

Things Local Authority officers want to know about Street Trading (outside of London)

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#NTC2022

What is street trading?

“street trading” means, the selling or exposing or offering for sale of any article (including a living thing) in a street

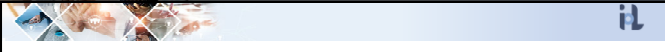
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What is not street trading?

- Pedlars (always on the move)
- a market trader running as part of a consented market
- news vendors (conditions apply)
- trading which—
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- roundsman

Cont.....

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What is not street trading?

Doing anything authorised by street collection permit

Conducting a collection authorised under Charities Act 2006 (or if it is an activity that is an exempt collection under S50)

There are some exemptions to street trading listed under Part VIIA of the Highway Act 1980







Some people might not want it

Some may complain that street traders do not pay rates
 Street trading can be used to increase footfall in an area
 It can drive down ASB by increasing presence of people
 It can increase vibrance and add character
 Provides cost achievable start ups for local people
 Allows existing businesses to expand and diversify

Some may say complain that they do not want similar offerings near by
 Consumers have a right to choice (this is legislated) (although you would not wish to proliferate)
 Competition may encourage higher standards




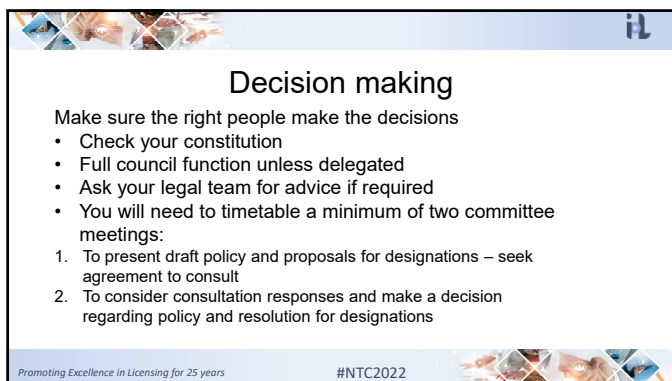


Where to start

You will need to look at:
 Street Trading Designations
 Policy
 (Both need to align)

The statute: LGMPA 82
 plus overlapping considerations such as pavement licensing (BPA), alcohol licensing (LA03), planning





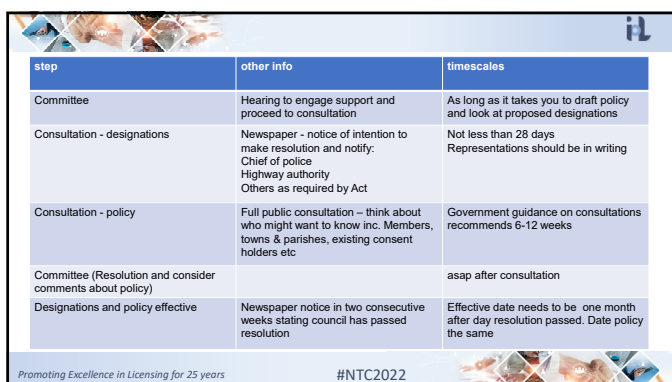
Decision making

Make sure the right people make the decisions

- Check your constitution
- Full council function unless delegated
- Ask your legal team for advice if required
- You will need to timetable a minimum of two committee meetings:

1. To present draft policy and proposals for designations – seek agreement to consult
2. To consider consultation responses and make a decision regarding policy and resolution for designations

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step	other info	timescales
Committee	Hearing to engage support and proceed to consultation	As long as it takes you to draft policy and look at proposed designations
Consultation - designations	Newspaper - notice of intention to make resolution and notify: Chief of police Highway authority Others as required by Act	Not less than 28 days Representations should be in writing
Consultation - policy	Full public consultation – think about who might want to know inc. Members, towns & parishes, existing consent holders etc	Government guidance on consultations recommends 6-12 weeks
Committee (Resolution and consider comments about policy)		asap after consultation
Designations and policy effective	Newspaper notice in two consecutive weeks stating council has passed resolution	Effective date needs to be one month after day resolution passed. Date policy the same

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Designations

A council can designate a street within their area as a:

1. prohibited street (you may wish to prohibit where you NEVER wish trading to take place)
2. licence street
3. consent street (no right of appeal)

or it can decide not to designate (and have no controls)

If other departments are already controlling council land, do you need to designate it?

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Designations

You can pass a resolution to make or vary them
 Schedule 4, Street Trading, of Section 3 of the Local Government (Miscellaneous Provisions) Act 1982

You will need to decide everywhere that you wish for street trading to take place or not take place. If you don't designate, you have no control. You can deal with saturation issues via policy

You might wish to consider future proofing your plans if you have a lot of construction in your area – you can do this by designating everywhere except for specified areas

Consider council owned car parks as well as greenspace and other areas

If a district council pass such a resolution, the designation of the street shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

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Designations – steps to take

- Check your constitution to ensure your paper goes to the right decision maker
- Ask them to agree to publish a notice of intention to pass a resolution in a local newspaper in the area
- serve copy of the notice on the chief officer of police for the area of the street to be designated
- serve a copy of the notice on the highway authority responsible for the street
- Serve a copy of the notice on any landowner etc *
- Keep copies of everything on file (inc. newspaper ads) in case it is required in the future

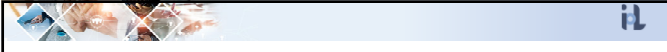
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Designations – steps to take

- * Where the street is owned by or maintained by a relevant corporation - British Railways Board, England, the Homes and Communities Agency or anything transferred to it, a Mayoral development corporation, a development corporation for a new town and an urban development corporation established under the Local Government, Planning and Land Act 1980, or the highway authority you need to have their consent
- After this period of consultation, as soon as practicable, the council may think it fit to *pass the resolution*
- You are then required to publish a notice in two consecutive weeks in a local newspaper circulating in the area stating the Council has passed the resolution
- The first publication shall not be later than 28 days before the date specified for the designation coming into force


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Committee paper – number one!

- Your paper
- Proposed Designations (you could present this as the draft newspaper ad)
- Maps (if it assists Members to understand your proposals)
- Draft policy
- Fee structure
- EIA

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Committee paper – number two!

- Your paper
- Consultation responses x2
- Draft policy (amended as appropriate)
- Newspaper ads x2
- Fee structure
- EIA

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What to consider in policy

What are your principles?

- Public safety
- Nuisance (noise, odour, obstruction)
- Appearance (of stalls/units and vicinity)
- Location/proliferation
- Environmental sustainability
- Contribution – does it add something or just duplicate what is already there?

Do you wish to identify any areas as particularly suitable for street trading?

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Relationship to overlapping considerations

Consider the relationship with tables and chairs licensing and cross reference in your policy (Business and Planning Act 2020).

Will you allow sale of alcohol anywhere and do you need to address any matters in policy (maybe places where this would be prohibited) (Licensing Act 2003)

Are there any planning considerations?

Anything else?



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Types of permission

Licence or Consent?

- Individuals or 'markets'
- Annual or periodic or time limited
- Permission for type of trading such as food for instance (suggest minimum FHR)
- Do you want charitable and community offerings to be afforded concessionary rates
- Think of times and days of trading as seasonal considerations
- You can make it to suit what works best for your area



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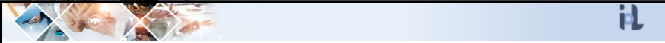


Applications

- What will your application process look like
- Are you going to advertise pitches or just wait for enquiries
- Do you want particular types of trading
- What information do you want with an application
- How long will apps take to process
- How will you decide yes or no
- What if more than one app for the same area, how will you choose
- Don't forget renewals process




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Other things to consider in policy

- Transition for any existing arrangements including accommodating long term consent holders that would not gain consent under new policy arrangements
- Enforcement strategy – and who will do what (decisions)
- Information sharing/ privacy notices/ GDPR
- Safeguarding
- Standard conditions
- Design briefs for units and stalls – how big, what should they look like
- Sustainability
- Safeguarding policy

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Restricted goods

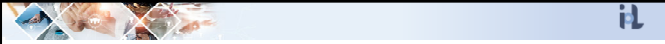
- This makes an essential list to avoid issues including age restricted products, but ensure applicants can apply for an exemption if required

Examples

- Bladed articles and offensive weapons, corrosive products, tobacco and related products, vape, sex articles, items associated with drug use or perceived to be so, single use plastics, real fur items, plastic bags that are not compostable etc..

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Questions?

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