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**Street Trading Policy**

“Allerdale – a great place to live, work and visit”



**Contents**

**1.** **Purpose of the policy**

**2.** **Consultation**

**3.** **Review of the policy**

**4. Legislation and current provision**

**5. The licensing process and delegation of functions**

**6.** **Provisions for granting street trading consent applications**

**7. Markets**

**8. Special events**

**9. Fees**

**10. Conditions**

**11. Offences**

**12. Enforcement**

**13. Contacts**

**14. Equality, Diversity and Equal Opportunities**

**Glossary**

**Annex 1**

Street Trading – Consent Streets

**Annex 2**

Street Trading – Prohibited Streets

**Annex 3**

General conditions for Street Trading Consents

**1 Purpose of the Policy**

This policy sets out Allerdale Borough Council’s (hereafter referred to as the Council) framework for the management of street trading in the borough of Allerdale. Through the street trading scheme, the Council aims to regulate the location and number of street traders. The scheme also aims to prevent the obstruction of the streets of Allerdale by street trading activities. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.

This document will guide the Council as the Licensing Authority when it considers applications for Street Trading Consents. It will inform applicants of the parameters in which the Council will make decisions and how their needs will be addressed.

It also highlights the Council’s undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

The aim of the policy is to ensure that we deal with applications, licences, consents and prohibitions in a consistent, fair and proportionate way, and that we will consider each application on its own merits. Subject to this policy, we will have regard to the individual circumstances of particular cases as is necessary for the proper exercise of our functions.

We recognise the valuable contribution that street trading can make to communities, culture and the local economy. We also understand the service that street traders can provide to residents of Allerdale, some of whom are unable to travel to centralised shopping centres and districts. Street trading can also provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.

We do however recognise that problems may arise in situations where individual vendors do not pay proper regard to their location and street trading can create undesirable and unnecessary situations such as obstructions in the street, thereby compromising the safety of pedestrians. Furthermore, certain types of trading in the street may not complement the character of the surroundings.

Uncontrolled street trading activities can also result in unnecessary littering, unreasonable disturbance and nuisance to persons in the vicinity, and can have a detrimental effect on the amenity of town centres and other neighbourhoods. Excessive numbers of street traders in particular areas can also lead to elevated risks to public safety, in particular in relation to traffic and parking.

It is our intention that the application of this policy, together with the proper application of street trading laws in a consistent, fair and proportionate way, will benefit the people who live, work and visit areas of Allerdale.

We will monitor and periodically review this policy and we will apply it in a manner, which is consistent with other Council policies.

The purpose of this policy is to help to create and maintain a commercial setting in Allerdale that:

* complements trading from fixed premises
* supports the provision of business diversity and consumer choice; and
* is sensitive to the needs of both local residents and visitors alike.

The objectives of this street trading policy are as follows:

* To help protect public health and safety.
* To help safeguard public places that may be adversely affected by undesirable or uncontrolled street trading activities.
* To help prevent unreasonable disturbance and public nuisance resulting from street trading activities.
* To promote fair trading practices and consumer choice.
* To support retail opportunity and economic growth and development.

In developing the policy, we considered the legal requirements of the Local Government (Miscellaneous Provisions) Act 1982 and our duties under:

1. Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder.
2. The Regulators’ Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations set out and to particularly consider the impact of regulations on small businesses.
3. The Provision of Services Regulations 2009 to ensure requirements are non-discriminatory justified by an overriding reason relating to the public interest, proportionate to that public interest objective, clear and unambiguous, objective, made public in advance, transparent and accessible.

Details of applications and objections referred to the Licensing Regulatory Panel for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

Names and addresses of objectors will not be disclosed or published in public reports in accordance with the 1982 Act although such details will be made available to Councillors on the Licensing Regulatory Panel. We will not disclose the names and addresses of objectors to applicants without the consent of those who have made objections.

**2 Consultation**

In determining this policy, the Council has consulted the following people and bodies within Allerdale:

* Police
* Fire and Rescue Service
* Cumbria County Council
* Town Councils
* Market traders
* All current Consent Holders
* The general public

We have consulted with relevant departments within the Council.

We have considered and taken into account the views of all the appropriate bodies and organisations.

**3 Review of the Policy**

We will monitor and periodically review this policy and we will apply it in a manner, which is consistent with other Council policies.

**4 Legislation and current provision**

In 2006 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 of the Act the Council can manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’.

‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. Certain forms of street trading are outside the legal controls however, there are a number of **lawful exemptions** removing certain activities from the need to obtain a street trading licence or consent including the following:

* Trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871. Pedlars are itinerant traders who travel and trade on foot. Certificated pedlars are free to trade without consent or licence subject to the terms of their certificates, and may even trade in prohibited streets;
* Anything done in a market or fair the right to hold which was acquired by virtue of the grant (including a presumed grant) or acquired or established by virtue of an enactment, order or market licence;
* Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
* Trading as a news vendor, including sellers of newspapers, magazines, periodicals etc. If such vendors trade in other items in addition to newspapers etc. the exemption is lost;
* Trading which is carried out at premises used as a petrol filling station; or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the businesses of the shop;
* Selling things, or offering or exposing them for sale, as a roundsman. (Roundsman include milkmen, coalmen etc. who have established or recognised customers in the street);
* The use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
* The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
* The doing of anything authorised by regulations made under section 5 of the Police, Factories, and c. (Miscellaneous Provisions) Act 1916.
* Trading on private land may under certain circumstances not need consent for example, when the public do not have free access (where a fee for entry onto the land is demanded by the organiser).
* Trading in and around shops in a street adjoining premises used as a shop where the business is part of the business of the shop. This does not mean that a trader who positions a stall or display outside his or her shop on the highway is lawful as they may cause an obstruction. Permission to place such items on the highway should always be obtained from the Highways Authority in advance.
* Trading in a street, which is not designated as a Licence, Consent or Prohibited Street by the Council. Such undesignated streets are not covered by this policy and the provisions of the street trading legislation, even if adopted by the Council, do not apply unless and until a particular designation has been passed in the correct manner.

Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

Street trading activities may include hot and cold food vendors, vendors of non-food products who trade on static pitches or fixed locations from any vehicle, a stall, barrow, trailer, or other moveable construction. The Council can issue ‘mobile’ consents to the owners of vehicles used as ice cream vans, mobile shops, sandwich vendors etc.

As the definition of “street” includes any land to which the public have access without payment, private land to which the public has free access may also be included. Street trading law and associated policy therefore can extend to events off the highway that are conducted on private premises.

Where trading takes place on private land, the applicant must ensure they have the appropriate planning permission and seek the landowner’s permission to trade. Written permission from the landowner to trade on the land must be provided upon application.

It is the responsibility of the applicant to obtain planning permission, permission to trade from the landowner and any other licences or consents prior to making an application for Street Trading Consent. The grant of a Consent does not confer the right to trade on any private land without the permission of the landowner and in particular, the grant of a Consent does not confer the right to trade on any land owned or controlled by the Council without the specific permission of the Council.

The Council is permitted to apply the measures contained within Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (often referred to as the Street Trading Code). Where the ‘code’ applies, it is an offence to engage in unlicensed street trading (trading without a licence, street trading consent or to trade in a prohibited street).

The law allows councils to ‘zone’ areas for street trading control purposes. For example, zoning permits a council to prohibit street trading or confine it to certain designated areas. Under paragraph 2 of Schedule 4 of the 1982 Act, we may designate any street in Allerdale according to the following categories:

**Consent Streets:** Designation of a street as a ‘consent street’ prohibits street trading in such a street without the consent of the Council. This system of control gives the Council more extensive, discretionary powers than is the case for street trading licences. The consent system was designed to regulate itinerant traders including those that operate from vehicles or barrows and in practice will most often apply to traders selling from vehicles. It is a more stringent system than the quasi-judicial one applicable to street trading licences (See Annex1).

**Prohibited streets:** If a street is designated as a prohibited street, all street trading within that street is prohibited (See Annex 2)

**Licence Streets:** The Council may alternatively designate a street as a ‘licence street’. This has the effect of prohibiting street trading in that street unless the trader obtains a licence granted by the Council. The licensing system was intended to apply to those who trade from a fixed position including a stationary barrow, cart or stall. There are currently no licence streets within Allerdale

It is important to note that a trader who disregards the designations and trades without permission commits an offence punishable by a fine of up to £1,000 per offence.

Street Traders that serve hot food or drink at any time between the hours of 23.00 and 05.00 will also require a Premises Licence under the Licensing Act 2003.

**5 The Licensing Process and Delegation of functions**

This part of the document sets out how we will deal with applications for Street Trading Consent in the Borough of Allerdale. The Council aims to provide a clear, consistent licensing service for service users. At the same time, it aims to protect the safety of highway users and to prevent nuisance or annoyance.

Delegation is laid out in the Council’s Constitution as follows:

* Licensing Committee considers and decides upon any necessary changes in licensing policy.
* The Head of Governance will exercise the Council’s powers and duties in relation to Licensing and authorise enforcement action in relation to regulatory functions exercised.
* The Licensing Regulatory Panel considers and decides upon applications and appeals for licences for street trading.

**6 Provisions for Granting Street Trading Consent Applications**

A) General Provisions

1. Each application for grant or renewal of street trading consent will be considered on its merits.

2. For every such application, or renewal, the Council may impose such conditions as may be reasonable, having regard to all the circumstances to prevent:-

(a) obstruction of the street or danger to persons using it; or

(b) Crime and disorder and nuisance or annoyance (whether to persons using the street or otherwise). In relation to the prevention of annoyance, conditions may address any effects of street trading on the neighbourhood that might fall short of a nuisance in law.

Standard conditions will be imposed unless circumstances dictate otherwise.

We may exercise the power to attach conditions to the consent when we grant the consent or when it is renewed and traders operating under consents issued by us may be subject to different terms on renewal in comparison to previous consents.

We may also vary the conditions of a street trading consent at any time but are bound by the general duty to act fairly and reasonably when exercising this power.

Unless the consent stipulates to the contrary, its holder cannot trade from a van or other vehicle or from a stall, barrow or cart. We will expressly permit such trading, however the consent may be conditional on the holder obeying restrictions as to the places in which he or she can trade and the times at which the trading may take place.

3. Where the imposition of conditions is not adequate to control potential problems, applications will be refused. **Refusal** or **withdrawal** of street trading consents will be normal in the following circumstances:

(a) Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, odour, litter, disturbance or anti-social behaviour.

(b) In respect of applications for hot, odorous food where granting the application is likely to give rise to odour, litter, disturbance or anti-social behaviour.

(c) Where there is not enough space in the street for the applicant to engage in the trading in which he/she desires without causing undue interference or inconvenience to persons using the street.

(d) Where granting of a consent for the sale of goods or services would conflict with those provided by nearby shops.

(e) Where the applicant is unsuitable to hold a consent by reason of having been convicted of an offence, or for any other reason.

(f) Where the applicant has at any time been granted a Street Trading Consent by the Council, and has persistently refused or neglected to pay fees due to them for it or charges due to them for services rendered.

(g) Where the applicant has, without reasonable excuse, failed to make reasonable use of a previous Street Trading Consent.

(h) Where applicant or operator of the stall is under the age of 17 years.

(i) Where a trader has failed to comply with the conditions attached to the Consent.

(j) Where street trading in a particular location will conflict with a legally constituted market or market franchise rights.

(k) Where street trading in a particular location will conflict with concessions granted to traders.

(l) Where the street trading may damage the structure or surface of the street.

(m) Where the appearance of the trading equipment or structure in use is not compatible with the character of the area in which it is proposed to be situated.

(n) Where the quality of stall and the impact of its activities may be detrimental to the character and appearance of the area in which it is proposed to trade.

(o) Where the application relates to trading on the highway in relation to which a control order has been made.

4. The Council may at any time revoke a Consent or vary the conditions of an existing consent where there are reasonable grounds for so doing. A consent may be revoked for a variety of reasons such as non-compliance with conditions, non-payment or because other agencies such as the utility companies require access to the trading location.

Street traders do not benefit from any statutory procedural safeguards before we revoke consents. If consent is revoked, there is no statutory right of appeal against the decision other than judicial review. In the absence of statutory procedures, we will observe the rules of natural justice before we will impose a revocation and we will treat the consent on this basis as an existing privilege.

Following a revocation, the person or company issued with the street trading consent shall have no claim against the Council.

B) Provisions for Specific Towns

1) Silloth

Normally no more than two consents for ice cream/soft drinks would be granted at any one time.

The Head of Governance is authorised to:

1. Issue Street Trading Consents and to attach such conditions as are necessary under the Local Government (Miscellaneous Provisions) Act 1982;
2. Refer applications to the Licensing Regulatory Panel:
3. in the opinion of the Head of Governance does not comply with the Council’s conditions and policies;
4. where there are objections from any of the following consultees; Police, Fire or Highways on the grounds of Public or Highway safety;
5. when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent in the past year;
6. To suspend a Consent for a period of up to 28 days pending referral to the Licensing Regulatory Panel where serious food safety issues are found

**New Applications for a Street Trading Consent**

An application for Street Trading Consent must be made to the Council in writing. The following will be required to be submitted with the application:

1. A completed and signed Street Trading Consent Application Form including payment of the relevant application fee

(b) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.

(c) Colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity.

(d) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.

(e) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.

(f) A valid Waste Transfer Note.

(g) Proof of the applicant’s and any prospective employee’s right to work in the UK.

(h) Gas safety certificate for the vehicle or stall if applicable.

Street Trading Consents are issued for a period of up to one year and renewed annually for the period 1 April to 31 March, unless granted for a reduced period.

Before a Street Trading Consent is granted or refused the Council will carry out a consultation process with various persons and groups. In addition to internal consultation, the following organisations or persons are consulted:

* Highways
* Police
* Ward Councillors
* Fire and Rescue Service

Written observations from the above organisations will be sought and taken into consideration when determining an application.

Where representations are received the application will be referred to the Council’s Licensing Regulatory Panel that will use the criteria listed below to make their determination of the application, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration. When there are no representations, the Head of Governance acting under delegated powers may approve an application.

We will notify applicants for street trading consents of the substance of any objections to the granting of consent and we will give them the opportunity to respond to those objections. We will fully consider such representations and in certain cases, this may be by way of an oral hearing but in most cases, written representations from the applicant will suffice.

In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

(a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

(b) Public Order

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order. Traders will conduct themselves in a professional manner.

(c) The Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise and/or odour particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be maintained in good condition smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

(e) Needs of the Area

The demand for the articles or services for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.

(g) Food Traders

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with the County Council’s requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

No right of appeal to the criminal courts exists in respect of a refusal, revocation or variation of a street trading consent. We will exercise discretion in these matters that are subject only to the principles exercised by the courts in judicial review proceedings.

**Peripatetic Street Trading**

Street traders that meet the conditions below will be classed as peripatetic. Ice cream vans and mobile sandwich sellers would typically be deemed to be peripatetic street traders.

Traders must meet all of the below conditions to be classed as peripatetic:

• move from location to location

• move at least 50 metres from the last trading location and do not return to that location within four hours.

• do not wait in one location for more than twenty minutes

• do not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).

**Pedlars**

We want to help genuine pedlars to trade. It is important that pedlars read the Guidance for Pedlars to ensure that they do not illegally participate in street trading, as they could face enforcement action, including the possibility of prosecution: [https://www.allerdale.gov.uk/en/licensing-and-street-trading/other-types-licence/street-trading-and-pedlars/Street trading and pedlars](https://www.allerdale.gov.uk/en/licensing-and-street-trading/other-types-licence/street-trading-and-pedlars/)

**Renewal Applications for a Street Trading Consent**

Street Trading Consents are renewed annually for the period 1 April to 31 March, unless granted for a reduced period. A renewal application for Street Trading Consent must be made to the Council in writing by 1 February. Once the renewal application has been received, the Council may consult further to determine if the consent holder is a cause for concern or has been subject to any complaints.

The following will be required to be submitted with the application:

(a) A completed and signed Street Trading Consent Application Form.

(b) The full fee as appropriate

(c) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks.

(d) A current Level 2 Award in Food Safety in catering certificate for all food handlers.

(e) Proof of the applicant’s and any prospective employees’ right to work in the UK.

(f) A gas safety certificate for the vehicle or stall if applicable.

(g) A licensed waste carrier agreement.

At this renewal time, the Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

If a renewal application is not made before the expiry of the current licence, a new application will have to be made. The effect of this will be that a trader will not be permitted to trade until the new Consent is issued.

Where a renewal application has been made and there have been no justifiable complaints, no enforcement issues and all fees have been paid on time, the Consent will be renewed.

Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing Regulatory Panel.

**Transfers**

A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder’s immediate family in the event of the Consent Holder’s death or incapacity. The subletting of a pitch is prohibited.

**Variations**

Any variation to the details of the consent holder must be notified to the Council in writing. The Council will issue an amended consent on payment of the relevant fee. The original consent must be returned to the Council.

Any variation to the range of goods or services for sale, days and/or hours of trading must be notified to the Council in writing. The Council will consider the request, taking into consideration the request and the number of existing traders already offering the proposed goods for sale. Payment of the relevant fee is required. The original consent must be returned to the Council.

**7 Markets**

Markets, defined as a concourse of five or more stalls, are outside the scope of the street trading scheme. Guidance on regulations governing markets and how to apply for a markets licence can be found in the Council’s Markets Policy:

[https://www.allerdale.gov.uk/en/sport-leisure-arts-culture/markets/Markets](https://www.allerdale.gov.uk/en/sport-leisure-arts-culture/markets/)

**8 Special Events**

For events comprising five or more stalls a markets licence must be obtained (see section 7 above). For events where street trading is proposed to take place with between 2 and 4 stalls, the Council will accept one application from the person organising the event. The event street trading application will require full details of each trader attending the event. Consent will be issued to each individual stallholder. This policy is aimed at promoting events and encouraging traders to attend.

Street trading fees for stalls at charitable or small community events may be waived. Street trading is considered to be for charity benefit if the profits from individual stalls/units are donated to charity. These stalls/units would be exempt from Street Trading fees. Any traders (such as traders selling food or refreshments) attending for commercial gain will be subject to a Street Trading fee. Trading at small, not-for-profit community events will be exempt from Street Trading fees.

A premises licence or temporary event notice may be required for an event. Further information and guidance can be found at <https://www.allerdale.gov.uk/en/licensing-and-street-trading/alcohol-and-entertainment-licences/premises-licences/>

**9 Fees**

Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the Consent, trading hours, and the articles to be sold. Where trading ceases during the term of Consent, refunds will not be given for any outstanding period of less than 3 months. Details of the current fees can be found on the Council’s website or on application to the Head of Governance. Fees must be paid in advance. Consent fees may be paid in equal instalments, but the first instalment must be paid in advance of the issue of Consent.

**10 Conditions**

The Council applies the Standard Conditions to Street Trading Consents. The Standard Conditions are not exhaustive and other conditions may be added to individual Consents where appropriate.

Standard Trading Hours are:

1. Roadside locations for vehicles

* Daytime site from 08:00 to 18:00.
* Evening sites for the Sale of Hot Food from 18:00 to 23:00

(b) Pavement locations

* 08:00 to 21:00.

Street trading can only be carried out from the stall or vehicle authorised on the Certificate of Street Trading Consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Governance.

The Standard Conditions applied to Street Trading Consents are attached to this policy as Annex 2. This list is not exhaustive and other conditions may be added to the Consent.

**11 Offences**

The adopted street trading legislation is statutory in nature. There are criminal sanctions available for street traders in breach of obligations imposed by the law.

The following are street trading offences:

* Engaging in street trading activities in a prohibited street.
* Engaging in street trading in either a licence or a consent street without the appropriate authorisation granted by the Council.
* Contravention of any of the principal terms of a street trading licence.
* Breach of any of the conditions included in a consent in relation to the time and place in which trading is permitted.
* Trading as a consent holder from a stationary van, cart, barrow or other vehicle unless permission has been granted.
* Trading as a consent holder from a portable stall unless permission has been granted to do so.
* Knowingly making a false statement in support of a licence application.

It is important to note that a trader who disregards the designations and trades without permission commits an offence punishable by a fine.

**12 Enforcement**

The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues. In cases where action of a more formal nature is considered appropriate, the key principles of consistency, transparency and proportionality will be applied.

The Council aims to work closely with other enforcement authorities to regulate relevant legislation where necessary.

Each consent holder must comply with the Standard Conditions at all times. To ensure compliance with the conditions, any duly authorised Officer of the Council may visit traders during the term of the licence.

Where licensable activities are conducted without the benefit of a licence, permit or consent or where conditions are breached, the Council will look to gather evidence and take enforcement action as appropriate.

Persons trading without authorisation and not subject to exemptions will be the subject of pro-active enforcement action.

If the Council feels that there is an issue of public order or threat to public safety in any particular instance, it will call for assistance from the Police.

The Council may refer to CCTV footage when dealing with such issues.

Where appropriate, the Council will prosecute those responsible for unlawful street trading. The Council will work with the Police and other enforcing authorities to provide for the targeting of agreed problem or high-risk areas and issues.

A person will be liable to criminal prosecution if they:

* engage in street trading without the appropriate Consent as described in this policy;
* engage in street trading in a prohibited street;
* contravene any condition of the Street Trading Consent; or
* make a false statement in relation to the application for a Street Trading Consent.

Failure to comply with one or more of the Standard Conditions of Consent may lead to revocation or non-renewal of Street Trading Consent.

If there are any concerns about the consent holder through justified complaints or evidence of breach of conditions, the Head of Governance may refer the consent holder to the Licensing Regulatory Panel for consideration.

The consent holder will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent

Enforcement may be carried out by any duly authorised officer of the Council.

**13 Contacts**

The street trading function is part of the Governance Service.

Allerdale Borough Council

Allerdale House

Workington

CA14 3YJ

To enquire about any street trading issue, or report an incident of alleged unlawful street trading, please visit our website: [www.allerdale.gov.uk](http://www.allerdale.gov.uk) or by ringing us on 0303 1231702

**14 Equality, diversity and equal opportunities**

This policy takes into account our Equal Opportunities Policy, which aims to achieve equality for all by removing direct and indirect discrimination and barriers on the following grounds:

* Age
* Gender or transgender identity
* Race, colour, national or ethnic origin
* Disability including people with hearing or visual impairments, learning disabilities, mental illness and those living with HIV and AIDS
* Religious belief, non-belief or other beliefs
* Marital status, family circumstances or caring responsibilities
* Sexual orientation
* Income, employment status or housing circumstances
* Membership or non-membership of trade unions or involvement in trade union activity
* Offending status

Any other grounds not specified here, that are not justified. This is not an exhaustive list.

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| **Glossary**  The Council | Allerdale Borough Council |
| The Applicant | The trader who has submitted an application for Street Trading Consent. |
| Consent Holder | The person, company or organisation to whom the consent to trade has been granted by the Council. |
| A Street | Includes any road, footway, beach or other area to which the public have access without payment. |
| Consent Street  A Prohibited Street | A street in which street trading can only take place if the consent of the local authority has first been obtained.  A street where no street trading may take place at all.  . |
| Street Trading Consent | A permission to trade, which is granted by a council subject to conditions and payment of a fee. |
| A Roundsman | An individual who visits a ‘round’ of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman. |
| A Pedlar | A pedlar is a trader who must:  • keep moving, stopping only to serve customers at their request  • move from place to place  • hold a valid pedlar’s certificate, issued by a Chief Constable of Police. |
| Peripatetic Trader | A peripatetic street trader is one that:  • continually moves from location to location  • moves at least 50 metres from the last trading location and does  • not return to that location within four hours  • does not wait in one location for more than twenty minutes  • does not trade within 100 metres of any entrance to any school or college (without formal invitation from the establishment). |
|  |  |
| Activities that do not require Street Trading Consent | Trading:  • as a pedlar under a pedlar's certificate  • as a news vendor  • at a market or fair, the right to hold which having been obtained by a grant, enactment or order  • at or adjoining a shop premises as part of the business of the shop  • as a roundsman (i.e. delivering pre-ordered goods to customers)  • from a licensed highway area  • under a street collection permit for charitable purposes. |

Standard Conditions The standard conditions applied to Street Trading Consents, listed in Annex 3

**ANNEX 1**

**Street Trading - Consent Streets from (9/10/06)**

**Aspatria**

Both sides of King Street and Queen Street.

**Cockermouth**

Both sides of Market Place. Both sides of South Street between the junctions of Station Road and Gallowbarrow.

**Maryport**

Both sides of Lower Church Street.

**Silloth**

Both sides of Criffel Street, Solway Street, Eden Street, Station Road. Both sides of the following streets between their junctions with Criffel Street and Solway Street:- Waver Street, Caldew Street, Esk Street and Wampool Street.

**Workington**

Both sides of Upton Street.

Both sides of Murray Road from the junction with Oxford Street and Finkle Street.

Both sides of Finkle Street from the junctions with Vulcan’s Lane and Murray Road.

Both sides of Pow Street from 17 Pow Street to its junction with Murray Road.

Both sides of South William Street from the junction with Vulcan’s Lane and William Street.

Both sides of Fisher Street from the junction with William Street and Park Lane to North Watt Street. The area known as Hagg Hill as the continuation from Fisher Street to Oxford Street.

Both sides of Oxford Street from the junction with Hagg Hill and Senhouse Street to the junction with Vulcan’s Lane.

The area known as The Hub, situated in Washington Square

**No authority is given to contravene any traffic regulation order that may be in force at any time**

**ANNEX 2**

**Street Trading - Prohibited Streets (from 09/10/06)**

**Cockermouth**

Both sides of Station Street, Station Road, St. Helen’s Street, Kirkgate and Crown Street. Both sides of South Street between the junctions of Station Road and Rubbybanks Road. Both sides of Gallowbarrow. Both sides of Sullart Street between its junctions with Main Street and Gallowbarrow. Both sides of Main Street, from its junction with Market Place and Gallowbarrow.

**Maryport**

Both sides of Senhouse Street including the area up to its junction with Well Lane and North Quay, Crosby Street, High Street, John Street, Wood Street, Fleming Street, Fleming Square, Eaglesfield Street, Kirkby Street and Curzon Street, King Street, North Quay, South Quay, both sides of the bridge connecting South Quay and Senhouse Street.

**Keswick**

Both sides of Market Square, Market Place, Main Street, Station Street, Station Road, St. John's Street, Derwent Close, The Headlands, Heads Road, Tithebarn Street, Bank Street and Stanger Street. Both sides of Lake Road from Market Square to the Boat House opposite Derwent Island. Both sides of Station Road, Southey Street and the Heads.

**Workington**

Armstrong Street

Belle Isle Street

Brow Top

Campbell Savours Way

Chapel Street

Clay Street

The area between Brow Top and Lonsdale Park known as the Cloffocks excluding parking areas.

Corporation Road

Craggs Lane

Curwen Street

Dean Street

Derwent Street

Dora Crescent

Duke Street

Edkin Street

Fletcher Crescent

Gordon Street

Gray Street between Oxford Street and Harrington Road

Harcourt Street

Ivison Lane

James Street

Jane Street

John Street

King Street

Lismore Place

Lonsdale Place

Market Place

Milburn Street

Murraydale Terrace

New South Watt Street

Nook Street

North Watt Street

Oxford Street from its junctions with Vulcan’s Lane and John Street

Park Lane

Peter Street

Pow Street, east of 17 Pow Street, to its junction with Washington Street

Risman Place including the area at its junction with Washington Street

Ritson Street

Rosemary Lane

Sanderson Street

Senhouse Street

South Watt Street

Speedwell Lane from its junctions with Pow Street and Brow Top

Station Road

Steelman’s Walk

Tiffen Lane

Thompson Street

Udale Street

Vulcan’s Lane

Warwick Place

Washington Square - other than those specifically designated as consent streets

Washington Street – other than those specifically designated as consent areas

William Street

Wilson Street

Winifred Street

Woods Lane

Wybrow Terrace

Yeowartville

York Street

#### Silloth

Both sides of Lawn Terrace, including the area of street leading to The Promenade, and both sides of Skinburness Road, north of its junction with Skinburness Drive.

**ANNEX 3**

**Standard Conditions for Street Trading Consents**

1. No trading shall take place except between the dates specified on the Certificate of Street Trading Consent.

2. Street trading shall only be carried out during operational hours specified on the Certificate of Street Trading Consent.

3. The Street Trading Consent relates only to the area/site, vehicle or stall specified on the Certificate of Street Trading Consent.

4. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the Consent. Any significant changes to or replacement of the stall or vehicle must be approved by the Head of Governance.

6. The Consent Holder’s vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.

7. The Consent Holder’s vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.

8. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.

9. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013. Advice on these requirements is available from the Council.

10. The Consent Holder shall conduct their business in a professional manner and in a way that minimises risks to employees and others.

11. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.

12. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer’s instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.

13. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.

14. All food businesses must be registered as a food business with the local authority where the van/stall is kept overnight. All food businesses registered outside of the Allerdale area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant local authority.

15. All food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.

16. All food businesses must achieve and maintain a minimum Food Hygiene Rating of ‘3 – Generally Satisfactory’. The Hygiene Rating must be displayed prominently on the stall or vehicle.

17. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Council. Consent Holders shall have special regard to and must take action to prevent excessive noise.

18. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.

19. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder’s immediate family in the event of the Consent Holder’s death or incapacity on payment of a fee. The subletting of a pitch is prohibited.

20. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Governance of the name and address of that person. An administration fee will be payable.

21. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Governance.

22. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Governance. A refund of the portion of the fee equal to the remaining full months will be payable, less £50 which the Council will retain to cover administrative costs.

23. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

24. A copy of the Consent shall be clearly displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.

25. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator’s vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. Proof of cover must be produced to an officer of the Council on application and as required.

26. These general conditions, which apply to all Street Trading in Allerdale, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.

27. For Annual Street Trading Consents fee instalments are required quarterly, in advance. The first instalment must be paid in advance of the issue of Consent. The remaining fee can be paid in instalments on the following dates 1st July. 1st October and 2nd January. Annual fees may be paid in advance.

28. For Weekly and Daily Street Trading Consents fees must be paid two weeks in advance before trading commences. This is to allow sufficient time to process the application and receive the consent. It must be in your possession before you can trade.

**Failure to comply with these conditions**

If a Consent Holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be suspended for an indefinite period or revoked. The Consent Holder may also be prosecuted.