or renewal of a street trading consent.
- 9.2 In the absence of a relevant representation, or if a representation is deemed to be frivolous, vexatious or repetitive, a street trading consent may be granted, under delegated authority, by an authorised officer.
- 9.3 If a relevant representation is received and it can not be resolved through negotiation as outlined in paragraph 8.3 above the application will be determined by the Licensing (Determinations) Sub-Committee.

## **Section 10 Licensing (Determinations) Sub-Committee Hearings**

- 10.1 The LSC will determine contested applications for street trading consents.
- 10.2 Once arrangements have been made for the application to be heard by the LSC, the Council will notify the applicant and any person who has made a representation of the date, time and place of the hearing. The notice will be given in writing.
- 10.3 The applicant is expected to attend the hearing to assist the LSC in determining the application.
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- 10.4 The applicant may be represented by an advocate.
- 10.5 The LSC will follow a set procedure for the hearing which will be notified to all parties to the hearing within 5 working days of the meeting at which the application is to be considered.
- 10.6 LSC and authorised officers having had regard to any relevant representations received during the course of the consultation, will assess the impact of the application on the following in determining a street trading consent application:
- Public Safety
  - Crime and Disorder
  - Nuisance

## **Section 11 Granting The Application**

- 11.1 On approving an application the licensing authority may issue a street trading consent. The consent may also contain specific conditions that the licensing authority deems reasonable and necessary.
- 11.2 All street trading consents shall be granted subject to the terms, plans and details contained in the application.
- 11.3 A Street Trading Consent may be issued for a period of up to 12 months.
- 11.4 Shorter term consents may be issued on a daily, weekly or monthly basis.
- 11.5 A street trading consent will expire on the date specified on the consent unless renewed prior to the expiry date.
- 11.6 A street trading consent will not be granted until the fee has been paid in full or unless agreement in writing has been obtained from the Council which contains details of payments of the fee by instalments. Payments by instalments will only apply to markets.

## **Section 12 Decisions**

- 12.1 The reasons for any decision(s) taken by the licensing authority in respect of an application for a street trading consent will be provided in writing to all parties to the proceedings within 7 days of the decision.
- 12.2 Decisions will have regard to the local authorities' street trading policy and the Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982.

## **Section 13 Appeals**

- 13.1 The Local Government (Miscellaneous Provisions) Act 1982 does not provide a right of appeal against decisions made by the Licensing Authority in granting or refusing a street trading consent.

## **Section 14 Enforcement**

- 14.1 Any enforcement action instigated by the Licensing Authority will be in accordance with the current Environmental Health Enforcement Policy

## **Section 15 Data Protection, Freedom of Information and Data Matching**

- 15.1 The Isle of Wight Council (“the Council”) is the Data Controller of all personal information held by the licensing authority. The Council will process and hold that information in accordance with principles of the Data Protection Act 1998.
- 15.2 The information supplied and held may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004. Any person that believes their information should not be disclosed should notify the Council of the reasons for such belief at the time the information is submitted.
- 15.3 The information supplied may be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations’ data for the prevention and detection of fraud.

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**Arabic**

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