

LICENSING AND SAFETY COMMITTEE

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STREET TRADING CONSENT IN THE VICINITY OF SCHOOLS

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Summary

This paper provides a summary of actions available in relation to the reported sale of ice cream in the vicinity of schools. The paper arises from complaints received by Public Health staff from head teachers concerning the siting of mobile ice cream vendors close to school premises at the end of the school day. Medway Council communications team have also been contacted by the Medway Messenger in May 2015, following an ice cream van being permitted to trade on school grounds straight after school. This was permitted by the school to avoid the potential of a child being hit by a car, as the van was originally placed on the opposite side of the road, when the school day ended. The news story was also reported in The Sun national newspaper.

The committee is being asked to endorse the development of a draft street trading policy, as adopted in other local areas.

1. Budget and Policy Framework

- 1.1 The following request is not expected to have any budgetary implications.
- 1.2 The Health and Social Care Act 2012 gives upper tier authorities responsibility for improving the health of the population. Taking action to make the environment less obesogenic as proposed in this paper is consistent with this duty.
- 1.3 The committee is being asked to endorse the development of a draft policy that would then be returned to the committee prior to consideration by Council for approval and adoption.

2. Background

- 2.1 Under the Local Government (Miscellaneous Provisions) Act 1982 anyone selling or exposing or offering for sale any article (including a living thing) in a

street within Medway needs a street trading consent. A street for these purposes includes any road, footway, beach or other area to which the public has access without payment, including highway service areas.

2.2 Medway Council has designated two types of street:

- a prohibited street, where no street trading is allowed;
- a consent street, where no street trading is allowed without consent.

2.3 All streets in Medway that have not been designated as prohibited streets are consent streets, although specific consent is needed for trading in Chatham, Rochester and Gillingham High Streets.

2.4 While Medway Council has designated the above two types of streets under the relevant legislation there is currently no policy concerning the granting of street trading consents.

3. Options

3.1 No change from the current list of prohibited streets, with all other roads requiring street trading consent, including those in the vicinity of schools. Specific consents required for Chatham, Rochester and Gillingham High Streets.

3.2 Agree a street trading policy addressing the issuing of street trading consents for mobile food trading in the vicinity of schools either by way of exclusion zones surrounding schools or by way of prohibiting streets.

3.3 Increase the list of prohibited streets to include those in the vicinity of schools but not within a street trading policy.

4. Advice and analysis

4.1 Medway Council has a commitment to reducing childhood obesity and improving dental health. This is accomplished in part, by supporting both schools and parents to promote healthy eating with their children. The siting of mobile food vendors, whether this is for the sale of hot food, ice cream, sweets and soft drinks, in the immediate vicinity of schools during term time, undermines the above aim. Medway School Contracts team, Public Health team, individual schools and the school catering contractors are currently working in partnership to embed the national school food plan and improve the nutritional intake and for children via a whole school approach.

4.2 The most recent published National Child Measurement Programme data was released in December 2014, with 9% of 4-5 year olds and 17.4% of 10-11 year olds classified as obese in 2013/14.

4.3 In an effort to establish appropriate healthy eating habits and reduce the rate of childhood obesity in the local population Medway Council addressed the provision of unhealthy food in the vicinity of schools by issuing planning guidance - 'A Guidance Note: Hot Food Takeaways in Medway' in July 2014, which restricted the hours of operation of hot food takeaways within 400m of schools. This distance is equivalent to a five-minute walk and it is widely used across the country.

- 4.4 The provision of a Street Trading Consent Policy controlling the siting of mobile food vendors in the vicinity of schools during term time would address the concerns of schools and parents and positively support them in helping to reduce obesity in children.
- 4.5 Schools have highlighted the road safety concerns of having ice cream vans parked near to schools. There have been reported instances of children running across roads in order to reach the ice cream van.
- 4.6 Currently there is no policy for street trading consents. There is a list of prohibited streets listed on Medway Council website, with all others being consent streets, except for the High Streets of Chatham, Rochester and Gillingham, where specific consent is required. Additional roads could be added to the list of prohibited streets covering all those in the vicinity of schools without making a policy document.
- 4.7 A number of local authorities have introduced policy restricting where and when mobile food traders can sell their products in the vicinity of schools. This has been achieved in one of two ways. Either by including in a Street Trading policy an 'exclusion zone' around schools during term time, or by designating the roads around schools as prohibited, thereby stopping mobile trading at all times. Examples of Street Trading Policy with this restriction are
- Sheffield City Council
 - Leicester City Council
 - East Riding of Yorkshire
 - Salford City Council
 - Warrington Borough Council
- 4.8 A policy restricting the siting of mobile food traders by way of an 'exclusion zone' of 800m around schools between 1200 hours and 1600 hours on any school day would mirror the planning Guidance Note referenced above and stop the sale of unhealthy food from mobile food outlets in the vicinity of schools during lunch times and at the end of school. Wording a policy in this way would also reduce any adverse effect on traders as the restriction would be removed outside of school term time, allowing for trading in these areas during school holidays.
- 4.9 A policy which designates the roads around schools as 'prohibited' will stop all trading for which a street trading consent is required at all times. A policy formed in this way will have to be revisited regularly if and when new schools are built or opened, such as Free Schools. It will also include any trading covered by street trading consent as well as hot or cold food.

5. Risk management

| Risk | Description | Action to avoid or mitigate risk | Risk rating |
|---|--|---|--------------------|
| Failure to adopt a Street Trading Consent Policy | Vendors continue to use areas outside schools placing children's safety at risk as well as reputational damage to the council through undermining of Public Health and school initiatives. | Production of Street Trading Consent Policy. Dialogue with school to encourage reporting of vendors breaching the policy. | C2 |
| Formal challenge to moving on of vendors without Street Trading Consent Policy in place | Requests to move on vendors or remove their license as they are deemed to be causing a nuisance in contravention of their license could be challenged as it is not supported by an appropriate policy. | Street Trading Consent Policy is communicated to new and existing street trading license holders. | C3 |

6. Financial implications

6.1 The following request at its draft stage is not expected to have any budgetary implications.

7. Legal implications

7.1 Medway Council legal team and licensing team will be fully consulted during the development of a draft policy.

8. Recommendations

8.1 The committee is asked to endorse the development of a clear street trading policy for approval by Council in due course.

Lead officer contact

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Appendices

None

Background papers

Hot Food Takeaways – A Guidance Note July 2014

[http://www.medway.gov.uk/pdf/Hot%20Food%20Takeaways%20in%20Medway%20-%20A%20Guidance%20Note%20\(2\).pdf](http://www.medway.gov.uk/pdf/Hot%20Food%20Takeaways%20in%20Medway%20-%20A%20Guidance%20Note%20(2).pdf)

Salford City Council Street Trading Policy

https://www.salford.gov.uk/d/Street_Trading_Policy_2012.pdf

Leicester City Council Street Trading Policy

http://www.leicester.gov.uk/media/179171/street_trading_policy_code_of_practice_april_2014.pdf

Sheffield City Council Street Trading Policy

<https://www.sheffield.gov.uk/business-economy/licensing/general-licensing/retail/street-trading.html>

Warrington Borough Council Street Trading Policy

http://www.warrington.gov.uk/info/200146/licensing/348/street_trading_licence

East Riding of Yorkshire Council

<http://www2.eastriding.gov.uk/business/licences-and-registrations/available-licences/commercial-trading/street-traders/>