

Wards Affected:

All wards

ITEM 9

REGULATORY COMMITTEE

12 DECEMBER 2018

AMENDMENTS TO MILTON KEYNES COUNCIL STREET TRADING POLICY

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Executive Summary:

This report proposes minor amendments to the Milton Keynes Street Trading Policy and to consult on a major change to the policy regarding a trading exclusion distance from schools in MK.

1. Recommendation

- 1.1 That the Regulatory Committee recommend to Cabinet that the proposed minor amendments to the Street Trading Policy be adopted, (draft policy at **Annex A**), following and in conjunction with the outcome of the consultation detailed in 1.2.
- 1.2 That the Regulatory Committee endorse a draft resolution to prohibit street trading involving sale of food within 250 metres of any school's entrances and/or exits, during main school hours and 30 minutes after normal school closing time. Officers are to then undertake a consultation and the required public notices. Main school hours will mean the normal opening times for any particular school, whilst the students are being educated and includes lunch breaks. This is in relation to healthy eating concerns linked to childhood obesity issues. The results of the consultation will be reported to a future Regulatory Committee for consideration of implementation borough wide.

2. Issues

- 2.1 The street trading policy states that it is to be reviewed every 3 years, but a review could be triggered at any time by a change in legislation or other relevant factors. The Policy can be changed without going out to consultation when introducing minor changes. The policy was last reviewed in July 2018, since then a number of minor issues have been identified requiring clarification. These are as follows:
 - (a) Statement regarding the Immigration Act added at 11.2 of policy.
 - (b) Transfers section 17 to be amended as follows:
 - Amend 17.1 of policy from a 14 day to 28 day consultation period to provide Thames Valley Police more time to run background checks.
 - Amend 17.2 (a) to state completed application form, not a signed letter from the original consent holder, because a declaration by the original trader is available on the application form.

- Amend 17.2 (e) to provide photos only if the food mobile is being changed.
 - Add 17.3 to enable applications for an existing street trading consent to be updated with a new vehicle or food mobile.
- (c) Section 20.5 regarding refunds amended; deleted part where 50% refund of fee is available when an application is withdrawn; this is because of the Hemmings case and added that a refund is payable on refusal of an application, this is due to internal legal advice.
- (d) Added 22.5 to Conditions and Enforcement section of the policy, to state that failure to comply with a street trading consent authorisation and conditions could trigger a review at regulatory sub committee, which may lead to sanctions or revocation of a permit.
- (e) Complaints section 23.1 of policy expanded to clarify that a review can be triggered at any time, following substantiated complaints or any other reasonable grounds.
- (f) Roundsman definition expanded, added at 24.3 (g) of policy.
- (g) Amended section 24.5 of the policy to provide further details on what constitutes a market operated by a Milton Keynes business or Association.
- (h) Table top and garage yard sales to not normally be considered as street trading. Added at 24.6 of policy.
- (i) Premises, such as cafes, that have a tables and chairs licence are to be exempted from street trading controls. Added at section 24.7 of policy.
- (j) Appendix C (2) of policy to include that a review of a street trading consent could be triggered at any time.
- 2.2 Following recent Street Trading consent new and renewal applications, some Councillors and also the Public Health team have requested a borough wide ban of ice cream vans operating near schools. An informal consultation with all Councillors and Parish Councils was initiated (see **Annex B**).
- 2.3 11 responded, all in support of the notion, namely; Cllr Morris, Cllr Nolan, West Bletchley Council, Shenley Church End Parish Council, Woughton Community Council, Loughton and Great Holm Parish Council, Wolverton and Greenleys Town Council, Newport Pagnell Town Council, Stony Stratford Town Council, Campbell Park Parish Council, Broughton and Milton Keynes Parish Council.
- 2.4 A formal wider consultation process should therefore be initiated to determine whether the trading exclusion distance from schools shall become an adopted policy of MKC or not. The consultation shall include a public notice, correspondence to existing consent permit holders, stakeholders, internal and external departments and agencies; i.e. Thames Valley Police, Highways, Parks Trust, Estates, Public Health, Parish/Town Councils, Environmental Health, Food Safety, Ward Councillors, Trading Standards plus any other consultee that officers consider appropriate.

3. Options

- (a) Members should approve the changes to the Policy as detailed in **Annex A** and refer to cabinet for adoption following the results of the consultation, so the policy can be referred to cabinet for adoption on one occasion.
- (b) Require further alterations for consideration at a future Regulatory Committee meeting.
- (c) Members to consider a draft resolution and subsequent consultation on a trading exclusion distance from schools.

4. Implications

4.1 Policy

The Committee can determine the local street trading arrangements as they see fit.

4.2 Implementation

Any amendment to the Policy made by the Regulatory Committee and ratified by Cabinet will be publicised on the Council's website at least 28 days prior to commencement, unless a later date is specified.

4.3 Resources and Risk

The costs associated with the administrative and publicity of these proposals will be taken from the Licensing revenue budget where sufficient funds are available.

The total fees in relation to the Public Notice requirements would incur a cost to the council of approximately £1200.

N	Capital	N	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

4.4 Carbon and Energy Management

The trader is required to incorporate recyclables and energy efficient processes as part of their trading routine in order to reduce potential environmental impact.

4.5 Legal

- (a) The Policy should require endorsement from members.
- (b) The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 – Street Trading, sets out the administrative arrangements for the designation of highways, streets, forecourts, etc. as 'Prohibited' and 'Consent' Streets.
- (c) In relation to the trading exclusion distance from schools, a draft resolution will be sent out for consultation to Parish and Town Councils, Ward Members, street trading consent holders and the general public via a Public Notice in the local newspaper. The matter will be brought back to the Regulatory Committee for confirmation with or without

amendment depending on responses received. A further Public Notice will then be placed for 2 consecutive weeks, detailing the confirmed resolution of the committee with arrangements being effective from that date.

4.6 Other Implications

None

N	Equalities/Diversity	N	Sustainability	N	Human Rights
N	E-Government	N	Stakeholders	N	Crime and Disorder

Background Papers:

Milton Keynes Council Street Trading Policy 2018 – 2021

<https://www.milton-keynes.gov.uk/environmental-health-and-trading-standards/licensing/food/milton-keynes-council-street-trading>